

Truro Select Board Hybrid Meeting

Tuesday, December 17, 2024

Executive Session-5:00pm Regular Meeting-5:30pm*

Truro Town Hall, 24 Town Hall Road

*Please note that the meeting start time is 5:30 pm to accommodate meetings of both the Board of Health and the Select Board

EXECUTIVE SESSION

https://us02web.zoom.us/j/88275596917

1-646-931-3860 Meeting ID: 882 7559 6917

This will be an in-person meeting with the option for remote participation for Board members and/or the invited participants. The meeting will begin in open session solely for the purpose of moving, as set forth below, to enter into executive session. The meeting will be closed to the public once the Board votes to enter into Executive Session. Access to the open session portion of this meeting will be available in person and via the link/phone number listed above but will not be live-streamed on Channel 8 or Truro TV.

Move that the Select Board enter into Executive Session for the following purposes:

(1) In accordance with the provisions of Massachusetts General Law, Chapter 30A, §21(a)(3) to discuss strategy with respect to potential litigation if an open meeting may have detrimental effect on the litigating position of the public body, and I, as Chair, so declare; and not to reconvene in open session.

REGULAR MEETING

https://us02web.zoom.us/j/84720782445

1-646-931-3860 Meeting ID: 847 2078 2445

This will be a hybrid (in-person and remote) meeting. Citizens can view the meeting on Channel 8 in Truro and on the web on the "Truro TV Channel 8" button under "Helpful Links" on the homepage of the Town of Truro website. Click on the green "Watch" button in the upper right of the page. To provide comment during the meeting please call-in at 1-646-931-3860 and enter the following access code when prompted: 847 2078 2445 or you may join the meeting from a computer, tablet or smartphone by entering the follow URL into your web browser; https://us02web.zoom.us/j/84720782445

Please note that there may be a slight delay (15-30 seconds) between the meeting and the live-stream (and television broadcast). If you are watching the meeting and calling in, please lower the volume on your computer or television during public comments so that you may be heard clearly. We ask that you identify yourself when calling in to help us manage multiple callers effectively.

Estimated

Start Time

*All start times are approximate. Items may be taken out of order at the discretion of the Board and agenda items may require more or less time than allocated, resulting in changes to the approximate schedule.

5:30pm

1. PUBLIC COMMENT

5:45pm

2. PUBLIC HEARINGS - NONE

5:45pm

3. INTRODUCTION TO NEW EMPLOYEES - NONE



5:45pm 4. BOARD/COMMITTEE/COMMISSION APPOINTMENTS - NONE

5. STAFF/COMMITTEE UPDATES

5:45pm

A. Cape Light Compact Presentation on Next Three-Year Plan

Presenter: Maggie Downey, Chief Administrative Officer, Cape Light Compact

6:05pm

B. Protect Our Cape Cod Aquifer (POCCA) Presentation on Fertilizer and Pesticide Reduction and Related Potential Warrant Articles

Presenter: Laura Kelley, President, POCCA

6. TABLED ITEMS - NONE

7. SELECT BOARD ACTION

6:25pm

A. Vote to Approve, and Execute Where Applicable, Documents for the Cloverleaf Project, at 22 Highland Road, including, but not limited to: Grant Agreement; Tax Credit Regulatory Agreement and Declaration of Restrictive Covenants; Affordable Housing Restriction; Estoppel Certificate

Presenter: Attorney Katharine Klein, Town Counsel, KP Law

6:35pm

B. Review and Approval of FY2024 Community Development Block Grant Housing Rehabilitation Subgrantee Contract

Presenter: Cassie Boyd Marsh, President, Bailey Boyd Associates

6:40pm

C. Review and Possible Approval to Enter into a Contract Agreement for Selection and Design of the Preferred Replacement Hydraulic Structure for Truro Center Road and Route 6 (Pamet River) with Woods Hole Group

Presenter: Jarrod Cabral, Public Works Director

6:45pm

D. Water System Infrastructure Update and Discussion, and Request for Future Water Connection (Walsh)

Presenter: Jarrod Cabral, Public Works Director

7:05pm

E. Discussion and Possible Vote on Adopting the Decarbonization Roadmap for the Green Communities Application for Designation

Presenter: Jarrod Cabral, Public Works Director; Brian Boyle and Bob Higgins-Steele, Cochairs of Energy Committee; Lili Flanders, Chair of Climate Action Committee

7:15pm

F. Preliminary Discussion on 2024 Annual Town Report Cover, Theme and Dedication *Presenter:* Darrin Tangeman, Town Manager

7:20pm **8. REPORTS**

- A. Select Board Reports
- B. Town Manager Report

7:40pm 9. CONSENT AGENDA

- A. Review/Approve and Authorize Signature: NONE
- B. Review and Approve Appointment Renewals: NONE
- C. Review and Approve 2025 Annual Business Licenses: Truro Box Lunch, Millan's Restaurant Montano's Restaurant
- D. Review and Approve ABCC Annual Town Report on Truro Annual and Seasonal Alcohol Licenses
- E. Review and Approve Select Board Meeting Minutes: NONE

7:45pm 10. NEXT MEETING AGENDA

Regular Meeting: January 14, 2025



Agenda Item: 5A



TOWN OF TRUROSelect Board Agenda Item

DEPARTMENT: Administration

REQUESTOR: Maggie Downey, Chief Administrative Officer, Cape Light Compact

REQUESTED MEETING DATE: December 17, 2024

ITEM: Cape Light Compact Presentation on Next Three-Year Plan

EXPLANATION: Maggie Downey, Chief Administrative Officer for Cape Light Compact, will give

a presentation on the next 3-year plan.

FINANCIAL SOURCE (IF APPLICABLE): N/A

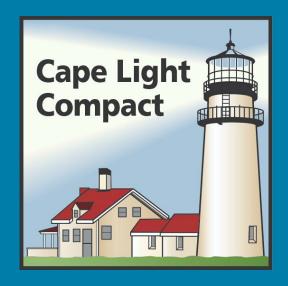
IMPACT IF NOT APPROVED: N/A

SUGGESTED ACTION: None-presentation only.

ATTACHMENTS:

1. Presentation Slides

Agenda Item: 5A1



Your Trusted, Local Energy Resource

Update from the Cape Light Compact

Maggie Downey, Chief Administrative Officer



Who is Cape Light Compact?

POWER SUPPLY



Providing 100% Renewable Power Supply for Cape Cod and Vineyard Residents and Businesses

ENERGY EFFICIENCY



Offering rebates and incentives to residents and businesses to make energy efficient upgrades as the local Mass Save Sponsor

CONSUMER ADVOCACY



Ensuring Cape Cod and Martha's Vineyard energy interests are represented at the state level.



Truro Energy Efficiency Results for 2023

Jan – Dec 2023	# of Participants	Rebates/Incentives Paid to Customers
Low Income	22	\$52,714.14
Residential	474	\$142,437.68
Commercial	11	69,903.29
Total	507	\$265,055.11



Energy Efficiency Highlights for 2024

No-Cost Energy Assessments for residents and businesses

- Weatherization covered at up to 100% for all customers
 - 100% for Income Eligible and Moderate-Income customers, and renters
 - Moderate-Income customers can now selfattest to their income status
 - 75% for market-rate residential
- Weatherization for businesses at set cost per sq. foot

Heat Pumps

- Whole home rebate with removal of existing fossil fuel heating system - \$10,000
- Partial home \$1,250 per ton when system is integrated with existing boiler or furnace





Energy Efficiency Highlights for 2024

E-Bike Phase II: Fully Subscribed

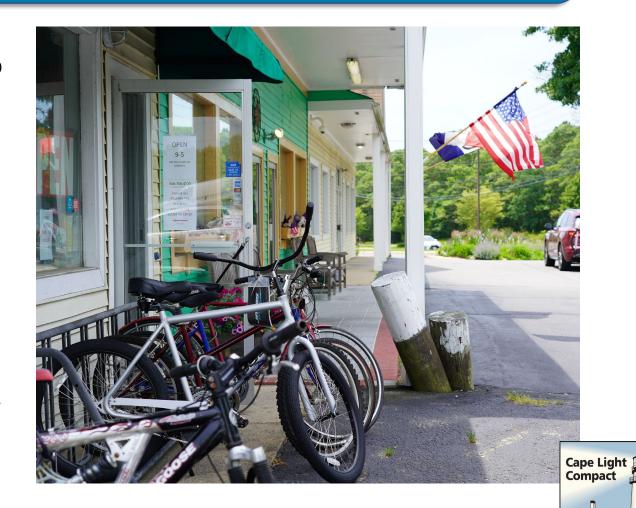
- Standard incentive: 75% of the cost up-to \$1,200
- Enhanced incentive: 90% of the cost up-to \$1,500
- All vouchers (225) have been issued

ENERGY STAR Appliance Rebates

- Room AC \$40
- Room Air Purifiers \$40
- Dehumidifiers \$30
- Electric Clothes Dryer \$50

CVEO: No Longer Accepting New Applications

- Program launched in the fall of 2023. Focused on homes deed-restricted for affordability and limited income
- Provides Weatherization, Heat Pumps, Solar PV Panels, Batteries (for only 25 homes depending on evaluation), and Electric Induction Stoves



Energy Saver Home Loan

The Energy Saver Home Loan Program will assist homeowners to cut their energy use and reduce or eliminate their reliance on fossil fuels. The Program will provide financing and technical support to households for measures not covered by the Cape Light Compact's energy efficiency program - Mass Save®.



Energy Saver Home Loans will be initiated through Cape Light Compact, and an Energy Service Provider (ESP), Abode Energy Management. The Cape Light Compact will work with participating lenders to assist borrowers through the step-by-step Energy Assessment, Decarbonization Plan, and loan application process.



Energy Saver Home Loan

Eligibility Requirements:

- Homeowners must make less than 135% of area median income (AMI)*
 - Barnstable County \$166,645
 - Dukes County \$185,625
 - Nantucket \$206,685
- •The unit must be a single-family home or one unit in a 2-4 unit multi-family building and must be owner-occupied.
- •The proposed work must demonstrate modeled energy savings of at least 20%
- *Based on combined income of residents listed on property deed.



Energy Saver Home Loan

Loan Information

- •Loan amounts range from \$10,000 to \$100,000
- •240-month loan term with the following structure
 - The first 18 months are interest-only
 - Amortized payments for the remaining 222 months
 - 0.50% interest rates for borrowers below 80% AMI
 - 2% interest rate for borrowers between 80% and 135% AMI
- •Participating lenders for Cape Cod & Islands are BankFive, BayCoast Bank, Bristol
- County Savings Bank, Cape Cod 5

Energy Saver Home Loan: Eligible Improvements

HVAC

- Air Source Heat Pumps (heating/cooling)
- Ground Source Heat Pumps
 Basement Moisture (heating/cooling)
- Thermostats
- Ventilation

Appliances/Lighting/Fixtures

- Electric Stove, Cooktop, Range, or Oven
- Heat Pump Clothes Dryer
- Low Flow Faucets and Toilets •
- LED Lighting

Health and Safety Improvements

- Mold Remediation
- Combustion Safety Repair
- Oil Tank Removal

- Knob and Tube Wiring Remediation
- Asbestos Remediation
- Non-structural Leak Repair
- Structural Repairs

Electric/Clean Energy Technology

- Battery Storage
- Electric Panel Upgrade and Wiring
- EV Charging Station
- Solar PV System

Site Work

- Arborist-Approved Shade Trees
- Tree Pruning

Energy Efficiency /Weatherization

- Exterior Doors
- Air Sealing and Insulation
- **Duct Sealing and Insulation**
- Roofing
- Fortified Roofing
- White Roofing
- Windows

Domestic Hot Water

- Heat Pump Water Heaters
- Solar Thermal

ELIGIBLE IMPROVEMENTS WILL BE DETERMINED BY THE ENERGY SERVICE PROVIDER. FOSSIL FUEL **EQUIPMENT UPGRADES ARE NOT ELIGIBLE.**



USDA Rural Energy Savings Program

The Compact will provide low interest loans directly to customers for **solar PV** projects. Year one will be focused on residential customers, but small businesses are eligible.

- Selected Cape Cod 5 to administer/service the loan
- Interest Rate: Can charge up to 5% interest rate
 - Target interest rate is below 3%
- Loan Term: Ten years
- Loan Amount: up to \$50,000

Program scheduled to launch in December this year (2024)





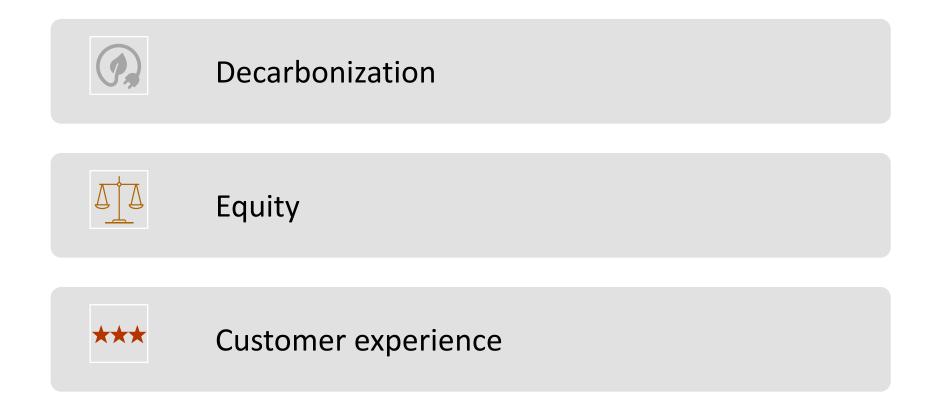
From Energy Efficiency to Decarbonization

- Cape Light Compact Mass Save shifting focus from energy Efficiency to Decarbonization.
 - Continuing our electrification efforts
 - Encouraging customers to replace existing fossil fuels equipment with highefficiency heat pumps. Including heating systems, cooking equipment, and water heaters
- As required by the MA Climate Act of 2022, rebates for fossil fuel equipment including gas, oil, and propane furnaces and burners are being phased out.
 - This equipment must be installed prior to August 31, 2024 and the rebate application submitted by September 30, 2024. Heat Loans are no longer available for fossil fuel equipment.



2025-2027 Energy Efficiency Plan

Policy Goals for 2025-2027





Small Business Enhancements

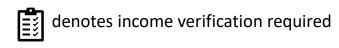
Support **decarbonization** of small businesses by increasing **access**, improving **customer experience**, and expanding the **workforce**

- Expand the Customer Directed Option pathway for customers
- Expand the renters and landlords enhanced offering
- Prioritize support for community-based organizations
 - Up to 100% incentives for charitable nonprofits
 - Main Street events
 - Community First Partnership engagement
- Joint PA delivery of the Small Business Initiative



Statewide Residential & Low-Income Offers

	Low Income (owner or renter)	Moderate Income (owner or renter)		Market Rate (or not income qualified)	
		Turnkey Pathway	Rebate Pathway	Renter	Owner
Weatherization	100%	100% (self-attest)	N/A	100%	75%
Barrier Mitigation	100%	100%	N/A	\$5,000/unit	\$250 + HEAT Loan
Electrification	100%	100%	up to \$16,000 ASHP, \$25,000 GSHP	. ,	whole home; /condenser





Compact Enhanced Customer Service



Triage best program



Home Energy and Decarbonization
Assessment



CLC Incentives
State Incentives
Federal Incentives
Solar Incentives



Assistance with selected Pathway



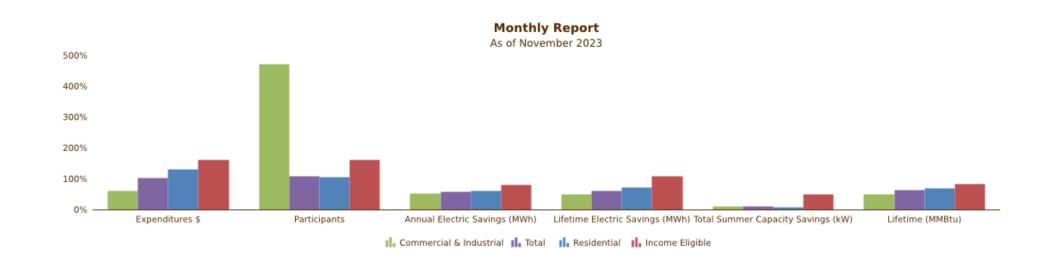
Strengthen and Diversify the Workforce

- Collaborate with the Massachusetts
 Clean Energy Center to increase
 workforce diversity, doubling annual
 funding from \$12 million to \$24
 million per year. Areas of focus:
 - Training for contractors who speak Languages Other Than English (LOTE),
 - Business and skill development, barrier removal, and certification support for MWBEs, and
 - Comprehensive training and robust wrap around support services to mitigate barriers and increase access and successful outcomes for new entrants.
- Continue to hold Supplier Diversity Summits and add a new matchmaking effort to match diverse suppliers with vendors



Mass Save Data

- Mass Save maintains a website where it publishes all program data.
- Masssavedata.com





Energy Efficiency Marketing

- Cape Light Compact and Mass Save® do extensive digital and print marketing for our Energy Efficiency Programs including:
 - Digital display ads
 - Paid google search
 - Local and regional newspapers
 - Local radio
 - Paid social media ads
 - And more!
- CLC can provide programmatic fliers and marketing material as needed













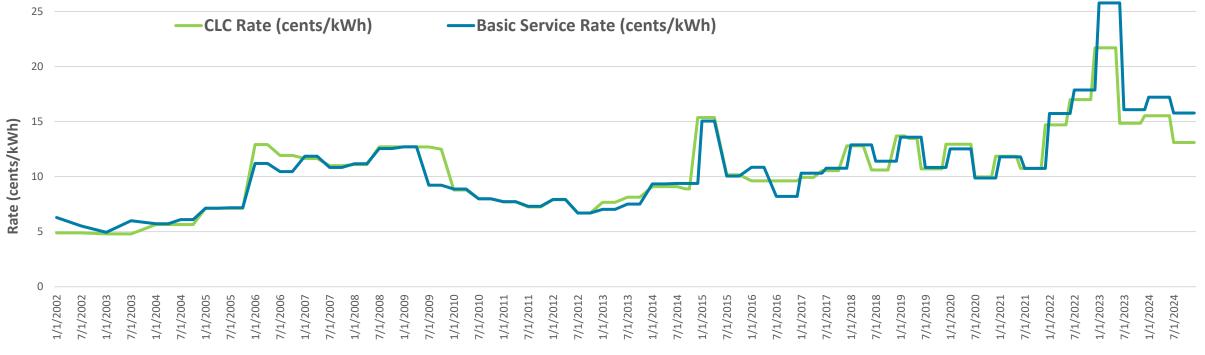
Power Supply Rates July '24 – January '25

	<u>Residential</u>	<u>Commercial</u>	<u>Industrial</u>
	July '24 – Jan '25 cents/kWh	July '24 – Jan '25 cents/kWh	Oct '24 – Jan '25 cents/kWh
CLC Standard	13.098	12.993	15.145
Local Green 50%	14.398	14.293	16.445
Local Green 100%	16.698	16.593	18.745
Eversource	15.772	15.677	18.036



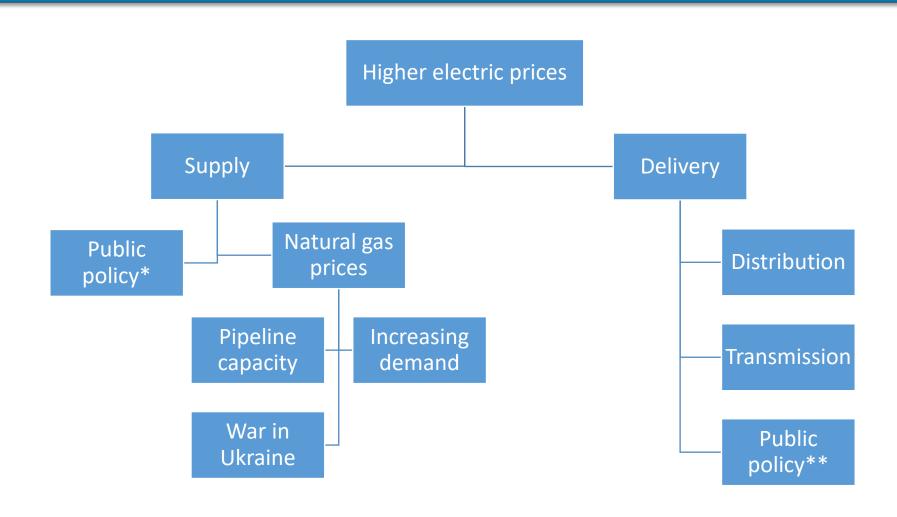
Cape Light Compact & Basic Service Residential Power Supply Rates

Cape Light Compact & Basic Service Residential Rates (2002 – present)





What is Driving Higher Prices?



- *Public policy on the supply side of the bill includes the costs to power suppliers (like CLC, Eversource Basic Service) of purchasing renewable energy certificates to meet state requirements such as the Renewable Portfolio Standard, the Clean Energy Standard, the Clean Peak Standard, and the Alternative Portfolio Standard
- **Public policy on the delivery side of the bill includes the energy efficiency programs, solar programs (SMART and net metering), renewable energy, and electric vehicle programs



Stay Up to Date with the CLC

- Sign up for our monthly e-newsletter
 - https://www.capelightcompact.org/news/newsletter/
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Questions?

Visit our Website

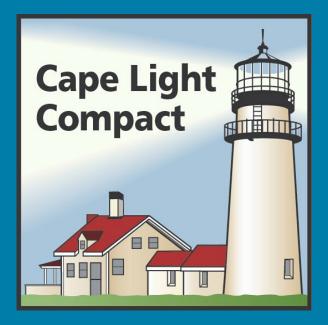
www.capelightcompact.org

Energy Efficiency

1-800-797-6699

Power Supply

1-800-381-9192



Your Trusted, Local Energy Resource

Agenda Item: 5B



TOWN OF TRUROSelect Board Agenda Item

DEPARTMENT: Administration

REQUESTOR: Noelle Scoullar, Executive Assistant, on behalf of Laura Kelley, Director of

Protect Our Cape Cod Aquifer (POCCA)

REQUESTED MEETING DATE: December 17, 2024

ITEM: Protect Our Cape Cod Aquifer (POCCA) Presentation on Fertilizer and Pesticide

Reduction and Related Potential Warrant Articles

EXPLANATION: Laura Kelley, President of Protect Our Cape Cod Aquifer (POCCA), will present a request to include Fertilizer and Pesticide Home Rule Petitions on the spring 2025 Annual Town Meeting Warrant.

The Town of Orleans crafted home rule petitions to help protect the health of natural resources and ultimately visitors and citizens. Orleans voted and passed the Fertilizer Reduction Home Rule Petition in Fall 2022. Orleans voted and passed the Pesticide Reduction Home Rule Petition in Fall 2023. Eastham and Wellfleet both voted and passed the Pesticide Reduction Home Rule Petition in Spring 2024.

Included for the Board's review are two Home Rule Petitions from the Town of Orleans—one to prohibit the use of fertilizers and the other to reduce pesticides.

Further information about these petitions, is available on the Orleans town website: https://www.town.orleans.ma.us (search "fertilizer" or "pesticide").

FINANCIAL SOURCE (IF APPLICABLE): N/A

IMPACT IF NOT APPROVED: N/A

SUGGESTED ACTION: Presentation only, however, the Board may wish to discuss the inclusion of similar warrant articles on the Annual Town Meeting Warrant.

ATTACHMENTS:

- 1. Town of Orleans- Special Act to Prohibit the Application of Fertilizer Revised 09.23.22
- 2. Town of Orleans- Home Rule Petition for a Pesticide Reduction Bylaw
 - a. Waiver Form
 - b. Allowable Materials List
 - c. Mass Invasive Plant List

ARTICLE 32. AUTHORIZE SPECIAL ACT TO PROHIBIT THE APPLICATION OF FERTILIZER

To see if the Town will vote to authorize and direct the Select Board to petition the Great and General Court of the Commonwealth of Massachusetts for special legislation, the text of which is set forth below, prohibiting the application of fertilizer in the Town of Orleans except for the purposes of commercial agriculture and the residential use of certified organic fertilizer with low nitrogen and phosphorus for the use in growing fruits and vegetables that is allowable under the USDA National Organic Program organic standards (OMRI listed), and to authorize the General Court, with the approval of the Select Board, to make changes of form to the text thereto as may be necessary or advisable in order to accomplish the intent and public purpose of this legislation in order to secure passage, as follows:

An Act Prohibiting the Application of Fertilizer Used in the Town of Orleans Except for the purposes of commercial agricultural and the residential use of certified organic fertilizer with low nitrogen and phosphorus for the use in growing fruits and vegetables that is allowable under the USDA National Organic Program organic standards (OMRI listed).

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

Section 1. There is sound scientific evidence to conclude that nitrogen and phosphorus in fertilizers are contaminants that negatively affect fresh and salt waters when present in excessive amounts. These excessive amounts of nitrogen and phosphorus contribute to undesirable algae and aquatic plant growth within all Orleans water bodies. This undesirable algae and aquatic plant growth has an adverse effect on public health through the degradation of waters used for drinking water, shell fishing, and recreational swimming and boating.

Section 2. It is necessary to prohibit the application of fertilizer that contains phosphorus and nitrogen so as to improve the water quality of the Town of Orleans. The soils of Orleans are unique insofar as Orleans has significant amounts of coarse, sandy soils that are subject to rapid water infiltration, percolation and leaching of nutrients, and such unique local conditions require that Orleans prohibit the application of nitrogen and phosphorus added to soils through the application of fertilizers. This Act should help Orleans to achieve compliance with the Total Maximum Daily Loads (TMDL) prescribed by the Commonwealth of Massachusetts for nitrogen and phosphorus in its waters.

Section 3. Notwithstanding any General or Special law to the contrary, including but not limited to any General or Special law conferring exclusive authority upon the Department of Agriculture to regulate and control the application of fertilizers elsewhere in the Commonwealth, the application of fertilizer containing nitrogen or phosphorus, or any other pollutants in the Town of Orleans is prohibited, except for the purposes of commercial agricultural and the residential use of certified organic fertilizer with low nitrogen and phosphorus for the use in growing fruits and vegetables that is allowable

under the USDA National Organic Program organic standards (OMRI listed).

Section 4. This act shall take effect upon passage.

Or to take any other action related thereto. (Select Board)

(Simple Majority Vote Required)

PROPOSED MOTION

I move this article be accepted and adopted as printed in the warrant and that the Select Board be authorized to approve the final language of the Special Legislation.

SUMMARY

Water is what brings people here and makes us want to stay in this special place of ours. Water is our most valuable environmental resource and our most valuable economic asset. It directly or indirectly affects every resident, property owner, visitor, and business in Orleans. Orleans has 63 ponds/lakes and 50+ miles of coastline, water is our lifeblood and it is our responsibility to keep it healthy and protect what we love. There is current outreach and has been for decades from citizens who feel there is an ongoing and significant increase in the application of fertilizer, especially in new home construction. The Select Board voted unanimously on June 15, 2022 to act in addressing clean and healthy waters in Orleans, protecting our environment, wildlife, residents, visitors, pets, economy and property values by supporting the preparation of a Home Rule Petition.

SB: Recommendation to be made at Town Meeting **FC:** Recommendation to be made at Town Meeting

Agenda Item: 5B2

ARTICLE 24. HOME RULE PETITION FOR A PESTICIDE REDUCTION BYLAW

To see if the Town will vote to authorize and direct the Select Board to petition the Great and General Court of the Commonwealth of Massachusetts for special legislation, authorizing the Town to adopt a Pesticide Reduction Bylaw (the bylaw), the text of which is set forth below, and to authorize the General Court, with the approval of the Select Board, to make changes of form to the text thereto as may be necessary or advisable in order to accomplish the intent and public purpose of this legislation in order to secure passage; and vote to adopt the bylaw as follows:

CHAPTER PESTICIDE REDUCTION BYLAW

§1. Purpose.

The purpose of this bylaw is to reduce toxic pesticide use in and on public and private property in the Town of Orleans in order to promote a healthy environment and to protect the public from the hazards of pesticides, and for implementation of sustainable land and building management practices on all public and private property.

§2. Findings.

- A. Scientific studies associate exposure to pesticides with asthma, cancer, developmental and learning disabilities, nerve and immune system damage, liver or kidney damage, reproductive impairment, birth defects, and disruption of the endocrine system.
- B. Infants, children, pregnant women, the elderly, and people with compromised immune systems and chemical sensitivities are especially vulnerable to pesticide effects and exposure.
- C. Pesticides are harmful to pets and wildlife, including threatened and endangered species, soil microbiology, plants, and natural ecosystems.
- D. Toxic runoff from chemical fertilizers and pesticides pollute streams, lakes, estuaries, and drinking water sources.
- E. The use of pesticides is not necessary to create and maintain green lawns and landscapes given the availability of viable alternatives practices and products.
- F. People have a right not to be involuntarily exposed to pesticides in the air, water or soil that inevitably result from chemical drift and contaminated runoff.
- G. Sustainable land and building management practices that emphasize non-chemical methods of pest prevention and management, and least-toxic pesticide use as a last resort, will eliminate the use of and exposure to pesticides while controlling pest populations.

- H. Sustainable land and building management practices complement other important goals of Orleans' maintenance and administration, such as energy conservation and security.
- I. Orleans embraces a precautionary approach to the use of pesticides in order to adequately protect people and the environment from the harmful effects of pesticides.
- J. Application of chemicals simply for aesthetic/cosmetic purposes has harmful consequences for our ecosystem, children and pets. Pollinators are directly harmed by applications particularly the indiscriminate (and long-term ineffective) spraying of pesticides.

§3. Authority.

This bylaw is adopted under authority granted by the Home Rule amendment to the Massachusetts Constitution and the provisions of any Special Legislation passed by the Legislature.

§4. Definitions.

For the purposes of this bylaw, the following definitions shall apply:

Allowed Materials List - The list of acceptable pesticides is limited to the following:

- 1) All non-synthetic (natural) materials, with the exception of prohibited non-synthetic materials under 7 CFR 205.602;
- 2) Any synthetic material listed at 7 CFR 205.601 that is labeled for turf uses, subject to discretionary authority to require disclosure of inert ingredients; and
- 3) 25b listed pesticides under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

Inert ingredient - Any substance (or group of substances with similar chemical structures if designated by the Environmental Protection Agency) (EPA) other than an active ingredient that is intentionally included in any pesticide product (40 CFR 152.3(m)) [7 CFR 205.2 Terms defined.], and are not classified by the EPA Administrator as inserts of toxicological concern. [7 U.S.C. 6502(21) Definitions]

Non-synthetic (natural) materials - A substance that is derived from mineral, plant, or animal matter and does not undergo a synthetic process as defined in section 6502(21) of the Organic Foods Production Act. For the purposes of this part, 'non-synthetic' is used as a synonym for natural as the term is used in the regulations. [7 CFR 205.2 Terms defined.]

Pesticide — Any substance or mixture of substances intended for: (i) preventing, destroying, repelling, or mitigating any pest; (ii) use as a plant regulator, defoliant, or desiccant; or (iii) use as a spray adjuvant such as a wetting agent or adhesive. The term

'pesticide' includes insecticides, herbicides, fungicides, and rodenticides, but does not include cleaning products other than those that contain pesticidal agents.

Synthetic materials - A substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring plant, animal, or mineral sources, except that such term shall not apply to substances created by naturally occurring biological processes. [7 U.S.C. 6502(21) Definitions]

§5. Prohibitions.

The application of any Pesticide that is not on the Allowed Material List is prohibited, except as permitted in this bylaw.

§6. Exceptions.

- A. The application of the following Pesticides is allowed:
 - 1. Indoor pest sprays and insect baits (excluding rodent baits)
 - 2. Insect repellants for personal and household use
 - 3. Pet: Flea and tick sprays, powders, and pet collars
 - 4. Kitchen, laundry, and bath disinfectants and sanitizer
 - 5. Products labeled primarily to kill mold and mildew
 - 6. Usage for commercial farming and nurseries.
- B. Pesticides for the treatment of invasive plants for ecological restoration (see Massachusetts Invasive Plant Advisory Group current lists of Invasive, Likely Invasive, and Potentially Invasive https://www.massnrc.org/mipag/ may be used upon the grant of a waiver by the Town Manager or authorized designee.
- C. If an emergency public health situation warrants the use of Pesticides, which would otherwise not be permitted under this bylaw, the Town Manager or authorized designee shall have the authority to grant a temporary waiver on a case-by-case basis after an evaluation of all alternative methods and materials.

§7. Enforcement.

The enforcement authority shall be the Town Manager, or any town officials as designated by the Select Board to oversee and enforce the provisions of this bylaw.

§8. Penalties.

Any person who violates any provision of this bylaw shall be punished by a fine of one hundred dollars (\$100.00) for the first offense and three hundred dollars (\$300.00) for each offense thereafter. Each day or portion thereof during which a violation continues shall constitute a separate offense and a violation of each provision of the bylaw shall constitute a separate offense.

If the offender is a commercial applicator, the right to do business in Orleans may be revoked.

§9. Severability.

The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

Provided, that this bylaw is subject to the Town obtaining special legislation from the Great and General Court of the Commonwealth of Massachusetts authorizing the Pesticide Reduction Bylaw as aforesaid; or to take any other action relative thereto. (Select Board)

(Simple Majority Vote Required)

PROPOSED MOTION

I move this article be accepted and adopted as printed in the warrant and that the Select Board be authorized to petition the Great and General Court for special legislation as set forth therein and that the Pesticide Reduction Bylaw be adopted subject to the approval of the special legislation.

SUMMARY

The article authorizes the Select Board to file special legislation authorizing the adoption of the proposed bylaw as the application of pesticides in Orleans is currently primarily regulated by state and federal law. This article also proposes the adoption of a bylaw that seeks to reduce toxic pesticide use in and on public and private property in order to promote a healthy environment and to protect the public from the hazards of pesticide use. It does not prohibit businesses from selling products containing pesticides to anyone.

SB: 5 – YES 0 – NO 0 – ABSTAIN **FC:** 3 – YES 3 – NO 1 – ABSTAIN

Agenda Item: 5B2a

Orleans Letterhead

Pesticide Waiver Form

Submission	Original	Resubmission			
Form Submitted by:					
Signature:					
Date submitted:					
	APPLICANT INFORMA	TION			
Contact person:Company:					
Address:					
Phone:	Email:				
PRO	DUCT FOR WHICH WAIVER I	S REQUESTED:			
Active Ingredient:					
EPA Registration Number:					
Brand Name:					
Proposed Method of Applicat	tion:				
The pest(s) to be treated are:					
Address of Proposed Applicat	tion:				
THE APPLICATION IS FOR (CHECK THAT APPLIES)					
A one-time use	Multiple application	s A term up to one year			
THE APPLICAT	ION WILL BE PERFORMED B	Y (CHECK THAT APPLIES)			
Licensed pesticide app	olicator Other				

Attach a sheet with your responses to the following:

- 1. How extensive is the infestation? If you have monitoring data, please describe or attach it.
- 2. Describe any physical damage to the site resulting from, or health hazard posed by, the infestation.
- 3. Describe the specific locations on the site where the pesticide would be applied. 4. How long has infestation been present?
- 5. What are the underlying causes of the infestation and what steps have been taken to address them?
- 6. What products or alternatives have already been tried and when were they tried?
- 7. Why were alternatives unsuccessful?
- 8. Describe the process by which alternatives were researched.
- 9. Describe alternatives that were considered and rejected, and why.
- 10. What steps will be taken to prevent future infestation and need for an additional waiver?

Before applying the restricted pesticide, applicators must request a waiver and receive approval from the Town. When applying a waiver, the applicant shall provide substantial proof that they have exhausted all reasonable alternatives to the use of restricted pesticides. In deciding waiver requests, the Town Manager shall balance the need for the use of restricted pesticides against the risks of such use. Restricted pesticide shall only be applied after a waiver is granted by the Town.

This content is from the eCFR and is authoritative but unofficial.

Title 7 - Agriculture

Subtitle B - Regulations of the Department of Agriculture

Chapter I - Agricultural Marketing Service (Standards, Inspections, Marketing Practices),

Department of Agriculture

Subchapter M - Organic Foods Production Act Provisions

Part 205 - National Organic Program

Subpart G - Administrative

The National List of Allowed and Prohibited Substances The National...

Authority: 7 U.S.C. 6501-6524.

Source: 65 FR 80637, Dec. 21, 2000, unless otherwise noted.

§ 205.601 Synthetic substances allowed for use in organic crop production.

In accordance with restrictions specified in this section, the following synthetic substances may be used in organic crop production: *Provided*, That, use of such substances do not contribute to contamination of crops, soil, or water. Substances allowed by this section, except disinfectants and sanitizers in paragraph (a) and those substances in paragraphs (c), (j), (k), (l), and (o) of this section, may only be used when the provisions set forth in § 205.206(a) through (d) prove insufficient to prevent or control the target pest.

- (a) As algicide, disinfectants, and sanitizer, including irrigation system cleaning systems.
 - (1) Alcohols.
 - (i) Ethanol.
 - (ii) Isopropanol.
 - (2) Chlorine materials—For pre-harvest use, residual chlorine levels in the water in direct crop contact or as water from cleaning irrigation systems applied to soil must not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act, except that chlorine products may be used in edible sprout production according to EPA label directions.
 - (i) Calcium hypochlorite.
 - (ii) Chlorine dioxide.
 - (iii) Hypochlorous acid—generated from electrolyzed water.
 - (iv) Potassium hypochlorite—for use in water for irrigation purposes.
 - (v) Sodium hypochlorite.
 - (3) Copper sulfate—for use as an algicide in aquatic rice systems, is limited to one application per field during any 24-month period. Application rates are limited to those which do not increase baseline soil test values for copper over a timeframe agreed upon by the producer and accredited certifying agent.
 - (4) Hydrogen peroxide.
 - (5) Ozone gas—for use as an irrigation system cleaner only.

7 CFR 205.601

Agenda Item: 5B2b

- (6) Peracetic acid—for use in disinfecting equipment, seed, and asexually propagated planting material. Also permitted in hydrogen peroxide formulations as allowed in § 205.601(a) at concentration of no more than 6% as indicated on the pesticide product label.
- (7) Soap-based algicide/demossers.
- (8) Sodium carbonate peroxyhydrate (CAS #-15630-89-4)—Federal law restricts the use of this substance in food crop production to approved food uses identified on the product label.
- (b) As herbicides, weed barriers, as applicable.
 - (1) Herbicides, soap-based—for use in farmstead maintenance (roadways, ditches, right of ways, building perimeters) and ornamental crops.
 - (2) Mulches.
 - (i) Newspaper or other recycled paper, without glossy or colored inks.
 - (ii) Plastic mulch and covers (petroleum-based other than polyvinyl chloride (PVC)).
 - (iii) Biodegradable biobased mulch film as defined in § 205.2. Must be produced without organisms or feedstock derived from excluded methods.
- (c) As compost feedstocks—Newspapers or other recycled paper, without glossy or colored inks.
- (d) As animal repellents—Soaps, ammonium—for use as a large animal repellant only, no contact with soil or edible portion of crop.
- (e) As insecticides (including acaricides or mite control).
 - (1) Ammonium carbonate—for use as bait in insect traps only, no direct contact with crop or soil.
 - (2) Aqueous potassium silicate (CAS #-1312-76-1)—the silica, used in the manufacture of potassium silicate, must be sourced from naturally occurring sand.
 - (3) Boric acid—structural pest control, no direct contact with organic food or crops.
 - (4) Copper sulfate—for use as tadpole shrimp control in aquatic rice production, is limited to one application per field during any 24-month period. Application rates are limited to levels which do not increase baseline soil test values for copper over a timeframe agreed upon by the producer and accredited certifying agent.
 - (5) Elemental sulfur.
 - (6) Lime sulfur—including calcium polysulfide.
 - (7) Oils, horticultural—narrow range oils as dormant, suffocating, and summer oils.
 - (8) Soaps, insecticidal.
 - (9) Sticky traps/barriers.
 - (10) Sucrose octanoate esters (CAS #s-42922-74-7; 58064-47-4)—in accordance with approved labeling.
- (f) As insect management. Pheromones.
- (g) As rodenticides. Vitamin D₃.

- (h) As slug or snail bait.
 - (1) Ferric phosphate (CAS # 10045-86-0).
 - (2) Elemental sulfur.
- (i) As plant disease control.
 - (1) Aqueous potassium silicate (CAS #-1312-76-1)—the silica, used in the manufacture of potassium silicate, must be sourced from naturally occurring sand.
 - (2) Coppers, fixed—copper hydroxide, copper oxide, copper oxychloride, includes products exempted from EPA tolerance, *Provided*, That, copper-based materials must be used in a manner that minimizes accumulation in the soil and shall not be used as herbicides.
 - (3) Copper sulfate—Substance must be used in a manner that minimizes accumulation of copper in the soil.
 - (4) Hydrated lime.
 - (5) Hydrogen peroxide.
 - (6) Lime sulfur.
 - (7) Oils, horticultural, narrow range oils as dormant, suffocating, and summer oils.
 - (8) Peracetic acid—for use to control fire blight bacteria. Also permitted in hydrogen peroxide formulations as allowed in § 205.601(i) at concentration of no more than 6% as indicated on the pesticide product label.
 - (9) Potassium bicarbonate.
 - (10) Elemental sulfur.
 - (11) Polyoxin D zinc salt.
- (i) As plant or soil amendments.
 - (1) Aquatic plant extracts (other than hydrolyzed)—Extraction process is limited to the use of potassium hydroxide or sodium hydroxide; solvent amount used is limited to that amount necessary for extraction.
 - (2) Elemental sulfur.
 - (3) Humic acids—naturally occurring deposits, water and alkali extracts only.
 - (4) Lignin sulfonate—chelating agent, dust suppressant.
 - (5) Magnesium oxide (CAS # 1309–48–4)—for use only to control the viscosity of a clay suspension agent for humates.
 - (6) Magnesium sulfate—allowed with a documented soil deficiency.
 - (7) Micronutrients—not to be used as a defoliant, herbicide, or desiccant. Those made from nitrates or chlorides are not allowed. Micronutrient deficiency must be documented by soil or tissue testing or other documented and verifiable method as approved by the certifying agent.
 - (i) Soluble boron products.

- (ii) Sulfates, carbonates, oxides, or silicates of zinc, copper, iron, manganese, molybdenum, selenium, and cobalt.
- (8) Liquid fish products—can be pH adjusted with sulfuric, citric or phosphoric acid. The amount of acid used shall not exceed the minimum needed to lower the pH to 3.5.
- (9) Vitamins, C and E.
- (10) Squid byproducts—from food waste processing only. Can be pH adjusted with sulfuric, citric, or phosphoric acid. The amount of acid used shall not exceed the minimum needed to lower the pH to 3.5.
- (11) Sulfurous acid (CAS # 7782–99–2) for on-farm generation of substance utilizing 99% purity elemental sulfur per paragraph (j)(2) of this section.
- (k) As plant growth regulators.
 - (1) Ethylene gas—for regulation of pineapple flowering.
 - (2) Fatty alcohols (C6, C8, C10, and/or C12)—for sucker control in organic tobacco production.
- (I) As floating agents in postharvest handling. Sodium silicate—for tree fruit and fiber processing.
- (m) As synthetic inert ingredients as classified by the Environmental Protection Agency (EPA), for use with nonsynthetic substances or synthetic substances listed in this section and used as an active pesticide ingredient in accordance with any limitations on the use of such substances.
 - (1) EPA List 4—Inerts of Minimal Concern.
 - (2) EPA List 3—Inerts of unknown toxicity—for use only in passive pheromone dispensers.
- (n) Seed preparations. Hydrogen chloride (CAS # 7647–01–0)—for delinting cotton seed for planting.
- (o) Production aids.
 - (1) Microcrystalline cheesewax (CAS #'s 64742-42-3, 8009-03-08, and 8002-74-2)—for use in log grown mushroom production. Must be made without either ethylene-propylene co-polymer or synthetic colors.
 - (2) Paper-based crop planting aids as defined in § 205.2. Virgin or recycled paper without glossy paper or colored inks.
- (p) –(z) [Reserved]

[65 FR 80637, Dec. 21, 2000, as amended at 68 FR 61992, Oct. 31, 2003; 71 FR 53302 Sept. 11, 2006; 72 FR 69572, Dec. 10, 2007; 75 FR 38696, July 6, 2010; 75 FR 77524, Dec. 13, 2010; 77 FR 8092, Feb. 14, 2012; 77 FR 33298, June 6, 2012; 77 FR 45907, Aug. 2, 2012; 78 FR 31821, May 28, 2013; 79 FR 58663, Sept. 30, 2014; 80 FR 77234, Dec. 14, 2015; 82 FR 31243, July 6, 2017; 83 FR 66571, Dec. 27, 2018; 84 FR 56677, Oct. 23, 2019; 87 FR 10938, Feb. 28, 2022; 87 FR 16375, Mar. 23, 2022; 87 FR 68027, Nov. 14, 2022]

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The National List of Allowed and Prohibited Substances The National...

Authority: 7 U.S.C. 6501-6524.

Source: 65 FR 80637, Dec. 21, 2000, unless otherwise noted.

§ 205.602 Nonsynthetic substances prohibited for use in organic crop production.

The following nonsynthetic substances may not be used in organic crop production:

- (a) Ash from manure burning.
- (b) Arsenic.
- (c) Calcium chloride, brine process is natural and prohibited for use except as a foliar spray to treat a physiological disorder associated with calcium uptake.
- (d) Lead salts.
- (e) Potassium chloride—unless derived from a mined source and applied in a manner that minimizes chloride accumulation in the soil.
- (f) Rotenone (CAS # 83-79-4).
- (g) Sodium fluoaluminate (mined).
- (h) Sodium nitrate—unless use is restricted to no more than 20% of the crop's total nitrogen requirement; use in spirulina production is unrestricted until October 21, 2005.
- (i) Strychnine.
- (j) Tobacco dust (nicotine sulfate).

[68 FR 61992, Oct. 31, 2003, as amended at 83 FR 66572, Dec. 27, 2018]



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY WASHINGTON, D.C. 20460

OFFICE OF CHEMICAL SAFETY AND POLLUTION PREVENTION

Inert Ingredients Eligible for FIFRA 25(b) Pesticide Products (Revised November 2016)

Provided below are the inert ingredients that can be used in pesticide products that are exempt from Federal regulation under the Minimum Risk Exemption regulations in 40 CFR 152.25(f).

How to Use this List: To determine if an inert ingredient can be used in minimum risk pesticide products, locate the ingredient in the table below by using the CAS Reg. No. or the chemical name. Once the ingredient has been located, go to the last three columns. All inert ingredients identified below can be used on non-food use sites (e.g., ornamental plants, highway right-of-ways, rodent control). If the inert ingredient can be used in minimum risk pesticides applied to food-use sites (i.e., used on food, food crops, food contact surfaces, or animal feed commodities), there will be a checkmark in the food-use column. When a manufacturer intends to label their minimum risk pesticide product for a food-use, the tolerance exemption citation (third column) provides information on the appropriate food-use sites for a particular chemical substance. This information must be consulted to ensure that each of the ingredients used in the product meet the 40 CFR part 180 requirements for the particular food-use site(s) on that product label.

If the inert ingredient is NOT specifically listed in the table below, then it cannot be used as an inert ingredient in a minimum risk product, UNLESS:

The ingredient is described as a commonly consumed food commodity, animal feed item, or edible fat and oil as specified in 40 CFR 180.950(a), (b), or (c), respectively. Any substance meeting the criteria described in 40 CFR 180.950(a), (b), or (c) may be used as an inert ingredient in any minimum risk pesticide product applied to food-use sites and/or nonfood use sites.

EPA also notes that the specific chemical substances listed under 40 CFR 180.950(e) that are also acceptable for use as inert ingredients in minimum risk pesticide products are duplicated in the following table.

Label Display Name	Chemical Name	CAS No.	Nonfood Use	Food Use	Tolerance Exemption Citation 40 CFR 180.xxx ^{/1,2}
Acetyl tributyl citrate	Citric acid, 2-(acetyloxy)-, tributyl ester	77-90-7	~	√	950(e)
Agar	Agar	9002-18-0	√		
Almond hulls	Almond hulls	N/A	√	>	950(b)
Almond oil	Oils, almond	8007-69-0	√		
Almond shells	Almond shells	N/A	✓	√	950(b)

Label Display Name	Chemical Name	CAS No.	Nonfood Use	Food Use	Tolerance Exemption Citation 40 CFR 180.xxx ^{/1,2}
alpha-Cyclodextrin	alpha-Cyclodextrin	10016-20-3	✓	✓	950(e)
Aluminatesilicate	Aluminatesilicate	1327-36-2	✓		
Aluminum magnesium silicate	Silicic acid, aluminum magnesium salt	1327-43-1	√		
Aluminum potassium sodium silicate	Silicic acid, aluminum potassium	12736-96-8	✓		
Aluminum silicate	Aluminum silicate	1335-30-4	√		
Aluminum sodium silicate	Silicic acid, aluminum sodium salt	1344-00-9	√	~	910
Aluminum sodium silicate	Silicic acid (H4 SiO4), aluminum sodium salt (1:1:1)	12003-51-9	✓		
Ammonium benzoate	Benzoic acid, ammonium salt	1863-63-4	√		
Ammonium stearate	Octadecanoic acid, ammonium salt	1002-89-7	✓	✓	910
Amylopectin, acid- hydrolyzed, 1- octenylbutanedioate	Amylopectin, acid- hydrolyzed, 1- octenylbutanedioate	113894-85-2	√	√	950(e)
Amylopectin, hydrogen 1- octadecenylbutanedioate	Amylopectin, hydrogen 1- octadecenylbutanedioate	125109-81-1	√	√	950(e)
Animal glue	Animal glue	N/A	✓	√	950(e)
Ascorbyl palmitate	Ascorbyl palmitate	137-66-6	✓	√	910, 930
Attapulgite-type clay	Attapulgite-type clay	12174-11-7	✓	√	910, 930
Beeswax	Beeswax	8012-89-3	/	√	950(e)
Bentonite	Bentonite	1302-78-9	✓	√	910
Bentonite, sodian	Bentonite, sodian	85049-30-5	√		
beta-Cyclodextrin	beta-Cyclodextrin	7585-39-9	✓	√	950(e)
Bone meal	Bone meal	68409-75-6	√		
Bran	Bran	N/A	√	✓	1071
Bread crumbs	Bread crumbs	N/A	✓	✓	1071
(+)-Butyl lactate	Lactic acid, n-butyl ester, (S)	34451-19-9	✓	✓	950(e)
Butyl lactate	Lactic acid, n-butyl ester	138-22-7	√	√	950(e)
Butyl stearate	Octadecanoic acid, butyl ester	123-95-5	✓	√	950(e)
Calcareous shale	Calcareous shale	N/A	/	√	910
Calcite	Calcite (Ca(CO ₃))	13397-26-7	V	✓	910, 930
Calcium acetate	Calcium acetate	62-54-4	√		
Calcium acetate monohydrate	Acetic acid, calcium salt, monohydrate	5743-26-0	√		

Label Display Name	Chemical Name	CAS No.	Nonfood Use	Food Use	Tolerance Exemption Citation 40 CFR 180.xxx ^{/1,2}
Calcium benzoate	Benzoic acid, calcium salt	2090-05-3	/		
Calcium carbonate	Calcium carbonate	471-34-1	√	✓	910, 930
Calcium citrate	Citric acid, calcium salt	7693-13-2	V	✓	950(e)
Calcium octanoate	Calcium octanoate	6107-56-8	/	✓	910
Calcium oxide silicate	Calcium oxide silicate (Ca ₃ O(SiO ₄))	12168-85-3	V		
Calcium silicate	Silicic acid, calcium salt	1344-95-2	/	√	910, 930
Calcium stearate	Octadecanoic acid, calcium salt	1592-23-0	√	✓	910, 930, 940(a), 940(c)
Calcium sulfate	Calcium sulfate	7778-18-9	V		
Calcium sulfate dihydrate	Calcium sulfate dihydrate	10101-41-4	V		
Calcium sulfate hemihydrate	Calcium sulfate hemihydrate	10034-76-1	V		
Canary seed	Canary seed	N/A	/	√	950(b)
Carbon	Carbon	7440-44-0	V		
Carbon dioxide	Carbon dioxide	124-38-9	V	√	910, 930
Carboxymethyl cellulose	Cellulose, carboxymethyl ether	9000-11-7	V		
Cardboard	Cardboard	N/A	V	V	950(e)
Carnauba wax	Carnauba wax	8015-86-9	V	V	950(e)
Carob gum	Locust bean gum	9000-40-2	/	√	950(e)
Carrageenan	Carrageenan	9000-07-1	/	√	910, 920, 930
Caseins	Caseins	9000-71-9	/		
Castor oil	Castor oil	8001-79-4	V	√	950(e)
Castor oil, hydrogenated	Castor oil, hydrogenated	8001-78-3	V	√	950(e)
Cat food	Cat food	N/A	V		
Cellulose	Cellulose	9004-34-6	/	√	950(e)
Cellulose acetate	Cellulose acetate	9004-35-7	V	√	950(e)
Cellulose, mixture with cellulose carboxymethyl ether, sodium salt	Cellulose, mixture with cellulose carboxymethyl ether, sodium salt	51395-75-6	√	√	950(e)
Cellulose, pulp	Cellulose, pulp	65996-61-4	/	√	950(e)
Cellulose, regenerated	Cellulose, regenerated	68442-85-3	V	√	950(e)
Cheese	Cheese	N/A	V	√	950(a) or 1071
Chlorophyll a	Chlorophyll a	479-61-8	V		
Chlorophyll b	Chlorophyll b	519-62-0	V		
Citric acid	Citric acid	77-92-9	V	√	950(e)
Citric acid, monohydrate	Citric acid, monohydrate	5949-29-1	/	√	950(e)
Citrus meal	Citrus meal	N/A	V	√	950
Citrus pectin	Citrus pectin	9000-69-5	/		
Citrus pulp	Citrus pulp	68514-76-1	/	√	950(b)
Clam shells	Clam shells	N/A	/		
Cocoa	Cocoa	8002-31-1	/	√	950(a)

Label Display Name	Chemical Name	CAS No.	Nonfood Use	Food Use	Tolerance Exemption Citation 40 CFR 180.xxx ^{/1,2}
Cocoa shell flour	Cocoa shell flour	N/A	✓		
Cocoa shells	Cocoa shells	N/A	/	/	950(b)
Cod-liver oil	Cod-liver oil	8001-69-2	/	✓	910
Coffee grounds	Coffee grounds	68916-18-7	√	√	950(e)
Cookies	Cookies	N/A	/	/	950 or 1071
Cork	Cork	61789-98-8	✓		
Corn cobs	Corn cobs	N/A	✓	√	950(b)
Cotton	Cotton	N/A	/		
Cottonseed meal	Cottonseed meal	68424-10-2	/		
Cracked wheat	Cracked wheat	N/A	V	/	1071
Decanoic acid, monoester	Decanoic acid, monoester with	26402-22-2	✓	✓	910
with 1,2,3- propanetriol	1,2,3- propanetriol	0004.52.0			0.50()
Dextrins	Dextrins	9004-53-9	V	√	950(e)
Diglyceryl monooleate	9-Octadecenoic acid, ester with 1,2,3- propanetriol	49553-76-6	V	V	910
Diglyceryl monostearate	9-Octadecanoic acid, monoester with oxybis(propanediol)	12694-22-3	✓	✓	910
Dilaurin	Dodecanoic acid, diester with 1,2,3- propanetriol	27638-00-2	✓	√	910
Dipalmitin	Hexadecanoic acid, diester with 1,2,3- propanetriol	26657-95-4	/	✓	910
Dipotassium citrate	Citric acid, dipotassium salt	3609-96-9	/	✓	950(e)
Disodium citrate	Citric acid, disodium salt	144-33-2	/	/	950(e)
Disodium sulfate	Disodium sulfate decahydrate	7727-73-3	✓		
Diatomaceous earth	Kieselguhr; Diatomite (less than 1% crystalline silica)	61790-53-2	✓	✓	910, 930, 1017
Dodecanoic acid, monoester with 1,2,3- propanetriol	Dodecanoic acid, monoester with 1,2,3- propanetriol	27215-38-9	✓	✓	910
Dolomite	Dolomite	16389-88-1	/	/	910
Douglas fir bark	Douglas fir bark	N/A	/	/	920
Egg shells	Egg shells	N/A	/	•	
Eggs	Eggs	N/A	/	/	1071
(+)-Ethyl lactate	Lactic acid, ethyl ester, (S)	687-47-8	<i>'</i>	<u>, </u>	950(e)
Ethyl lactate	Lactic acid, ethyl ester	97-64-3	<i>\</i>	V	950(e)
Feldspar	Feldspar	68476-25-5	✓		
Ferric oxide	Iron oxide (Fe ₂ O ₃)	1309-37-1	✓	√	910, 930
Ferrous oxide	Iron oxide (FeO)	1345-25-1	✓	√	950(b)
Fish meal	Fish meal	N/A	/	√	1071
Fish oil	Fish oil	8016-13-5	✓		
Fuller's earth	Fuller's earth	8031-18-3	/	✓	910
Fumaric acid	Fumaric acid	110-17-8	/	/	950(e)

Label Display Name	Chemical Name	CAS No.	Nonfood Use	Food Use	Tolerance Exemption Citation 40 CFR 180.xxx ^{/1,2}
gamma-Cyclodextrin	gamma-Cyclodextrin	17465-86-0	✓	✓	950(e)
Gelatins	Gelatins	9000-70-8	✓	/	950(a)
Gellan gum	Gellan gum	71010-52-1	✓	√	950(e)
Glue	Glue (as depolymd. animal collagen)	68476-37-9	✓		
Glycerin	1,2,3-Propanetriol	56-81-5	/	>	950(e)
Glycerol monooleate	9-Octadecenoic acid (Z)-, 2,3-dihydroxypropyl ester	111-03-5	✓	✓	910
Glyceryl dicaprylate	Octanoic acid, diester with 1,2,3-propanetriol	36354-80-0	✓	>	910
Glyceryl dimyristate	Tetradecanoic acid, diester with 1,2,3- propanetriol	53563-63-6	✓	✓	910
Glyceryl dioleate	9-Octadecenoic acid (9Z)-, diester with 1,2,3-propanetriol	25637-84-7	✓	✓	910
Glyceryl distearate	Octadecanoic acid, diester with 1,2,3- propanetriol	1323-83-7	✓	✓	910
Glyceryl monomyristate	Tetradecanoic acid, monoester with 1,2,3-propanetriol	27214-38-6	✓	✓	910
Glyceryl monooctanoate	Octanoic acid, monoester with 1,2,3- propanetriol	26402-26-6	✓	✓	910
Glyceryl monooleate	9-Octadecenoic acid (9Z)-, monoester with 1,2,3-propanetriol	25496-72-4	✓	√	910, 930
Glyceryl monostearate	Octadecanoic acid, monoester with 1,2,3-propanetriol	31566-31-1	✓	✓	910, 930
Glyceryl stearate	Octadecanoic acid, ester with 1,2,3- propanetriol	11099-07-3	✓	√	910
Granite	Granite	N/A	/	√	910
Graphite	Graphite	7782-42-5	/	√	910
Guar gum	Guar gum	9000-30-0	/	/	950(e)
Gum Arabic	Gum arabic	9000-01-5	/	√	910
Gum tragacanth	Gum tragacanth	9000-65-1	/		
Gypsum	Gypsum	13397-24-5	/	/	910, 930
Hematite	Hematite (Fe ₂ O ₃)	1317-60-8	/	,	
Humic acid	Humic acid	1415-93-6	✓	√	950(e)
Hydrogenated	Hydrogenated cottonseed oil	68334-00-9	/	√	950(c)
Hydrogenated rapeseed	Hydrogenated rapeseed oil	84681-71-0	/	√	950(c)
Hydrogenated soybean	Hydrogenated soybean oil	8016-70-4	/	√	950(c)
Hydroxyethyl cellulose	Cellulose, 2-hydroxyethyl ether	9004-62-0	/	√	950(e)
Hydroxypropyl cellulose	Cellulose, 2-hydroxypropyl ether	9004-64-2	/	/	950(e)
Hydroxypropyl methyl cellulose	Cellulose, 2-hydroxypropyl methyl ether	9004-65-3	√	V	950(e)

Label Display Name	Chemical Name	CAS No.	Nonfood Use	Food Use	Tolerance Exemption
					Citation 40 CFR 180.xxx ^{/1,2}
Iron magnesium oxide	Iron magnesium oxide (Fe ₂ MgO ₄)	12068-86-9	/		
Iron oxide, hydrate	Iron oxide (Fe ₂ O ₃), hydrate	12259-21-1	/	/	910
Iron oxide	Iron oxide (Fe ₃ O ₄) 1317-61-9 \(\)		/	910	
Isopropyl alcohol	2-Propanol	67-63-0	/	/	950(e)
Isopropyl myristate	Isopropyl myristate	110-27-0	/	/	910, 930
Kaolin	Kaolin	1332-58-7	/	/	910, 930, 1180
Lactose	Lactose	63-42-3	/	/	950(a)
Lactose monohydrate	Lactose monohydrate	64044-51-5	/	/	950(a)
Lanolin	Lanolin	8006-54-0	/	/	950(e)
Latex rubber	Latex rubber	N/A	/		
Lauric acid	Lauric acid	143-07-7	<u> </u>	/	950(e)
Lecithins	Lecithins	8002-43-5	V	✓	950(e)
Licorice extract	Licorice extract	68916-91-6	/	✓	950(e)
Lime dolomitic	Lime (chemical) dolomitic	12001-27-3	/	√	910
Limestone	Limestone	1317-65-3	/	√	910, 930
Linseed oil	Linseed oil	8001-26-1	/	√	950(c)
Magnesium carbonate	Carbonic acid, magnesium salt	546-93-0	/	√	910, 930
	(1:1)				
Magnesium benzoate	Magnesium benzoate	553-70-8	√		
Magnesium oxide	Magnesium oxide	1309-48-4	✓	✓	910, 940a, 940c
Magnesium oxide silicate	Magnesium oxide silicate	12207-97-5	√	√	9
Magnesium silicate	Magnesium silicate	1343-88-0	✓	✓	910
Magnesium silicate hydrate	Magnesium silicate hydrate	1343-90-4	/	/	910, 930
Magnesium silicon	Magnesium silicon oxide	14987-04-3	✓	✓	
Magnesium stearate	Octadecanoic acid, magnesium salt	557-04-0	✓	✓	910
Magnesium sulfate	Magnesium sulfate	7487-88-9	/	√	910
Magnesium sulfate heptahydrate	Magnesium sulfate heptahydrate	10034-99-8	V	✓	910
Malic acid	Malic acid	6915-15-7	/		
Malt extract	Malt extract	8002-48-0	/	/	950(a)
Malt flavor	Malt flavor	N/A	/	/	950(a)
Maltodextrin	Maltodextrin	9050-36-6	✓	√	950(e)
Methylcellulose	Cellulose, methyl ether	9004-67-5	/	√	950(e)
Mica	Mica	12003-38-2	/	/	910
Mica-group minerals	Mica-group minerals	12001-26-2	/		
Milk	Milk	8049-98-7	/	V	1071
Millet seed	Millet seed	N/A	/	√	950(a)
Mineral oil	Mineral oil (U.S.P.)	8012-95-1	✓	✓	910, 930

Label Display Name	Chemical Name	CAS No.	Nonfood Use	Food Use	Exemption Citation 40 CFR 180.xxx ^{/1,2}
1-Monolaurin	Dodecanoic acid, 2,3- dihydroxypropyl ester	142-18-7	✓	✓	910
1-Monomyristin	Tetradecanoic acid, 2,3-dihydroxypropyl ester	589-68-4	✓	✓	910
Monomyristin	Decanoic acid, diester with 1,2,3-propanetriol				
Monopalmitin	Hexadecanoic acid, monoester with 1,2,3-propanetriol	26657-96-5	√	✓	910
Monopotassium citrate	Citric acid, monopotassium salt	866-83-1	√	/	950(e)
Monosodium citrate	Citric acid, monosodium salt	18996-35-5	V	√	950(e)
Montmorillonite	Montmorillonite	1318-93-0	✓	✓	910, 930
Myristic acid	Myristic acid	544-63-8	√	√	910
Nepheline syenite	Nepheline syenite	37244-96-5	√		
Nitrogen	Nitrogen	7727-37-9	✓		
Nutria meat	Nutria meat	N/A	✓		
Nylon	Nylon	N/A	V		
Octanoic acid, potassium salt	Octanoic acid, potassium salt	764-71-6	V	/	910
Octanoic acid, sodium salt	Octanoic acid, sodium salt	1984-06-1	/	/	910
Oleic acid	Oleic acid	112-80-1	/	/	910, 930
Oyster shells	Oyster shells	N/A	/		
Palm oil	Palm oil	8002-75-3	/	/	950(c)
Palm oil, hydrogenated	Palm oil, hydrogenated	68514-74-9	/	/	950(c)
Palmitic acid	Hexadecanoic acid	57-10-3	/	/	910
Paper	Paper	N/A	√	V	950(e)
Paraffin wax	Paraffin wax	8002-74-2	√		
Peanut butter	Peanut butter	N/A	✓	√	1071
Peanut shells	Peanut shells	N/A	V	V	950(b)
Peanuts	Peanuts	N/A	✓	√	1071
Peat moss	Peat moss	N/A	✓		
Pectin	Pectin	9000-69-5	V		
Perlite	Perlite	130885-09-5	/		
Perlite, expanded	Perlite, expanded	93763-70-3	V		
Plaster of paris	Plaster of paris	26499-65-0	/		
Polyethylene	Polyethylene	9002-88-4	V	/	910, 930
Polyglyceryl oleate	Polyglyceryl oleate	9007-48-1	/	/	910
Polyglyceryl stearate	Polyglyceryl stearate	9009-32-9	V	/	910, 930
Potassium acetate	Acetic acid, potassium salt	127-08-2	V	-	
Potassium aluminum silicate, anhydrous	Potassium aluminum silicate, anhydrous	1327-44-2	√	✓	910
Potassium benzoate	Benzoic acid, potassium salt	582-25-2	/		

Label Display Name	Chemical Name	CAS No.	Nonfood Use	Food Use	Tolerance Exemption Citation 40 CFR 180.xxx ^{/1,2}
Potassium bicarbonate	Carbonic acid, monopotassium salt	298-14-6	\checkmark	✓	950(e)
Potassium chloride	Potassium chloride	7447-40-7	✓	>	950(e)
Potassium citrate	Citric acid, potassium salt	7778-49-6	✓	/	950(e)
Potassium humate	Humic acids, potassium salts	68514-28-3	√	√	950(e)
Potassium myristate	Tetradecanoic acid, potassium salt		√	/	910
Potassium oleate	9-Octadecenoic acid (9Z)-, potassium	143-18-0	√	✓	910
Potassium ricinoleate	9-Octadecenoic acid, 12-hydroxy-, monopotassium salt, (9Z, 12R)-	7492-30-0	/		
Potassium sorbate	Sorbic acid, potassium salt	24634-61-5	✓	✓	950(e)
Potassium stearate	Octadecanoic acid, potassium salt	593-29-3	✓	√	1068
Potassium sulfate	Potassium sulfate	7778-80-5	√	✓	910
Potassium sulfate	Sulfuric acid, monopotassium salt	7646-93-7	✓		
1,2-Propylene carbonate	1,3-Dioxolan-2-one, 4-methyl-	108-32-7	✓	✓	950(e)
Pumice	Pumice	1332-09-8	✓		
Red cabbage color	Red cabbage color (expressed from edible red cabbage heads via a pressing process using only acidified water)	N/A	√	√	950(e)
Red cedar chips	Red cedar chips	N/A	✓		
Red dog flour	Red dog flour	N/A	/		
Rubber	Rubber	9006-04-6	√		
Sawdust	Sawdust	N/A	✓		
Shale	Shale	N/A	✓		
Silica, amorphous, fumed	Silica, amorphous, fumed (crystalline free)	112945-52-5	V	V	950(e)
Silica, amorphous, precipitate and gel	Silica, amorphous, precipitate and gel	7699-41-4	/	✓	950(e)
Silica	Silica (crystalline free)	7631-86-9	✓	/	
Silica gel	Silica gel	63231-67-4	✓	√	950(e)
Silica gel, precipitated, crystalline-free	Silica gel, precipitated, crystalline-free	112926-00-8	V	✓	950(e)
Silica, hydrate	Silica, hydrate	10279-57-9	✓	√	950(e)
Silica, vitreous	Silica, vitreous	60676-86-0	✓	/	950(e)
Silicic acid, magnesium salt	Silicic acid (H ₂ SiO ₃), magnesium salt	13776-74-4	✓	✓	910, 930
Soap	Soap (The water soluble sodium or potassium salts of fatty acids produced by either the saponification of fats and oils, or the neutralization of fatty acid)	N/A	✓	√	950(e)

Label Display Name	Chemical Name	CAS No.	Nonfood Use	Food Use	Exemption Citation 40 CFR 180.xxx ^{/1,2}	
Soapbark	Quillaja saponin	1393-03-9	✓	✓	950(e)	
Soapstone	Soapstone	308076-02-0	√	✓		
Sodium acetate	Acetic acid, sodium salt	127-09-3	✓	✓	950(e)	
Sodium alginate	Sodium alginate	9005-38-3	✓	√	950(e)	
Sodium benzoate	Benzoic acid, sodium salt	532-32-1	✓	√	950(e)	
Sodium bicarbonate	Sodium bicarbonate	144-55-8	V	√	950(e)	
Sodium carboxymethyl cellulose	Cellulose, carboxymethyl ether, sodium	9004-32-4	/	✓	950(e)	
Sodium chloride	Sodium chloride	7647-14-5	√	√	950(e)	
Sodium citrate	Sodium citrate	994-36-5	✓	√	950(e)	
Sodium humate	Humic acids, sodium salts	68131-04-4	✓	√	950(e)	
Sodium oleate	Sodium oleate	143-19-1	√	√	910	
Sodium ricinoleate	9-Octadecenoic acid, 12-hydroxy-, monosodium salt, (9Z,12R)-	5323-95-5	√			
Sodium stearate	Octadecanoic acid, sodium salt	822-16-2	✓	√	910	
Sodium sulfate	Sodium sulfate	7757-82-6	V	√	910, 930	
Sorbitol	D-glucitol	50-70-4	✓	√	950(e)	
Soy protein	Soy protein	N/A	/			
Soya lecithins	Lecithins, soya	8030-76-0	/	√	950(e)	
Soybean hulls	Soybean hulls	N/A	/	√	950(b)	
Soybean meal	Soybean meal	68308-36-1	V	√	1071	
Soybean, flour	Soybean, flour	68513-95-1	/	√	1071	
Stearic acid	Octadecanoic acid	57-11-4	/	√	910, 930	
Sulfur	Sulfur	7704-34-9	√			
Syrups, hydrolyzed starch, hydrogenated	Syrups, hydrolyzed starch, hydrogenated	68425-17-2	✓	~	950(e)	
Tetraglyceryl monooleate	9-Octadecenoic acid (9Z)-, monoester with tetraglycerol	71012-10-7	✓			
Tricalcium citrate	Citric acid, calcium salt (2:3)	813-94-5	✓	✓	950(e)	
Triethyl citrate	Citric acid, triethyl ester	77-93-0	/	✓	950(e)	
Tripotassium citrate	Citric acid, tripotassium salt	866-84-2	✓	√	950(e)	
Tripotassium citrate monohydrate	Citric acid, tripotassium salt, monohydrate	6100-05-6	√	√	950(e)	
Trisodium citrate	Citric acid, trisodium salt	68-04-2	V	✓	950(e)	
Trisodium citrate dehydrate	Citric acid, trisodium salt, dehydrate	6132-04-3	V	✓	950(e)	
Trisodium citrate pentahydrate	Citric acid, trisodium salt, pentahydrate	6858-44-2	√	√	950(e)	
Ultramarine blue	C.I. Pigment Blue 29	57455-37-5	/	√	950(e)	

Label Display Name	Chemical Name	CAS No.	Nonfood		
			Use	Use	Exemption
					Citation 40
**	**	55 40 4	-	-	CFR 180.xxx ^{/1,2}
Urea	Urea	57-13-6	✓	✓	950(e)
Vanillin	Benzaldehyde, 4-hydroxy-3-methoxy-	121-33-5	/	√	950(e)
Vermiculite	Vermiculite	1318-00-9	✓	✓	910
Vinegar	Vinegar (maximum 8% acetic acid in solution)	8028-52-2	V	~	950(a)
Vitamin C	L-Ascorbic acid	50-81-7	✓	√	950(e)
Vitamin E	Vitamin E	1406-18-4	√	√	910
Walnut flour	Walnut flour	N/A	√		
Walnut shells	Walnut shells	N/A	√	✓	950(b)
Wheat	Wheat	N/A	√	✓	1071
Wheat flour	Wheat flour	N/A	√	√	1071
Wheat germ oil	Wheat germ oil	8006-95-9	√	√	950(c)
Wheat oil	Oils, wheat	68917-73-7	√	√	1071
Whey	Whey	92129-90-3	√	√	1071
White mineral oil	White mineral oil (petroleum)	8042-47-5	√	√	910, 930
Wintergreen oil	Wintergreen oil	68917-75-9	√		
Wollastonite	Wollastonite (Ca(SiO ₃))	13983-17-0	√		
Wool	Wool	N/A	✓		
Xanthan gum	Xanthan gum	11138-66-2	√	√	950(e)
Yeast	Yeast	68876-77-7	√	√	950(a)
Zeolites	Zeolites (excluding erionite (CAS Reg. No. 66733-21-9))	1318-02-1	V	✓	910
Zeolites, NaA	Zeolites, NaA	68989-22-0	/		
Zinc iron oxide	Zinc iron oxide	12063-19-3	/		
Zinc oxide	Zinc oxide (ZnO)	1314-13-2	√	√	910, 930
Zinc stearate	Octadecanoic acid, zinc salt	557-05-1	✓	√	920, 930

If the tolerance exemption appears in	Then the inert ingredient may be included in a minimum risk product that is applied to:
40 CFR180.910	Growing crops or raw agricultural commodities after harvest.
40 CFR 180.920	Growing crops
40 CFR 180.930	Animals
40 CFR 180.940(a)	Food-contact surfaces in public eating places, dairy- processing equipment, and food-processing equipment and utensils
40 CFR 180.940(b)	Dairy-processing equipment, and food-processing equipment and utensils
40 CFR 180.940(c)	Food-processing equipment and utensils
40 CFR 180.950	Any food-use site
40 CFR 180.960	Any food-use site
40 CFR 180.1071	One of the 14 specified use patterns appropriate for peanuts, tree nuts, milk, soybeans, eggs, fish, crustacea, and wheat.

^{2/} This guidance does not create any binding requirements, although it refers to existing statutory and regulatory requirements and guidance. The guidance is not intended to and cannot be relied on to create rights, substantive or procedural, enforceable by any party in litigation with the United States. The producer is responsible to carefully read the criteria and make an evaluation of how the product meets (or does not meet) the criteria for the minimum risk exemption at 40 CFR 152.25(f) and tolerance and tolerance exemptions at 40 CFR 180.

Agenda Item: 5B2c

Massachusetts Invasive Plant Advisory Group (MIPAG)

https://www.massnrc.org/mipag/invasive.htm

Plants voted as: INVASIVE

"Invasive" plants are non-native species that have spread into native or minimally managed plant systems in Massachusetts. These plants cause economic or environmental harm by developing self-sustaining populations and becoming dominant and/or disruptive to those systems. As defined here, "species" includes all synonyms, subspecies, varieties, forms, and cultivars of that species unless proven otherwise by a process of scientific evaluation.

Acer platanoides L. (Norway maple)

A tree occurring in all regions of the state in upland and wetland habitats, and especially common in woodlands with colluvial soils. It grows in full sun to full shade. Escapes from cultivation; can form dense stands; out-competes native vegetation, including sugar maple; dispersed by water, wind and vehicles.

Acer pseudoplatanus L. (Sycamore maple)

A tree occurring mostly in southeastern counties of Massachusetts, primarily in woodlands and especially near the coast. It grows in full sun to partial shade. Escapes from cultivation inland as well as along the coast; salt-spray tolerant; dispersed by wind, water and vehicles.

Aegopodium podagraria L. (Bishop's goutweed; bishop's weed; goutweed)

A perennial herb occurring in all regions of the state in uplands and wetlands. Grows in full sun to full shade. Escapes from cultivation; spreads aggressively by roots; forms dense colonies in flood plains.

Ailanthus altissima (P. Miller) Swingle (Tree of heaven)

This tree occurs in all regions of the state in upland, wetland, & coastal habitats. Grows in full sun to full shade. Spreads aggressively from root suckers, especially in disturbed areas.

Alliaria petiolata (Bieb.) Cavara & Grande (Garlic mustard)

Synonym: Alliaria officinalis Andrz. Ex Bieb.

A biennial herb occuring in all regions of the state in uplands. Grows in full sun to full shade. Spreads aggressively by seed, especially in wooded areas.

Berberis thunbergii DC. (Japanese barberry)

A shrub occuring in all regions of the state in open and wooded uplands and wetlands. Grows in full sun to full shade. Escaping from cultivation; spread by birds; forms dense stands.

Cabomba caroliniana A.Gray (Carolina fanwort; fanwort)

A perennial herb occurring in all regions of the state in aquatic habitats. Common in the aquarium trade; chokes waterways.

Celastrus orbiculatus Thunb. (Oriental bittersweet; Asian or Asiatic bittersweet)

A perennial vine occuring in all regions of the state in uplands. Grows in full sun to partial shade. Escaping from cultivation; berries spread by birds and humans; overwhelms and kills vegetation.

Cynanchum louiseae Kartesz & Gandhi (Black swallow-wort, Louise's swallow-wort) Synonyms: Cynanchum nigrum (L.) Pers. non Cav.; Vincetoxicum nigrum (L.) Moench

A perennial vine occurring in all regions of the state in upland, wetland, and coastal habitats. Grows in full sun to partial shade. Forms dense stands, out-competing native species: deadly to Monarch butterflies.

Elaeagnus umbellata Thunb. (Autumn olive)

A shrub occurring in uplands in all regions of the state. Grows in full sun. Escaping from cultivation; berries spread by birds; aggressive in open areas; has the ability to change soil.

Eragrostis curvula (Schrad.) Nees (Weeping lovegrass)

A perennial warm season bunchgrass that occurs on road edges, agricultural grasslands, sandplain grassland, and coastal heathland areas, mainly in coastal and island counties. In globally rare early successional habitats, this grass has demonstrated the ability to expand rapidly. (Reviewed 2021)

Euonymus alatus (Thunb.) Sieb. (Winged euonymus; Burning bush)

A shrub occurring in all regions of the state and capable of germinating prolifically in many different habitats. It grows in full sun to full shade. Escaping from cultivation and can form dense thickets and dominate the understory; seeds are dispersed by birds.

Euphorbia esula L. (Leafy spurge; wolf's milk)

A perennial herb occurring in all regions of the state in grasslands and coastal habitats. Grows in full sun. An aggressive herbaceous perennial and a notable problem in western USA.

Fallopia japonica (Houtt.) Dcne. (Japanese knotweed; Japanese or Mexican Bamboo)

Synonym: *Polygonum cuspidatum* Sieb. & Zucc.; *Reynoutria japonica* Houtt. A perennial herbaceous subshrub or shrub occurring in all regions of the state in upland, wetland, and coastal habitats. Grows in full sun to full shade, but hardier in full sun. Spreads vegetatively and by seed: forms dense thickets.

Ficaria verna Huds. (Lesser celandine; fig buttercup)

Synonyms: Ranunculus ficaria L.

A perennial herb occurring on stream banks, and in lowland and uplands woods in all regions of the state. Grows in full sun to full shade. Propagates vegetatively and by seed; forms dense stands especially in riparian woodlands; an ephemeral that outcompetes native spring wildflowers.

Frangula alnus P. Mill. (European buckthorn; glossy buckthorn)

Synonyms: Rhamnus frangula L.; R. frangula var. angustifolia Loud.

Shrub or tree occurring in all regions of the state in upland, wetland, and coastal habitats. Grows in full sun to full shade. Produces fruit throughout the growing season; grows in multiple habitats; forms thickets.

Glaucium flavum Crantz (Sea or horned poppy; yellow hornpoppy)

A biennial and perennial herb occurring in southeastern MA in coastal habitats. Grows in full sun. Seeds float; spreads along rocky beaches; primarily Cape Cod and Islands.

Hesperis matronalis L. (Dame's rocket)

A biennial and perennial herb occurring in all regions of the state in upland and wetland habitats. Grows in full sun to full shade. Spreads by seed; can form dense stands, particularly in flood plains.

Iris pseudacorus L. (Yellow iris)

A perennial herb occurring in all regions of the state in wetland habitats, primarily in flood plains. Grows in full sun to partial shade. Out-competes native plant communities.

Lepidium latifolium L. (Broad-leaved pepperweed; tall pepperweed)

A perennial herb occurring in eastern and southeastern regions of the state in coastal habitats. Grows in full sun. Primarily coastal at upper edge of wetlands; also found in disturbed areas; salt tolerant.

Lonicera japonica Thunb. (Japanese honeysuckle)

A perennial vine occurring in all regions of the state in upland, wetland, and coastal habitats. Grows in full sun to full shade. Rapidly growing, dense stands climb and overwhelm native vegetation; produces many seeds that are bird dispersed; more common in southeastern Massachusetts.

Lonicera morrowii A.Gray (Morrow's honeysuckle) A shrub occurring in all regions of the state in upland, wetland, and coastal habitats. Grows in full sun to full shade. Part of a confusing hybrid complex of nonnative honeysuckles commonly planted and escaping from cultivation via bird dispersal.

Lonicera x bella Zabel [morrowii x tatarica] (Bell's honeysuckle)

This shrub occurs in all regions of the state in upland, wetland, and coastal habitats. Grows in full sun to full shade. Part of a confusing hybrid complex of nonnative honeysuckles commonly planted and escaping from cultivation via bird dispersal.

Lysimachia nummularia L. (Creeping jenny; moneywort)

A perennial herb occurring in all regions of the state in upland and wetland habitats. Grows in full sun to full shade. Escaping from cultivation; problematic in flood plains, forests and wetlands; forms dense mats.

Lythrum salicaria L. (Purple loosestrife)

A perennial herb or subshrub occurring in all regions of the state in upland and wetland habitats. Grows in full sun to partial shade. Escaping from cultivation; overtakes wetlands; high seed production and longevity.

Myriophyllum heterophyllum Michx. (Variable water-milfoil; Two-leaved water-milfoil) A perennial herb occurring in all regions of the state in aquatic habitats. Chokes waterways, spread by humans and possibly birds.

Myriophyllum spicatum L. (Eurasian or European water-milfoil; spike water-milfoil) A perennial herb found in all regions of the state in aquatic habitats. Chokes waterways, spread by humans and possibly birds.

Phalaris arundinacea L. (Reed canary-grass)

This perennial grass occurs in all regions of the state in wetlands and open uplands. Grows in full sun to partial shade. Can form huge colonies and overwhelm wetlands; flourishes in disturbed areas; native and introduced strains; common in agricultural settings and in forage crops.

Phragmites australis (Cav.) Trin. ex Steud. subsp. **australis (Common reed)**A perennial grass (USDA lists as subshrub, shrub) found in all regions of the state. Grows in upland and wetland habitats in full sun to full shade. Overwhelms wetlands forming huge, dense stands; flourishes in disturbed areas; native and introduced strains.

Polygonum perfoliatum L. (Mile-a-minute vine or weed; Asiatic tearthumb)

Synonyms: *Persicaria perfoliata* (L.) H. Gross; *Ampelygonum perfoliatum* (L.) Roberty & Vautier This annual herbaceous vine is currently known to exist in several counties in MA, and has also has been found in RI and CT. Habitats include streamside, fields, and road edges in full sun to partial shade. Highly aggressive; bird and human dispersed.

Potamogeton crispus L. (Crisped pondweed; curly pondweed)

A perennial herb occurring in all regions of the state in aquatic habitats. Forms dense mats in the spring and persists vegetatively.

Rhamnus cathartica L. (Common buckthorn)

A shrub or tree occurring in all regions of the state in upland and wetland habitats. Grows in full sun to full shade. Produces fruit in fall; grows in multiple habitats; forms dense thickets.

Robinia pseudoacacia L. (Black locust)

A tree that occurs in all regions of the state in upland habitats. Grows in full sun to full shade. While the species is native to central portions of Eastern North America, it is not indigenous to Massachusetts. It has been planted throughout the state since the 1700's and is now widely naturalized. It behaves as an invasive species in areas with sandy soils.

Rosa multiflora Thunb. (Multiflora rose)

A perennial vine or shrub occurring in all regions of the state in upland, wetland and coastal habitats. Grows in full sun to full shade. Forms impenetrable thorny thickets that can overwhelm other vegetation; bird dispersed.

Salix atrocinerea/Salix cinerea L. (Large Gray Willow/Rusty Willow)

A large shrub or small tree most commonly found in the eastern and southeastern areas of the state, with new occurrences being reported further west. Primarily found on pond shores but is also known from other wetland types and rarely uplands. *Salix atrocinerea* L. / *Salix cinerea* L. are either recognized as closely related species or the conspecific subspecies *Salix cinerea* ssp. *cinerea* ssp. *cinerea*. Forms dense stands and can out-compete native species along the shores of coastal plain ponds. (Reviewed 2014)

Trapa natans L. (Water-chestnut)

An annual herb occurring in the western, central, and eastern regions of the state in aquatic habitats. Forms dense floating mats on water.

Agenda Item: 7A



TOWN OF TRUROSelect Board Agenda Item

DEPARTMENT: Administration

PRESENTER: Attorney Katharine Klein, Town Counsel, KP Law

REQUESTED MEETING DATE: December 17, 2024

ITEM: Vote to Approve, and Execute Where Applicable, Documents for the Cloverleaf Project, at 22 Highland Road, including, but not limited to: Grant Agreement; Tax Credit Regulatory Agreement and Declaration of Restrictive Covenants; Affordable Housing Restriction; Estoppel Certificate

EXPLANATION: The closing for the Cloverleaf Truro Rental Housing located at 22 Highland Road is expected to occur before the end of this month. Members of Truro staff and Attorney Katharine Klein of KP Law have participated in weekly closing calls with the developer and operator, as well as with the many State agencies involved in the project's funding.

At the Board's December 10, 2024 Regular Meeting, the Board approved an initial batch of the required documents. At tonight's meeting, Attorney Klein will present the remaining closing documents that will require Select Board action, which include the following:

- 1. Grant Agreement;
- 2. Tax Credit Regulatory Agreement and Declaration of Restrictive Covenants;
- 3. Affordable Housing Restriction;
- 4. Estoppel Certificate

Upon approval of these documents, Select Board members will need to arrange to sign the documents in the presence of Notary Nicole Tudor. Please note that there may be some immaterial changes to the documents that may occur in the coming days. Town staff requests that if these changes are needed, that they and Attorney Klein be authorized to make said immaterial changes. If any substantive changes were required, those changes would be brought back before the Select Board for approval.

IMPACT IF NOT APPROVED: The documents required for the closing will not be signed, resulting in a delayed closing, which could result in funding loss for the project.

SUGGESTED ACTION: MOTION TO approve, and execute where applicable, documents for the Cloverleaf project, at 22 Highland Road, including the following: Grant Agreement; Tax Credit Regulatory Agreement and Declaration of Restrictive Covenants; Affordable Housing Restriction; and Estoppel Certificate; and to authorize the Town Manager and his designee(s) and Town Counsel to make any immaterial changes to the documents required.

ATTACHMENTS:**

- 1. Grant Agreement;
- 2. Tax Credit Regulatory Agreement and Declaration of Restrictive Covenants (red-lined and execution versions);
- 3. Affordable Housing Restriction (red-lined and execution versions);
- 4. Estoppel Certificate

^{**}Please note that updated versions of any of these documents may be presented at the meeting. Updated versions will be posted to the website upon being made available and Attorney Klein will indicate areas that differ from previous versions.

Agenda Item: 7A1

TOWN OF TRURO, MASSACHUSETTS

GRANT AGREEMENT

TH	IS GR	ANT AG	REE	MENT	(this "A	greement	") is	made	on this		day	of
December,	2024,	by and be	etwee	en the T	own of	Truro, a	Mas	sachuse	tts mun	icipa	l corporat	ion
acting by	and	through	its	Select	Board,	having	its	usual	place	of	business	at
	, Truro, MA (the "Town"), and The Community Builders, Inc.,											
a Massach	usetts o	charitable	corp	oration,	having a	n address	of 3	3 Arch	Street,	Floo	r 10, Bost	on,
MA 02110	, or its	Assignee (the '	'Grantee	" or the	'Sponsor'	').					

WITNESSETH:

WHEREAS, the Town is the owner of a parcel of land located at 22 Highland Road, Truro, Barnstable County, Massachusetts, consisting of 3.91 acres, more or less, and described in a deed recorded with the Barnstable Land Court Registry of Deeds (the "Registry") in Book 30796, Page 289 (the "Property");

WHEREAS, the Town issued a Request for Proposals (the "<u>RFP</u>") on August 15, 2018, soliciting proposals for the development, construction and operation rental affordable housing units on the Property;

WHEREAS, Community Housing Resource, Inc., in partnership with Grantee, submitted a proposal to the Town on October 18, 2018 (the "Proposal"), which is incorporated herein, proposing to construct 43 mixed income dwelling units on the Property (the "Units") to be spread across ten (10) buildings consisting of six (6) two unit townhouse buildings, two (2) four unit buildings, one seven unit townhouse building and one low-rise multi-generational apartment building containing 16 units, a community room, management office, and a common laundry facility (the "Project"), which Project shall contain no fewer than 35 residential units to be available for Families as such term is defined in a certain Affordable Housing Restricted by Owner for the benefit of the Commonwealth of Massachusetts acting by and through the Executive Office of Housing and Livable Communities ("EOHLC") and other public lenders (the "Affordable Housing Restriction") whose income does not exceed 60% of the area median income for the Metropolitan Statistical Area in which the Town is located, as defined by the United States Department of Housing and Urban Development, adjusted for household size (the "Affordable Units");

WHEREAS, the Town and Grantee entered into an Amended and Restated Land Development Option Agreement dated September 13, 2022, as amended by a certain Amendment No. 1 to Land Development Option Agreement dated as of October 24, 2024 (collectively, the "LDA") pursuant to which Grantee or an affiliate of the Grantee will enter into a ground lease of the Property for nominal consideration upon the satisfaction of conditions set forth therein, which LDA;

WHEREAS, pursuant to the LDA, Grantee will undertake the Project, including renting the Affordable Units to Eligible Tenants (as set forth and defined below);

1

WHEREAS, Grantee submitted a proposal (the "<u>Proposal</u>") to the Truro Community Preservation Committee ("<u>CPC</u>") seeking funds under the Community Preservation Act, G.L. c. 44B (the "<u>CPA</u>"), for the purpose of developing and operating the Project;

WHEREAS, the CPC reviewed and approved the Proposal and recommended that Truro Town Meeting appropriate the funds therein requested; and

WHEREAS, by the vote taken under Article 13, Section 2 of the 2019 Annual Town Meeting, the Town appropriated CPA funds in the amount of \$40,000 (the "<u>CPA Funds</u>") to fund the construction and operation of the Affordable Units;

WHEREAS, Grantee also submitted a request to the Town for (i) Community Development Block Grantprogram income funds ("<u>CDBG</u>PI"), (ii) funds through the Truro Affordable Housing Trust Fund (the "<u>Trust</u>"), and (iii) funds through the Rural and Small Town grant program ("<u>RST</u>") from EOHLC to the Town; and

WHEREAS, the Town's Select Board voted to provide Grantee with Trust funds in the aggregate amount of \$1,800,000 towards the Project (the "Trust Funds"); and

WHEREAS, the Town voted to provide Grantee with CDBGPI funds in the aggregate amount of \$81,691 (the "CDBGPI Funds"); and

WHEREAS, EOHLC awarded \$209,893 to the Town from the Rural and Small Town grant program to be granted to the Project (the "RST Grant Funds"); and

WHEREAS, the Town will contribute Town funds in the total amount of \$2,131,584.00 (the "<u>Grant Funds</u>"), which is the sum of the CPA Funds, the Trust Funds, the CDBG Funds, and the RST Grant Funds to fund the Project;

WHEREAS, the Town ground leased Property to TCB on or about the date hereof;

WHEREAS, TCB assigned its interest in the Ground Lease to Cloverleaf Truro LLC, a Massachusetts limited liability company and affiliate of the Grantee (the "<u>Project Owner</u>"), on or about the date hereof.

NOW THEREFORE, the Town and Grantee wish to set forth in an agreement the terms of said funds and agree as follows:

- 1. <u>Funding</u>. Each of the Grant Funds shall be granted to Grantee on the condition that Grantee shall loan all of the Grant Funds to the Owner (the "<u>Sponsor Loans</u>") and the Owner shall use said funds for the sole purpose of constructing the Project with the Affordable Units and renting said Affordable Units in perpetuity to the Eligible Tenants (defined below). The Sponsor Loans shall be evidenced by promissory notes from the Owner to the Grantee and secured by a subordinate priority mortgage recorded against the Property.
- 2. Conditions.

- a) The term of the Sponsor Loans shall be ____ (___) years from the date of the closing of the Project financing (including the Sponsor Loans). Excess or unused Grant Funds must be returned to the Town. Any and all Grant Funds will be returned to the Town upon the occurrence of an uncured Event of Default (as defined herein) and termination of the Agreement as set forth in Section 10 herein.
- b) Grantee shall ensure that the Owner shall use the Sponsor Loans for the sole purpose of undertaking the Project and renting the Affordable Units pursuant to the requirements of the Affordable Housing Restriction and the Comprehensive Permit Guidelines (the "Guidelines") issued by the EOHLC (the "Eligible Tenants"), and at rents acceptable to EOHLC. Grantee shall take any and all action as may be necessary and/or appropriate to include the Affordable Units in the Town's Subsidized Housing Inventory maintained by EOHLC.
- c) The Grant Funds are granted to Grantee on the condition that, at the time of closing of the Project financing, the Owner, the Town, and EOHLC enter into a Regulatory Agreement and Declaration of Restrictions and the Affordable Housing Restriction on terms satisfactory to the Town. No Grant Funds shall be disbursed until the Restriction has been recorded against the title to the Property.
- 3. <u>Contact.</u> Grantee shall identify in writing a contact person responsible for administration of the Project and a second person, authorized to act if the contact person is unavailable.
- 4. <u>Liability of the Town.</u> The Town's liability hereunder shall be to make the payment specified in Section 1 of this Agreement, provided that Grantee complies with the conditions set forth in this Agreement, including, without limitation, Grantee's obligations under Section 2, and the Town shall be under no further obligation or liability. Nothing herein shall render the Town or any elected or appointed official or employee of the Town, or their successors in office, personally liable for any obligation under this Agreement.
- 5. <u>Indemnification</u>. Grantee shall defend, indemnify and hold the Town and its departments, officers, employees, servants and agents harmless from and against any and all claims, demands, liabilities, actions, causes of actions, costs and expenses, including attorneys' fees, arising out of or relating to Grantee's performance of the Project, the condition of the Property, or the negligence or misconduct of Grantee or Grantee 's agents or employees.
- 6. <u>Public Records; Contract Documents</u>. All document relating to the Project, including, but not limited to, photographs, budgets, and other documents submitted to the Town, shall become the property of the Town and available by the public under the Massachusetts Public Records Law.
- 7. Record Keeping. Grantee agrees to keep, for a period of six (6) years after the Project is completed, such records with respect to the utilization and the Grant Funds as are kept in the normal course of business and such additional records as may be required by the Town. Grantee further agrees to make these records available to the Town upon request.

- 8. <u>Payments</u>. The Grant Funds shall be released to into the Project upon the closing of the Project financing and the recording of the Affordable Housing Restriction in compliance with Section 2 (collectively, the "<u>Disbursement Requirements</u>").
- 9. <u>Assignment</u>. Grantee shall not assign, subcontract or otherwise transfer this Agreement, in whole or in part, or its rights hereunder, without the prior written consent of the Town, which may be withheld in its sole and absolute discretion, provided, however, that Grantee may assign the same only to the affiliated entity taking title to the Property from the Town ("<u>Assignee</u>").
- 10. Termination. If Grantee fails to fulfill any of its obligations under the terms of this Agreement, including, without limitation, any uncured default of the Owner under the Restriction (an "Event of Default"), as determined by the Town, and such failure is not cured within forty-five (45) days after the Town has given written notice to Grantee specifying such failure, the Town shall have the right, in its sole discretion, to terminate this Agreement upon written notice to Grantee, whereupon Grantee shall cease to incur additional expenses in connection with this Agreement. Upon termination, the Town shall be free to pursue any rights or remedies provided within this Agreement, including without limitation, recapture of Grant Funds as set forth in Section 11 below. Upon the expiration or earlier termination of this Agreement, all rights and obligations of the parties hereunder shall expire and be of no further force and effect, except that the provisions of Sections 2, 4, 5, 7, 8, 10, 11 and 16 shall survive said expiration or earlier termination.
- 11. Return of Grant Funds. In the event Grantee fails to fulfill its obligations hereunder or under the Restriction and this Agreement is terminated pursuant to Section 10, any Grant Funds disbursed to Grantee under this Agreement and not yet expended shall be returned forthwith to the Town without further expenditure thereof and, further, Grantee shall be obligated to repay in full any and all Grant Funds expended by Grantee, it being the intent of the parties that, upon such default, the Town shall be made whole. In the event that the Town takes legal action under this Agreement, Grantee shall pay any and all costs and expenses, including reasonable attorneys' fees, incurred by the Town on and from the date of default.
- Reports. Grantee shall provide the Town with quarterly project status reports until the Project has been completed.
- 13. Compliance with Laws. Grantee shall comply with all federal, state and local laws, rules, regulations and orders applicable to the Project, including, without limitation, with the CPA, such provisions being incorporated herein by reference, and shall obtain any and all licenses, permits, and approvals required in connection with the Project. No local permit or license is waived by the award of this grant.
- 14. Notice. Any and all notices, or other communications required or permitted under this Agreement, shall be in writing and delivered by hand or mailed postage prepaid, return receipt requested, by registered or certified mail or by other reputable delivery service, to the parties at the addresses listed below or furnished from time to time in writing hereafter by one party to the other party. Any such notice or correspondence shall be deemed given when so delivered

by hand, if so mailed, when deposited with the U.S. Postal Service or, if sent by private overnight or other delivery service, when deposited with such delivery service.

If to Grantee:

The Community Builders, Inc. 33 Arch Street Floor 10, Suite 1000 Boston, MA 02110

With a copy to:

If to the Town:

With a copy to:

KP Law, P.C. 101 Arch Street, 12th Floor Boston, MA 02110 Attention: Katherine Klein, Esq.

- 15. <u>Severability</u>. If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by the court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.
- 16. Governing Law. This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts and Grantee submits to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this Agreement.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Grant Agreement on the day and year first written above.		
TOWN OF TRURO, By Its Select Bo	ard	
, Chair		
, Vice-Chair		
, Member		
, Member		
, Member		Commented [TL1]: Does TCB need signature block?

MassDocs

Style Definition: Style Heading 2 Underline: Level 2, Indent: Left: -0.01", First line: 0.5"

TAX CREDIT REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

THIS TAX CREDIT REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (this "Restriction") is made and entered into as of the [______ day of December], 2024 by and between the Commonwealth of Massachusetts, acting by and through the Executive Office of Housing and Livable Communities ("EOHLC"), and Cloverleaf Truro LLC, a Massachusetts limited liability company, and its successors and assigns (the "Grantor").

BACKGROUND

- A. EOHLC, as successor to the former Department of Housing and Community Development, is authorized by Executive Order 291 signed by the Governor of the Commonwealth of Massachusetts to administer the State Housing Credit Ceiling as defined in Section 42 of the United States Internal Revenue Code of 1986 as amended, (the "Code") in connection with the allocation and administration of low-income housing tax credits (the "Low-Income Housing Tax Credit").
- B. EOHLC has adopted a 2022-2023 Low-Income Housing Tax Credit Allocation Plan (the "Allocation Plan") and certain Low-Income Housing Tax Credit Guidelines (the "Guidelines"), which govern the process and standards for allocation of the Low-Income Housing Tax Credit.
- C. EOHLC is authorized pursuant to M.G.L. c.23B sec.3, M.G.L. c.62 sec.6I, and M.G.L. c.63 sec.31H (collectively, the "Massachusetts Act") to allocate, administer, and determine eligibility for a Massachusetts low-income housing tax credit ("State Credit").
- D. The Grantor is the developer of a 43 residential rental unit housing development located or to be located on the Property leased by the Grantor from the Town of Truro, Massachusetts (the "Ground Lessor") pursuant to the Ground Lease, which housing development is known as or to be known as Cloverleaf (the "Project").
- E. The Grantor has applied to EOHLC for an allocation of Low-Income Housing Tax Credits to the Project.
- F. The Grantor has applied to and received from EOHLC a binding commitment of State Credit and will receive in the future from EOHLC an allocation of State Credit (subject to pertinent conditions) for the Project.
- G. The Grantor has represented to EOHLC in the Grantor's Low-Income Housing Tax Credit Application (collectively, the "Application") that a certain percentage of the Units in the Project shall be both rent restricted and occupied by individuals or families whose income is a certain percentage or less of the Area Median Income in accordance with Section 42 of the Code, and that the Grantor will maintain other restrictions on the use and occupancy of the Project, as set forth herein. Where



reference is made herein to the Application, the term "Grantor" shall also mean any previous sponsor connected with the Project.

- H. EOHLC has determined that, as of the date hereof, the Project would support a Low-Income Housing Tax Credit allocation, as set forth herein, provided that the Units in the Project are placed in service in accordance with Section 42 of the Code and any other applicable requirements.
- 1. The Code requires as a condition precedent to the allocation of the Low-Income Housing Tax Credit that the Grantor execute, deliver and record in the official land deed records of the county in which the Project is located this Restriction in order to create certain covenants running with the land for the purpose of enforcing the requirements of Section 42 of the Code and other applicable requirements by regulating and restricting the use and occupancy and transfer of the Project as set forth herein.
- J. As a condition precedent to determination of the Project as a Qualified Massachusetts Project, authorized and eligible for the State Credit, the Grantor must execute, deliver and record as an affordable housing restriction under M.G.L. c.184 with the registry of deeds in the county in which the Project is located a regulatory agreement for the State Credit.
- K. The Grantor, under this Restriction, intends, declares and covenants that the regulatory and restrictive covenants set forth herein governing the use, occupancy and transfer of the Project shall be and are covenants running with the Property for the term stated herein and binding upon all subsequent owners of the Property for such term, and are not merely personal covenants of the Grantor.

SECTION 1. GENERAL

- 1.1 EOHLC and the Grantor, in consideration of the covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby agree as set forth below.
- 1.2 This Restriction shall constitute an "extended low-income housing commitment" as defined in Section 42(h)(6)(B) of the Code with respect to each building included within the Project.

SECTION 2. DEFINITIONS

Unless otherwise expressly provided herein or unless the context clearly requires otherwise, the following terms shall have the respective meanings set forth below for all purposes of this Restriction:

Applicable Fraction: The smaller of the "unit fraction" or the "floor space fraction," as

these terms are defined in Section 42(c)(1) of the Code, which has been determined for the purposes of this Restriction to be

[73.2%.]%.

Applicable Income Limit: The percentage of Area Median Income applicable to a Low-

Income Unit, which shall be equal to 60 percent.



Area: Barnstable, MA MSA The median income for the Area, with adjustments for family Area Median Income: size, determined in accordance with Section 142(d)(2)(B) of the Code: The Internal Revenue Code of 1986 as amended and all regulations applicable thereto. Compliance Period: The 15-year compliance period under Section 42 of the Code. Gross Rent: The total amount received from a Low-Income Tenant as a rental payment, excluding any payment under Section 8 of the United States Housing Act of 1937 or any comparable rental assistance (with respect to such Unit or occupants thereof) and including any utility allowance under Section 8 of the aforementioned act. **Ground Lease:** The Ground Lease entered into by and between Ground Lessor as landlord, and The Community Builders, Inc., as tenant ("TCB"), dated as of _______,the date hereof, authorizing TCB to lease the Property, as assigned by TCB to the Grantor, by that certain **[Assignment and** Assumption of Ground Lease Assignment Document] by and among TCB, the Town and the Grantor dated as of recorded with the Barnstable County Registry of Deeds in ______, Page ______].herewith. A certification as to income executed by a Low-Income Tenant of Income Certification: the Project. Low-Income Tenant: The occupant(s) of a Unit whose income on admission to the Project, as computed in accordance with the rules and regulations governing the Low-Income Housing Tax Credit, does not exceed the Applicable Income Limit. As defined in Section 5.2 below. Low-Income Unit: Low-Income Tenant Rental Period: As defined in Section 7.1 below. Property: The land described on Exhibit A attached hereto situated at the Property Address. For Grantor's title see the notice of ground lease recorded with the Barnstable County Registry of Deeds in

[Book ________].herewith.

Cloverleaf Trail, Truro, Massachusetts.

Before completion of construction: 22 Highland Road, Truro,

Massachusetts; after completion of construction: 1-22

The Gross Rent to be charged for a Low-Income Unit which does

not exceed thirty percent (30%) of the Applicable Income Limit.

© 2006 Massachusetts Housing Partnership

Property Address:

Rent Restricted:



Sponsor: Community Housing Resource, Inc.

<u>State</u>: The Commonwealth of Massachusetts.

<u>Unit:</u> A housing unit in the Project.

Any term not defined in this Restriction shall have the same meaning as terms defined in Section 42 of the Code and the Treasury regulations promulgated thereunder or under the Massachusetts Act and 760 CMR 54.00 et seq. promulgated thereunder (the "State Regulations").

SECTION 3. RECORDING AND FILING; COVENANTS TO RUN WITH THE LAND

- 3.1 Upon execution, the Grantor shall cause this Restriction and all amendments hereto to be recorded with the Barnstable <u>County</u> Registry of Deeds and shall pay all fees and charges incurred in connection therewith. Upon recording, the Grantor shall immediately transmit to EOHLC evidence of the recording including the date and instrument number or book and page numbers. The Grantor agrees that EOHLC will not issue the Internal Revenue Service Form 8609 constituting final allocation of the Low-Income Housing Tax Credit or a Massachusetts Eligibility Statement constituting final allocation of the State Credit unless and until EOHLC has received a certified copy of the recorded Restriction.
- 32 The Grantor intends, declares and covenants, on behalf of itself and all future owners and operators of the Property during the Low-Income Tenant Rental Period, that this Restriction and the covenants and restrictions set forth in this Restriction regulating and restricting the use, occupancy and transfer of the Property and the Project (i) shall be and are covenants running with the Property, encumbering the Property for the Low-Income Tenant Rental Period, binding upon the Grantor's successors in title and all subsequent owners and operators of the Project, (ii) are not merely personal covenants of the Grantor, and (iii) shall bind the Grantor (and the benefits shall inure to EOHLC and any past, present or prospective tenant of the Project) and its respective successors and assigns during the Low-Income Tenant Rental Period. The restrictions contained herein are intended to be construed as an affordable housing restriction as that term is defined in Section 31 of Chapter 184 of the Massachusetts General Laws, and which has the benefit of Section 32 of said Chapter 184, such that the restrictions contained herein shall not be limited in duration by any rule or operation of law but rather shall run for the full Low-Income Tenant Rental Period. The Grantor 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 Restriction to constitute deed restrictions and covenants running with the land shall be deemed to be satisfied in full, and that any requirements of privity of estate are intended to be satisfied, or in the alternate, that an equitable servitude has been created to ensure that these restrictions run with the land. For the longer of the period the Low-Income Housing Tax Credit is claimed or the Low-Income Tenant Rental Period, each and every contract, deed or other instrument hereafter executed conveying the Project or portion thereof shall expressly provide that such conveyance is subject to this Restriction, provided, however, that the covenants contained herein shall survive and be effective regardless of whether such contract, deed or other instrument hereafter executed conveying the Project or portion thereof provides that such conveyance is subject to this Restriction.



SECTION 4. REPRESENTATIONS, COVENANTS AND WARRANTIES OF THE GRANTOR

The Grantor hereby represents, covenants and warrants to EOHLC as follows:

- 4.1 The Grantor (i) is a limited liability company 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 Restriction.
- 4.2 The execution and performance of this Restriction by the Grantor (i) will not violate or, as applicable, have 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, have not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the Grantor 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.
- 4.3 The Grantor will, at the time of execution and delivery of this Restriction, have good and marketable leasehold title to the Project, including the Property, free and clear of any lien or encumbrance (subject to encumbrances created pursuant to this Restriction, any loan documents relating to the Project the general terms of which are approved by EOHLC, or other permitted encumbrances).
- **4.4** 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 Grantor, 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 Restriction) or would materially adversely affect its financial condition.
- 4.5 The Project constitutes or will constitute a qualified low-income building or qualified project, as applicable, as defined in Section 42 of the Code and Applicable Regulations (as defined below).
- **4.6** Each Unit contains complete facilities for living, sleeping, eating, cooking and sanitation (unless the Project qualifies as a single-room occupancy project).
- 4.7 During the Low-Income Tenant Rental Period, all Low-Income Units shall be Rent Restricted and shall be leased, rented or made available to members of the general public who qualify as Low-Income Tenants (or otherwise qualify for occupancy of the Low-Income Units as set forth in Section 5.4 hereof) under the applicable election specified in Section 42(g) of the Code and as set forth in Section 5.1 of this Restriction. During the Low-Income Tenant Rental Period, the Gross Rent for a Low-Income Unit, other than at turnover, shall not be increased more often than once a year and no notice of change in rent to be charged for Low-Income Units shall be given prior to providing the affected tenants with a thirty (30) day opportunity to comment on the increase. The Grantor shall provide, on a form and in a manner acceptable to EOHLC, an annual notification to each Low-Income Tenant indicating the manner in which the Gross Rents for Low-Income Units are determined.

TAX CREDIT REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

- 4.8 The Grantor shall insure that all Low-Income Units shall be of comparable quality to other Units or if not comparable, the excess cost of the other Units shall not exceed the percentage set forth in Section 42(d)(3) of the Code and the Grantor will file the election provided for therein. The Low-Income Units shall be, to the extent possible, dispersed evenly throughout the Project.
- **4.9** During the Low-Income Tenant Rental Period, each Low-Income Unit is and will remain suitable for occupancy and in compliance with all local health, safety and building codes.
- 4.10 The Grantor shall not discriminate on the basis of race, religious creed, color, sex, age, marital status, sexual orientation (which shall not include persons whose sexual orientation involves minor children as the sex object), gender identity, genetic information, veteran status, membership in the armed forces, ancestry, national origin, handicap, blindness, hearing impairment, or because a person possesses a trained guide dog as a consequence of blindness, hearing impairment or other handicap of such person or any other basis prohibited by law in the lease, use, occupancy and marketing of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project. Without limiting the foregoing, the Grantor is expressly prohibited from refusing to lease to a holder of a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as such a holder.
- 4.11 Prior to occupancy of any Unit or the undertaking of any marketing activities with respect to the Project, the Grantor shall adopt and implement (i) an affirmative fair housing marketing plan for all Units and (ii) a tenant selection plan for the Low-Income Units, in both cases consistent with any standards and guidelines adopted by EOHLC as then in effect and all applicable laws. Both the affirmative fair marketing and tenant selection plans shall be subject to review by EOHLC, at EOHLC's request from time to time during the Low-Income Tenant Rental Period. The affirmative fair housing marketing plan shall require the Grantor to create a listing for all Low-Income Units with the Housing Navigator (www.housingnavigatorma.org), which listing shall be updated and confirmed prior to holding a tenant-selection lottery for the Low-Income Units and shall thereafter be updated at least annually or more frequently if appropriate in EOHLC's opinion (e.g. in connection with the re-opening of any waiting list for Low-Income Units). The affirmative fair housing marketing plan shall also require the Grantor to notify the Housing Navigator when waiting lists for Low-Income Units open and close and whenever there is a Low-Income Unit available on a first come. first served basis.
- 4.12 The Grantor shall enter into a lease with each tenant of a Low-Income Unit (other than Units that qualify as single-room occupancy units) which shall be for a minimum period of one (1) year and which shall provide that no tenant of a Low-Income Unit shall be evicted during the Low-Income Tenant Rental Period for any reason other than a substantial breach of a material provision of such lease. Without limiting the foregoing, the lease shall comply in all respects with applicable state, local, and federal law and the terms and conditions of this Restriction.
- 4.13 The Grantor may not sell, transfer or exchange less than all of the Project during the Low-Income Tenant Rental Period. The Grantor shall not sell, transfer, convey, rent (except for residential leases or occupancy agreements conforming to the occupancy requirements hereof), encumber as security for financing, or in any other way exchange all or any portion of the Property nor shall the Grantor permit the sale, transfer or pledge of any direct or indirect interests in the



TAX CREDIT REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

Grantor, without the express written permission of EOHLC. Notwithstanding the foregoing: (i) the investor member interest of Grantor held by MCI Cloverleaf, LLC (the "Investor") may be transferred to an entity in which the Investor or an affiliate of the Investor is the general partner or managing member, provided that EOHLC receives notice of such transfer and (ii) the Grantor's investor member may remove and replace the manager of the Grantor in accordance with the provisions of the Grantor's operating agreement upon the consent of EOHLC, which consent will not be unreasonably withheld, conditioned or delayed. In connection with any transfer requiring the consent of EOHLC, the Grantor shall provide such information to EOHLC as EOHLC may reasonably request, shall pay a fee to EOHLC pursuant to EOHLC's then-current fee schedule and shall pay all legal fees incurred by EOHLC in connection with such transfer request. The Grantor agrees that EOHLC may void any sale, transfer or exchange of the Project if the buyer or successor or other person fails to assume in writing the requirements of this Restriction and the requirements of Section 42 of the Code.

- **4.14** The Grantor 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 any Unit for any purpose other than rental housing during the Low-Income Tenant Rental Period unless required by law.
- 4.15 If the Project, or any part thereof, shall be damaged or destroyed or shall be condemned or acquired for public use, the Grantor (subject to the approval of the lenders that have provided the financing) will use commercially reasonable 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 the terms of this Restriction.
- **4.16** The Grantor has not and will not execute any other agreement with provisions contradictory to, or in opposition to, the provisions hereof, and that in any event, the requirements of this Restriction are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith.
- **4.17** The Grantor has obtained the consent of all current holders of existing mortgages on the Project to this Restriction either (i) in the form attached hereto as <u>Exhibit B</u> or (ii) pursuant to an intercreditor or subordination agreement dated on or about the date hereof providing for consent by all holders of existing mortgages on substantially the same terms as set forth in <u>Exhibit B</u>.
- 4.18 If the Project has received a Low-Income Housing Tax Credit allocation as a special needs project, the Grantor will maintain special needs services throughout the Low-Income Tenant Rental Period as represented in the Grantor's EOHLC approved service plan which is incorporated herein.

Grantor shall indemnify and hold harmless EOHLC from and against all liabilities, damages, losses, obligations, penalties, claims, demands, actions, costs and expenses (including without limitation attorneys and expert fees and costs) of any kind or nature directly or indirectly resulting from the breach of any of the foregoing representations, warranties or covenants or of any of the covenants contained elsewhere in this Restriction, including, without limitation, costs of defending or settling any claim arising therefrom against EOHLC.

SECTION 5. OCCUPANCY RESTRICTIONS

- 5.1 No later than the end of the first year of the Compliance Period and continuing throughout the Low-Income Tenant Rental Period and in order to satisfy the requirements of Section 42 of the Code, other applicable requirements and the representations made in the Application, no less than the Applicable Fraction of the Units in the Project shall be both rent-restricted and occupied by Low-Income Tenants.
- The applicable fraction (as defined in Section 42(c)(1) of the Code), for each taxable year during the Low-Income Tenant Rental Period, will not be less than the Applicable Fraction. Initially, Low-Income Tenants shall occupy 36[35] units ("Low-Income Units"): 1 of which shall be three-bedroom units; 13[12] of which shall be two-bedroom units; and 22 of which shall be onebedroom units. No less than 6 of the Low-Income Units shall be occupied by Low-Income Tenants whose income is 30% or less of the Area Median Income. As of the date hereof, the Project has or is expected to have the benefit of a contract for 8 project-based vouchers under Section 8 of the United States Housing Act of 1937, as amended (the "Section 8 Contract"), 8 project-based vouchers under the Massachusetts Rental Voucher Program (the "MRVP Contract") and 3 [project-based vouchers under the Massachusetts Alternative Housing Voucher Program] (the "AHVP Program" and, collectively with the Section 8 Contract and the MRVP Contract, the "Rental Subsidy Contracts"). If during the Low-Income Tenant Rental Period any of the Rental Subsidy Contracts is not renewed at the end of its term or is terminated or otherwise is no longer in full force and effect, EOHLC will consider a request by the Grantor to reduce the number of Low-Income Units required to be occupied by Low-Income Tenants whose income is 30% or less of the Area Median Income. A decision by EOHLC on such a request shall take into consideration the financial viability of the Project and shall be made in the sole reasonable discretion of EOHLC.
- 5.3 As a condition to occupancy, each person who is intended to be a Low-Income Tenant shall be required to sign and deliver to the Grantor an Income Certification using a form, acceptable to EOHLC, adopted for such use by the Grantor which meets the requirements of the Code and the Treasury regulations promulgated thereunder. The determination of whether a tenant meets the definition of a Low-Income Tenant shall be made by the Grantor at least annually on the basis of the current income of such tenant.
- 5.4 Subject to the next succeeding sentence, any Unit occupied by an individual or family who is a Low-Income Tenant at the commencement of occupancy shall continue to be treated as if occupied by a Low-Income Tenant regardless of increases in such Low-Income Tenant's income so long as such Unit (the "Over-Income Unit") continues to be rent-restricted. Notwithstanding the foregoing, if a Low-Income Tenant's income increases above 140% of the Applicable Income Limit set forth in Section 5.2 above, such tenant shall no longer be considered a Low Income Tenant if the next available Unit of comparable or smaller size is rented to a tenant who is not a Low-Income Tenant.

SECTION 6. CONVERSION RESTRICTIONS

The following conversion restrictions are applicable to the Project:



TAX CREDIT REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

- **6.1** No tenant in the Project shall be evicted due to conversion to condominium or cooperative form of ownership unless and until said tenant has received the rights and benefits as set forth in Chapter 527 of the Acts of the Commonwealth of Massachusetts of 1983, as amended, or any successor act, as then currently in effect (the "Conversion Act") (notwithstanding any exemption provided in the third paragraph of Section 2 of the Conversion Act to the city or town in which the Project is located) and any applicable local laws and ordinances.
- 6.2 No tenant of a Low-Income Unit shall be evicted due to conversion to condominium or cooperative form of ownership nor shall a Low-Income Unit be converted to conventional rental housing (which shall mean housing having an annual rental greater than that permitted for Low-Income Units under the Low-Income Housing Tax Credit rules and regulations) unless and until the following restrictions have been met and completed with respect to such Unit:
- (a) the tenant of a Low-Income Unit so affected shall be given prior written notice of intent to convert to condominium or cooperative form of ownership or to convert to conventional rental housing (the "Notice Period") of at least four (4) years, such Notice Period beginning on a date no sooner than four years prior to the expiration of the Low-Income Tenant Rental Period. Once such notice of intent to convert is provided to a tenant, in the event such tenant later vacates the Unit, the new tenant is entitled to receive notice under this subsection for a period equal to the remaining time pursuant to the original notice of intent to convert. The notice of intent shall include notice of the tenant's rights and notice of the right of first refusal provided in paragraph (d) of this Section 6.2; the notice of intent shall also inform tenants that EOHLC should be notified if the Grantor is not fulfilling its obligations under this Restriction; only tenants occupying Low-Income Units within the Project shall be entitled to receive the additional rights enumerated in this paragraph; EOHLC shall be provided with a copy of the notice for review and approval before such notice is sent to the Low-Income Tenant;
- (b) the Grantor shall give EOHLC six months' notice of its intent to convert a Project to condominiums or cooperatives; at the end of the conversion of the market rate Units to condominiums or cooperatives, the Grantor shall certify to EOHLC its compliance with the conversion terms of this Restriction;
- (c) every Low-Income Tenant given, or entitled to be given, the notice of intent shall receive an extension of their lease or rental agreement, with substantially the same terms, subject to permissible rental increases, during the Notice Period;
- (d) in the event the Grantor intends to convert the Project to a condominium or cooperative form of ownership, not later than two (2) years prior to the expiration of the Notice Period, an affected Low-Income Tenant shall receive a right of first refusal for purchase of such tenant's Unit which right shall last for a period of not less than six (6) months; such right of first refusal shall be accompanied by a copy of the purchase and sale agreement for the Unit; during this period, the Unit shall be offered to the tenant at a discount of at least ten percent (10%) from the offering price for the Unit; if the tenant of an affected Unit chooses not to purchase the Unit, the Unit shall be offered for purchase to EOHLC or its designee for an additional period of at least ninety (90) days at the same price the Unit was offered to the tenant;



(e) all tenants given, or entitled to be given the notice of intent who are unable or choose not to exercise their right to purchase or to remain and to pay the conventional rental shall be entitled to relocation benefits in accordance with the Conversion Act.

SECTION 7. TERM OF AGREEMENT.

- 7.1 This Restriction and the restrictions set forth herein shall commence with the first day of the Compliance Period and shall extend through the date ending a period of an additional 25 years after the close of the Compliance Period (the "Low-Income Tenant Rental Period"). This term will be determined in accordance with the Code for each building in the Project. EOHLC and the Grantor expressly acknowledge and agree that the Low-Income Tenant Rental Period covers and is in compliance with the requirement under the Massachusetts Act that a regulatory agreement for the State Credit be for a term not less than thirty (30) years from the expiration date of the Compliance Period. Except as hereinafter provided, this Restriction and the restrictions set forth herein shall not terminate or expire any earlier than the end of the Low-Income Tenant Rental Period. The Grantor has waived all rights to request or obtain at any time a Qualified Contract for the Project under Section 42 of the Code
- 7.2 Notwithstanding Section 7.1 above and except as provided in Section 7.3 below, this Restriction and the restrictions set forth herein shall terminate on the date the Project is acquired by foreclosure or instrument in lieu of foreclosure unless the Secretary of the United States Treasury or his or her designee determines that such acquisition is part of an arrangement with the Grantor, a purpose of which is to terminate this Restriction and the restrictions set forth herein. EOHLC hereby agrees to execute any and all documents necessary to evidence the foregoing termination.
- 7.3 The tenant protections set forth in Section 42(h)(6)(E)(ii) of the Code shall survive for a period of three (3) years following a termination pursuant to Section 7.2 above and for such three-year period such tenant protections shall be binding upon any holder of a mortgage on the Project, or any successor or assign of such holder, who succeeds to all or any part of the Grantor's interest in, or otherwise acquires title to, the Project.
- 7.4 Notwithstanding Sections 7.1 and 7.2 above, this Restriction shall not terminate and shall remain in full force and effect to enable EOHLC, and any other person with the right to enforce this Restriction pursuant to Section 9.6 of this Restriction, to enforce and/or monitor under Section 9 any remaining obligations under Section 7.3 above, and the Conversion Restrictions set forth in Section 6 above provided, however, in the event this Restriction has terminated pursuant to Section 7.2 above, it shall be assumed for purpose of giving notice pursuant to Section 6 that the Low-Income Rental Period has ended.

SECTION 8. CERTIFICATIONS

- **8.1** On the date of execution and delivery of this Restriction, the Grantor shall deliver to EOHLC the following certifications or documents:
 - (a) Evidence of transfer of ownership of the Project to the Grantor;



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- (b) For projects requiring a waiver of the ten year holding requirement in order to obtain a credit for the acquisition of an existing building, a copy of the waiver obtained from the Internal Revenue Service;
- (c) Opinion of Grantor's Counsel as to Grantor's organization, execution, delivery and enforceability of Restriction; and organizational documents for the Grantor and Grantor's manager or general partner, if any, as follows:
 - (i) if a limited partnership, a copy of the partnership agreement; and two separate long form certificates of legal existence (identifying general partners and any amendments) from the Massachusetts Secretary of State;
 - (ii) if a corporation, a clerk's certificate with vote, certified articles of incorporation and by-laws and certificate of legal existence from the state of incorporation;
 - (iii) if a trust, a copy of the Declaration of Trust, a Trustee's Certificate and Direction of Beneficiaries;
 - (iv) if a limited liability company, a copy of the operating agreement; and a certificate of good standing from the Massachusetts Secretary of State; and
 - (v) any additional organizational documents as EOHLC deems appropriate;
- (d) Original certification from the Grantor of the full extent of all federal, State and local subsidies which apply (or which the Grantor expects to apply) with respect to the Project;
- (e) Original Release and Indemnification Agreement agreeing to release and indemnify EOHLC from any claim, loss, demand or judgment as a result of the allocation of Low-Income Housing Tax Credit to the Project or the recapture of the Low-Income Housing Tax Credit by the Internal Revenue Service;
- (f) Original certification from the Grantor pursuant to Massachusetts General Laws Chapter 62C Section 49A that the Grantor has complied with all laws of the Commonwealth related to taxes;
- (g) Any and all other documents required by Section 42 of the Code or the applicable Treasury Regulations and any documents that EOHLC may require.
- **8.2** The Grantor shall deliver to EOHLC the following certifications or documents no later than the date for submission of the audited certification of costs pursuant to Section 11.1 below.
- (a) Audited certification of costs, an audited schedule of sources (including rental and/or operating subsidies) and uses (including reserves), and an audited schedule of low-income housing tax credit eligible basis as well as any supplementary schedules required by EOHLC in the format provided by EOHLC;
- (b) Original certification from the Grantor as to the actual date the Project is "placed in service" as that term is defined in the regulations or notices promulgated under Section 42 of the Code;
- (c) Certificate(s) of occupancy from the municipality or other governmental authority having jurisdiction; and



(d) Original certification from the Project's Architect that the Project is in compliance with all applicable federal and state statutes and regulations in regard to the operation of adaptable and accessible housing for the disabled.

SECTION 9. MONITORING AND ENFORCEMENT

- 9.1 The Grantor agrees to comply with any monitoring plan, guidelines, procedures, or requirements as may be adopted or amended from time to time by EOHLC in accordance with requirements of the Code or regulations promulgated thereunder by the U.S. Department of the Treasury, Internal Revenue Service (the "Federal Regulations") and the requirements of the Massachusetts Act and the State Regulations or in order to monitor compliance with the provisions of this Restriction. The Federal Regulations and the State Regulations are collectively referred to as the "Applicable Regulations".
- 9.2 The Grantor covenants that it will not knowingly take or permit any action that would result in a violation of the requirements of Section 42 of the Code, the Massachusetts Act and Applicable Regulations or this Restriction. Moreover, Grantor covenants to take any lawful action (including amendment of this Restriction as may be necessary, in the opinion of EOHLC) to comply fully with the Code, the Massachusetts Act, the State Regulations and all applicable regulations, rules, rulings, policies, procedures, or other official statements promulgated or proposed by the United States Department of the Treasury, Internal Revenue Service, from time to time pertaining to Grantor's obligations under Section 42 of the Code.
- 9.3 The Grantor will permit, during normal business hours and upon reasonable notice, any duly authorized representative of EOHLC (or its authorized delegate) to inspect any books and records of the Grantor regarding the Project that pertain to compliance with the Code, the Massachusetts Act, Applicable Regulations, and this Restriction. The Grantor further agrees to cooperate with any on-site inspection of the Project by EOHLC (or its authorized delegate) during normal business hours and upon reasonable notice.
- 9.4 The Grantor will take any and all actions reasonably necessary and required by EOHLC to substantiate the Grantor's compliance under the Code, the Massachusetts Act, Applicable Regulations, and this Restriction. The Grantor shall at least annually (or more frequently as required by EOHLC) submit to EOHLC a certification concerning program compliance in such form, including such documentation, and within such timeframe, as may be required by EOHLC pursuant to any monitoring plan, guidelines, or procedure adopted or amended by EOHLC. At EOHLC's request, the Grantor will submit any other information, documents, forms or certifications which EOHLC deems reasonably necessary to substantiate the Grantor's continuing compliance with the Code, the Massachusetts Act, Applicable Regulations, and this Restriction.
- 9.5 The Grantor covenants and agrees to inform EOHLC by written notice of any violation of the Grantor's obligations hereunder within seven (7) business days of first discovering such violation. In accordance with the provisions of any monitoring plan, guidelines, or procedures as then may be in effect, EOHLC covenants and agrees to inform the Grantor by written notice of any violation of the Grantor's obligations hereunder and to provide the Grantor a period of time in which



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to correct such violation. If any violation is not corrected to the satisfaction of EOHLC within the period of time specified by EOHLC in a notice, or within such further time as EOHLC determines is necessary to correct the violation, but not to exceed any time limitation set by Applicable Regulations, then without further notice, EOHLC may declare a default under this Restriction effective on the date of such declaration of default, and EOHLC may apply to any court, state or federal, for specific performance of this Restriction, or any other remedies at law or in equity, or take any other action as may be necessary or desirable to correct noncompliance with this Restriction. The foregoing is not intended to limit in any way EOHLC's obligation to notify the Internal Revenue Service or the Massachusetts Department of Revenue, pursuant to Applicable Regulations, of a noncompliance on the part of the Grantor.

- 9.6 The Grantor acknowledges that the primary purpose for requiring compliance by the Grantor with the restrictions provided in this Restriction is to assure compliance of the Project and the Grantor with Section 42 of the Code, the Massachusetts Act and the Applicable Regulations, and by reason thereof, the Grantor in consideration for receiving Low-Income Housing Tax Credits for this Project hereby agrees and consents that EOHLC and any individual who meets the income limitation applicable under Section 42 of the Code, the Massachusetts Act (whether a prospective, present or former occupant or the Town of Truro) 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 specific performance by the Grantor of its obligations under this Restriction in a court of competent jurisdiction. The Grantor hereby further specifically acknowledges that the beneficiaries of the Grantor's obligations hereunder cannot be adequately compensated by monetary damages in the event of any default hereunder. In the event of a breach of this Restriction, the Grantor shall reimburse EOHLC for all costs and attorneys' fees incurred associated with such breach.
- **9.7** The Grantor hereby agrees that the representations and covenants set forth herein may be relied upon by EOHLC and all persons interested in Project compliance under Section 42, the Massachusetts Act and the Applicable Regulations.
- 9.8 Notwithstanding anything in this Restriction to the contrary, in the event that the Grantor fails to comply fully with the covenants and agreements contained herein or with the Code, the Massachusetts Act, all Applicable Regulations, rules, rulings, policies, procedures, or other official statements promulgated by the Department of the Treasury, the Internal Revenue Service, the Massachusetts Department of Revenue or EOHLC from time to time pertaining to the obligations of the Grantor as set forth therein or herein, EOHLC may, in addition to all of the remedies provided by law or in equity, report such noncompliance to the Internal Revenue Service and/or to the Massachusetts Department of Revenue which could result in penalties and/or re-capture of federal and/or state tax credit.
- 9.9 The Grantor agrees to pay an annual monitoring fee in such amount and by such method as may be selected by EOHLC pursuant to the applicable provisions set forth in the Allocation Plan, as such provisions may be amended or superseded in a subsequent year's Allocation Plan. EOHLC reserves the right to charge a reasonable monitoring fee to perform compliance monitoring functions after the completion of the Compliance Period for the remainder of the Low-Income Tenant Rental Period.



TAX CREDIT REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

- **9.10** EOHLC expressly reserves the right to continue monitoring, during the Low-Income Tenant Rental Period, for compliance with the provisions of this Restriction beyond any timeframe provided for monitoring in the Code, the Massachusetts Act or Applicable Regulations.
- **9.11** During the Compliance Period, the Grantor will retain records in accordance with the requirements of the Applicable Regulations, EOHLC monitoring plan and/or guidelines. After the end of the Compliance Period, the Grantor will retain records adequate to demonstrate compliance with the terms and conditions of this Restriction, including, but not necessarily limited to, income and rent records pertaining to tenants.

SECTION 10. ANNUAL DATA COLLECTION

- **10.1** Annually, no later than September 30, the Grantor shall submit to EOHLC, via the web-based annual reporting system, an annual report consisting of the following in a form approved by EOHLC and containing such supporting documentation as EOHLC shall reasonably require:
 - (a) Annual adjusted income of each Family occupying a Low-Income Unit;
- (b) Monthly gross rents (rents plus utility allowances, if applicable) for all Low-Income Units, such rents to be consistent with the schedule of maximum rents published annually by EOHLC:
- (c) Data required by EOHLC regulations at 760 CMR 61.00, promulgated pursuant to Chapter 334 of the Acts of 2006 and all applicable EOHLC directives, guidelines and forms as may be amended from time to time. The Grantor shall collect said data for the express purpose of reporting to EOHLC, and the collection and reporting of said data shall comply with said regulations, directives, guidelines and forms; and
 - (d) Rental assistance data on all existing residents of Low-Income Units.
- 10.2 EOHLC and the Grantor shall treat as confidential any of the foregoing information relating to a specific resident or Unit in compliance with all applicable state and federal statutes and regulations, including M.G.L. c. 66A, and shall implement adequate systems and procedures for maintaining the confidentiality of such information (but EOHLC and the Grantor may release general statistical and other information about the Project, so long as the privacy rights and interests of the individual residents are protected). EOHLC and the Grantor shall not use any of the foregoing information in Section 10.1(b) for any purpose described in Section 603(d)(1) of the federal Fair Credit Reporting Act (15 U.S.C. § 1681a(d)(1)) or in any manner that would cause EOHLC or the Grantor to be considered a "consumer reporting agency" under Section 603(f) of the federal Fair Credit Reporting Act (15 U.S.C. § 1681a(f)).
- 10.3 The Grantor shall prepare and submit to EOHLC such additional reports as EOHLC may deem necessary to ensure compliance with the requirements of this Restriction and of the Low-Income Housing Tax Credit, including such tenant-level data as required pursuant to the Housing and Economic Recovery Act of 2008 (Public Law 110-289).
- 10.4 The Grantor shall maintain as part of its records (i) copies of all leases of Low-Income Units; (ii) all initial and annual income certifications by residents of Low-Income Units and (iii) such



additional records as EOHLC may deem necessary to ensure compliance with the requirements of this Restriction and of the Low-Income Housing Tax Credit.

SECTION 11. TAX CREDIT ALLOCATION

11.1 The Grantor shall deliver to EOHLC an audited certification of costs, an audited schedule of sources (including rental and/or operating subsidies) and uses (including reserves), and an audited schedule of low-income housing tax credit eligible basis as well as any supplementary schedules required by EOHLC in the format provided by EOHLC as required by Section 8.2 of this Restriction at least 30 days prior to Grantor's request to EOHLC for issuance of Internal Revenue Service Form 8609 constituting final allocation of the Low-Income Housing Tax Credit and a Massachusetts Eligibility Statement constituting final allocation of the State Credit. EOHLC will thereafter notify the Grantor of EOHLC's final determination of the Low-Income Housing Tax Credit allocation for the Project, which will be the minimum amount of Low-Income Housing Tax Credit necessary for the financial feasibility of the Project and its viability as a qualified low-income housing project throughout the credit period. Such final determination will be specified in the Form(s) 8609 to be issued by EOHLC for the Project.

SECTION 12. MISCELLANEOUS

- **12.1** The invalidity of any clause, part or provision of this Restriction shall not affect the validity of the remaining portions thereof.
- 12.2 All notices to be given pursuant to this Restriction shall be in writing and shall be deemed to have been properly given if hand delivered, if sent by recognized overnight courier, receipt confirmed, or if mailed by United States registered or certified mail, postage prepaid, return receipt requested, addressed to the parties at their respective addresses set forth below, or to such other address as the party to be served with notice may have furnished in writing to the party seeking or desiring to serve notice as a place for the service of notice. A notice sent by any of the foregoing methods shall be deemed given upon documented receipt or refusal.

If to EOHLC: Executive Office of Housing and Livable Communities

100 Cambridge Street, Suite 300

Boston, MA 02114

ATTENTION: Tax Credit Program Director

With a Copy to: Executive Office of Housing and Livable Communities

100 Cambridge Street, Suite 300

Boston, MA 02114 ATTENTION: Chief Counsel

ATTENTION. Chief cours

If to Grantor: Cloverleaf Truro LLC

c/o Community Housing Resources Resource, Inc.

36 Conwell Street

Provincetown, Massachusetts 02657



EOHLC shall use reasonable efforts to send courtesy copies of all notices sent to the Grantor to the Grantor's investor at the address set forth below, provided that any failure to send such a courtesy copy shall not affect the validity of any notice:

MCI Province Post, LLC 410 Monon Boulevard, 2nd Floor Carmel, MassachusettsIndiana 46032 Attention: Asset Management

With a copy to:

Nixon Peabody LLP 53 State Street Boston, Massachusetts 02109 Attention: John M. Marti, Esq.

EOHLC and the Grantor, may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

- 12.3 This Restriction may not be amended without the express written consent of EOHLC and the Grantor. The Grantor agrees that it will take all actions necessary to effect amendment of this Restriction as may be necessary to comply with the Code and all applicable rules, regulations, policies, procedures, rulings or other official statements pertaining to the Low-Income Housing Tax Credit.
- **12.4** This Restriction shall be governed by the laws of The Commonwealth of Massachusetts and, where applicable, the laws of the United States of America.
- 12.5 The obligations of the Grantor as set forth herein shall survive the allocation of the Low-Income Housing Tax Credit and shall not be deemed to terminate or merge with the awarding of the allocation.
- 12.6 The Chapter 40B Rider attached hereto is incorporated herein by reference, the same as if it was fully set forth herein.
- 12.7 Prior to initial tenant selection for Low-Income Units, and thereafter whenever there is a vacancy in a Low-Income Unit, the Grantor shall list such Unit(s) with (i) the MassAccess accessible housing registry maintained by the Citizens' Housing and Planning Association (http://www.massaccesshousingregistry.org) and (ii) the Housing Navigator (http://www.housingnavigatorma.org).

SECTION 13. GROUND LEASE

- **13.1** The Grantor is the tenant under the Ground Lease of the Property from the Ground Lessor as landlord and fee owner.
- 13.2 On the date of execution and delivery of this Restriction, the Grantor shall deliver to EOHLC a true and complete copy of the Ground Lease and the Notice of Ground Lease, together



with all amendments thereto, and any other documents relating thereto as EOHLC shall deem appropriate.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

	BY AND THROUGH THE EXECUTIVE OFFICE OF HOUSING AND LIVABLE COMMUNITIES
	Ву:
	Catherine Racer Undersecretary Office of Housing Development
COMMONWEALTH OF MASSACHUSETTS	
County, ss.	
appeared Catherine Racer, proved to me the (a current driver's license) (a current U.S. principal), to be the person whose name acknowledged to me that he/she signed Development, of the Executive Office of Ho	, before me, the undersigned notary public, personally trough satisfactory evidence of identification, which was passport) (my personal knowledge of the identity of the is signed on the preceding or attached document, and it voluntarily, as Undersecretary, Office of Housing busing and Livable Communities of The Commonwealth the voluntary act of the Executive Office of Housing and of Massachusetts.
Notary Public	
My commission expires:	

THE COMMONWEALTH OF MASSACHUSETTS ACTING

CLOVERLEAF TRURO LLC, a Massachusetts limited liability company CLOVERLEAF TRURO MM LLC, its Managing Member By: ______ Its: Authorized Agent **COMMONWEALTH OF MASSACHUSETTS** _____ County, ss. On this _____ day of _____, 2024, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was (a current driver's license) (a current U.S. passport) (my personal knowledge of the identity of the principal), to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily, as Authorized Agent of Cloverleaf Truro MM LLC, the managing member of Cloverleaf Truro LLC, for its stated purpose as the voluntary act of Cloverleaf Truro LLC. Notary Public My commission expires:

EXHIBITS

- A. Legal Description of Property
- B. Form of Prior Recorded Lienholder Consent

© 2006 Massachusetts Housing Partnership

004-1278 Cloverleaf - Tax Credit Regulatory Agreement

[Signature Page]



EXHIBIT A: LEGAL DESCRIPTION OF PROPERTY

EXHIBIT B: FORM OF PRIOR RECORDED LIENHOLDER CONSENT

PRIOR RECORDED LIENHOLDER CONSENT

Pursuant to the provision of that certain [Mortga , 202 , between (v	
, 202 , between (vand Cloverleaf Truro LLC (the "Grantor"), recorded with hereby consents to the recording in the Registry of that Declaration of Restrictive Covenants, dated as of The Commonwealth of Massachusetts, acting by and thr Livable Communities (the "Restriction"). Capitalized ter have the meanings set forth in the Restriction.	certain Tax Credit Regulatory Agreement and, 202 by and between the Grantor and ough the Executive Office of Housing and
For good and valuable consideration, the receipt Lender agrees that if Lender or any successor or assign any part of the Grantor's interest in the Project, Lender bound by the terms and provisions of Section 7.3 of the Section 42(h)(6)(E)(ii) of the Internal Revenue Code the termination of the Restriction as a result of the Lender of succeeding to or acquiring such interest by foreclosure of successors and assigns shall not evict or terminate the texisting tenant of any Low-Income Unit in the Project no such Unit unless otherwise permitted under Section 42 of	of Lender ever succeeds to, or acquires, all or and any successor or assign of Lender shall be Restriction, which requires pursuant to at during the three-year period following any or any successor or assign of Lender or deed in lieu of foreclosure, Lender and its enancy (other than for good cause) of an or increase the gross rent with respect to any
Executed under seal as of the day of	202
	By:ne:
Type Nar Ti	ne:tle:
COMMONWEALTH OF MA	
County, ss.	
On this day of 202, personally appeared evidence of identification, which was (a current driver's personal knowledge of the identity of the principal), to be preceding or attached document, and acknowledged to the voluntary act of of the voluntary act of case and case	, proved to me through satisfactory license) (a current U.S. passport) (my se the person whose name is signed on the me that he/she signed it voluntarily, as
Notary P My comr	ublic nission expires:



CHAPTER 40B RIDER TO TAX CREDIT REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (this "Rider")

GRANTOR:	Cloverleaf Truro LLC
PROPERTY NAME:	Cloverleaf
TOTAL NUMBER OF COMPREHENSIVE PERMIT UN	ITS: 1[1]11
TENANT INCOME STANDARD:	[MODERATE INCOME UNITS (80% AMI)])
GRANTOR'S FOLITY:	

(subject to adjustment per Section 9.J below)

PROPERTY ADDRESS: Before completion of construction: 22 Highland Road; after completion of construction: 1-22 Cloverleaf Trail, Truro,

Massachusetts

BACKGROUND:

- A. The Property is subject to and has the benefit of a comprehensive permit, issued by the Town of Truro, acting by and through its Zoning Board of Appeals (the "Municipality") pursuant to M.G.L. c. 40B, §§ 20-23 (the "Act") and recorded with the Barnstable Registry of Deeds in Book 36669, Page 1, as amended by Amendments to Comprehensive Permit dated January 31, 2024 recorded in Book 36669, Page 33, as further amended by Second Amendments to Comprehensive Permit dated [July 1], 2024 recorded in Book 36669, Page 38 (as amended, the "Comprehensive Permit").
- B. The Commonwealth of Massachusetts acting by and through the Executive Office of Housing and Livable Communities (the "Subsidizing Agency") is a subsidizing agency under the Act and has agreed to provide to the Grantor a portion of the financing for the Project pursuant to the Low-Income Housing Tax Credit Program (the "Subsidy") and, in connection therewith, the Grantor has entered into that certain Tax Credit Regulatory Agreement and Declaration Of Restrictive Covenants to which this Rider is attached (the "Restriction").
- C. The Grantor has agreed to enter into this Rider imposing covenants running with the Property as a condition of the Comprehensive Permit, for the purposes of providing for the monitoring and enforcement of the limited dividend requirement, the affordable housing restrictions and the affirmative marketing requirements for the Rider Term (as defined below).
- D. This Rider shall serve as a use restriction as required by the Comprehensive Permit Rules (as defined below).

RESTRICTIONS

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor hereby covenants as follows:

- 1. <u>Definitions</u>. Capitalized terms used in this Rider are defined herein, in Section 9.A below and in Section 2 of the Restriction.
- A. <u>AFHM Plan</u>: The Affirmative Fair Housing Marketing and Resident Selection Plan prepared by the Grantor in accordance with the Comprehensive Permit Rules and

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approved by the Subsidizing Agency, with such changes thereto that may be approved by the Subsidizing Agency, as further set forth in Section 6.

- B. <u>Annual Monitoring Fee</u>: As defined in Section 11.C.
- C. <u>Bedroom Adjusted AMI:</u> The median income for the Area, with adjustments for the number of bedrooms in a particular Unit, as determined from time to time by HUD pursuant to Section 8 of the United States Housing Act of 1937, as amended. For purposes of adjustments for the number of bedrooms in a Unit, a Unit that does not have a separate bedroom is assumed to be occupied by one individual and a Unit with one or more separate bedrooms is deemed assumed to be occupied by 1.5 individuals for each bedroom (with the total number of individuals rounded up).
- D. <u>Comprehensive Permit Guidelines</u>: The guidelines entitled "G.L. C.40B Comprehensive Permit Projects" promulgated by EOHLC, as in effect as of the date hereof and as they may be amended from time to time, relating to comprehensive permits under the Act.
- E. <u>Comprehensive Permit Rules</u>: The Act, the regulations promulgated by EOHLC at 760 CMR 56.00 and the Comprehensive Permit Guidelines, all as in effect as of the date hereof and as they may be amended from time to time, relating to the issuance of comprehensive permits under the Act.
 - F. <u>Comprehensive Permit Units</u>: As defined in Section 2.A.
- G. <u>Cost Certification</u>: The documents required to be submitted to and approved by the Subsidizing Agency in accordance with the Cost Certification Guidance to establish the Allowable Development Costs and Maximum Allowable Developer Fee, each as defined in Section 9.A. below.
- H. <u>Cost Certification Guidance</u>: The document entitled "Preparation of Cost Certification for 40B Rental Developments: Inter-Agency 40B Rental Cost Certification Guidance for Owners, Certified Public Accountants and Municipalities" dated as of May 15, 2013 which shall govern the Cost Certification and limited dividend requirements for the Project pursuant to the Comprehensive Permit Rules, as it may be amended from time to time. A copy of the Cost Certification Guidance is available from the Subsidizing Agency.
- I. <u>CPI-U</u>: The Consumer Price Index for Urban Consumers, further distinguished as the index for "Selected Areas, Northeast-Urban, Size A" published by the Bureau of Labor Statistics of the United States Department of Labor, or any comparable successor or substitute index designated by the Subsidizing Agency appropriately adjusted.
- J. <u>FOHLC</u>: The Executive Office of Housing and Livable Communities of The Commonwealth of Massachusetts and any successor agency thereto.
- K. <u>Event of Default</u>: A default in the observance of any covenant under this Rider or under any Subsidy Document existing after the expiration of any applicable notice and cure periods.
 - L. <u>Family</u>: As defined in 24 C.F.R. §5.403 (or any successor regulation).



- M. <u>Family-size Adjusted AMI:</u> The median income for the Area, adjusted for family size, as determined from time to time by HUD pursuant to Section 8 of the United States Housing Act of 1937, as amended.
- N. <u>Fee-Based Monitoring Period</u>: The period commencing on the date that is 31 years and 9 months from the date of the Restriction, provided that if the Project is not completed within 21 months after the date of the Restriction for any reason and any holder of the Restriction recorded with the <u>Middlesex SouthBarnstable County</u> Registry of Deeds a certificate of extension certifying the length of the delay in completing the Project, the foregoing date shall automatically be extended by an amount of time equal to the length of such delay, and continuing until the expiration of the Rider Term (as defined below).
- P. <u>Household Income</u>: A Family's adjusted annual income determined in the manner set forth in 24 C.F.R. §5.609 (or any successor regulations).
- Q. <u>Housing Subsidy Program</u>: Any state or federal housing subsidy program providing rental or other subsidy to the Project.
- $\mbox{R.} \qquad \underline{\mbox{HUD:}} \quad \mbox{The United States Department of Housing and Urban} \\ \mbox{Development.}$
 - S. <u>Local Preference</u>: As defined in Section 6.E.
- T. <u>Minimum Rider Term</u>: The period commencing on the date of the Restriction and continuing until the Subsidy End Date or, if later, for 51 years and 9 months from the date of the Restriction, provided that if the Project is not completed within 21 months after the date of the Restriction for any reason and any holder of the Restriction recorded with the Barnstable Registry of Deeds a certificate of extension certifying the length of the delay in completing the Project, the Minimum Rider Term shall automatically be extended by an amount of time equal to the length of such delay.
- U. <u>Moderate Income Family:</u> A Family whose Household Income is less than or equal to eighty percent (80%) of the Family-size Adjusted AMI.
- V. <u>Notice of Minimum Rider Term Expiration</u>: A notice given by the Subsidizing Agency to the Chief Executive Officer of the Municipality setting forth the date on which the Minimum Rider Term expires or expired, which notice shall be given not more than twelve (12) months and not less than six (6) months prior to the expiration of the Minimum Rider Term, provided that the sole consequence of a failure to send such notice at least six (6) months prior to the expiration of the Minimum Rider Term shall be an extension of the Rider Term as set forth in the definition thereof.
 - W. <u>Per Unit Fee</u>: As defined in Section 11.C.
 - X. <u>Project Lender</u>: A holder of a Project Loan.

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- Y. <u>Project Loan</u>: A loan, other than a loan from a Grantor Party, to the Grantor that is secured by the Property, which loan has been approved by the Subsidizing Agency.
 - Z. Qualified Family: As defined in Section 2.A.
- AA. <u>Rider Term</u>: The period commencing on the date the Restriction is recorded with the Barnstable Registry of Deeds and continuing for so long as the Project is maintained and occupied on the Property as contemplated by the Comprehensive Permit, provided that this Rider shall terminate as of the later of (i) the end of the Minimum Rider Term and (ii) the date six (6) months after the giving by the Subsidizing Agency of the Notice of Minimum Rider Term Expiration, unless the Municipality assumes the role of the Subsidizing Agency as provided in Section 15.A below.
- BB. <u>Subsidy Documents</u>: All documents evidencing and securing the Subsidy entered into or to be entered into between Grantor and Subsidizing Agency (including, without limitation, this Rider, but only during the period that the Subsidy is outstanding). During the period that the Subsidy is outstanding, in the event of any conflict between the terms of the other Subsidy Documents and this Rider, the terms of the other Subsidy Documents shall control. The parties acknowledge and agree that this Rider may remain in effect during the Fee-Based Monitoring Period despite the occurrence of the Subsidy End Date, and at that time the Subsidizing Agency and Grantor shall no longer have the relationship of allocator and allocatee, but the Subsidizing Agency shall act solely in its capacity as the enforcer of this Rider pursuant to 760 CMR 56.05(13).
- CC. <u>Subsidy End Date</u>: The date on which the Low-Income Tenant Rental Period under the Restriction ends.
 - DD. <u>Unit</u>: Any residential unit within the Project.
- EE. <u>Use Change</u>: A change in the type or number of Units or a change in the use of Units for any purpose except residential dwellings or a change in the use of the Project from dwelling units and appurtenant uses, if any, permitted by the Comprehensive Permit.
- 2. Affordability Requirements. The following restrictions shall apply during the period commencing with the first date on which any Units are occupied and continuing for the balance of the Rider Term, subject always to any applicable rent restrictions of the federal low-income housing tax credit program under Section 42 of the Internal Revenue Code of 1986, as amended, and any provision herein that conflicts with the requirements of the federal low-income housing tax credit program shall be suspended so long as the restrictions under the federal low income housing tax credit program are in effect.
- A. <u>Comprehensive Permit Units</u>. At least [twenty-five percent (25%)] of the Units shall be leased exclusively to Moderate Income Families ("Comprehensive Permit Units"). In fulfilling the foregoing requirement, the Grantor will accept referrals of prospective tenants from the public housing authority in the Municipality, and will not unreasonably refuse occupancy to any prospective tenants so referred who otherwise meet the requirements of the AFHM Plan. The monthly rent charged to a Family occupying a Comprehensive Permit Unit shall



not exceed an amount equal to (x) one-twelfth of thirty percent (30%) of eighty percent (80%) of the Bedroom Adjusted AMI, minus (y) if applicable, an allowance established by the Subsidizing Agency for any utilities (excluding telephone, cable television and internet service) to be paid by the occupying Family. If any of the Comprehensive Permit Units are subsidized under any state or federal rental subsidy program, then the rent applicable to such Comprehensive Permit Units may equal that permitted by such rental subsidy program, provided that the share of rent paid by the Families occupying such Comprehensive Permit Units does not exceed the maximum annual rental expense as provided in this Rider. A Family who resides in a Comprehensive Permit Unit, who qualified as a Moderate Income Family at the time of such Family's initial occupancy at the Property shall continue to be treated as an income-qualified Family (a "Qualified Family") so long as such Family's Household Income does not exceed one hundred forty percent (140%) of eighty percent (80%) of the Family-size Adjusted AMI. If such Family's Household Income exceeds one hundred forty percent (140%) of eighty percent (80%) of the Family-size Adjusted AMI, such Family shall, from and after the expiration of the thencurrent term of such Family's lease, no longer be treated as a Qualified Family and must pay as monthly rent the Over-income Rent.

- B. <u>Next Available Unit Rule</u>. If at any time fewer than the required number of Comprehensive Permit Units are leased, rented or occupied by Qualified Families (i.e. Families earning not more than one hundred forty percent (140%) of the qualifying income), the next available Units shall all be leased, rented or otherwise made available to Moderate Income Families until the required number of Comprehensive Permit Units occupied by Qualified Families is again obtained.
- C. <u>Conflicts</u>. In the event of any conflict between the affordability provisions of this Rider and the affordability provisions of the Restriction, the more restrictive provisions shall control.
- 3. <u>Term of Limited Dividend Requirements</u>. Notwithstanding anything to the contrary contained herein, any provision of this Rider relative to the limitation of the use or distribution of Operating Revenues, and any reporting or enforcement rights with respect thereto (including without limitation, the provisions of Section 9) (the "Limited Dividend Provisions") shall bind, and the benefits shall inure to, respectively, Grantor and Subsidizing Agency and their respective successors and assigns, only until the expiration of the Limited Dividend Term (if it is not perpetual) and the satisfaction of all obligations herein applicable during the Limited Dividend Term, upon which the Limited Dividend Provisions shall be of no further force and effect.
- 4. <u>Priority of Rider</u>. This Rider is senior to any and all mortgages encumbering the Property.
- 5. <u>Subsidized Housing Inventory</u>. It is the intent of Grantor and Subsidizing Agency that all of the Units shall be included in the Subsidized Housing Inventory maintained by EOHLC in accordance with current EOHLC policies and EOHLC regulations implementing the Act, but in no event shall Grantor be in breach or default under this Rider due to any change in such policies or regulations which affect the counting of Units.



6. <u>Affirmative Marketing and Tenant Selection</u>.

- A. <u>General</u>. Grantor shall not discriminate on the basis of race, color, creed, religious creed, sex, age, handicap, marital status, sexual orientation, national origin or any other basis prohibited by law in the lease, use or occupancy of Units in the Project, or in the employment or application for employment of persons for the operation and management of the Project.
- B. <u>AFHM Plan</u>. Prior to marketing any Units, the Grantor shall submit an AFHM Plan for the Subsidizing Agency's approval. At a minimum the AFHM Plan shall meet the requirements of the Comprehensive Permit Rules, as the same may be amended from time to time, and the AFHM Plan shall be updated from time to time during the Rider Term as required by the Comprehensive Permit Guidelines. The AFHM Plan, upon approval by the Subsidizing Agency, shall become a part of this Rider and shall have the same force and effect as if set out in full in this Rider. The AFHM Plan shall designate entities to implement the plan that are qualified to perform such implementation. The Subsidizing Agency may require that another entity be found if the Subsidizing Agency finds that the entity designated by the Grantor is not qualified. Moreover, the Subsidizing Agency may require the removal of an entity responsible for a duty under the AFHM Plan if that entity does not meet its obligations under the AFHM Plan.
- C. <u>Occupancy of Comprehensive Permit Units</u>. Grantor shall notify Subsidizing Agency in writing at least thirty (30) days prior to commencing marketing of Comprehensive Permit Units. Grantor shall use its good faith efforts during the Rider Term to maintain all Comprehensive Permit Units at full occupancy as set forth in Section 2 hereof. In marketing and renting Comprehensive Permit Units, the Grantor shall comply with the AFHM Plan.
- Form of Occupancy Agreement. Occupancy agreements for Comprehensive Permit Units shall meet the requirements of the Comprehensive Permit Rules, this Agreement, the Subsidizing Agency and any applicable Housing Subsidy Program, and shall contain clauses, among others, wherein each resident of a Comprehensive Permit Unit (i) certifies the accuracy of the statements made in the application and income survey and agrees that the family income, family composition and other eligibility requirements shall be deemed substantial and material obligations of his or her occupancy; (ii) agrees that he or she will comply promptly with all requests for information with respect thereto from Grantor or the Subsidizing Agency and that his or her failure or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of his or her occupancy; (iii) agrees that at such time as the Grantor or the Subsidizing Agency may direct, he or she will furnish to the Grantor certification of then current family income, with such documentation as the Subsidizing Agency shall reasonably require; and (iv) agrees to such charges as the Subsidizing Agency has previously approved for any facilities and/or services which may be furnished by Grantor or others to such resident upon his or her request, in addition to the facilities included in the rentals, as amended from time to time pursuant to Section 2 above.



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- E. <u>Local Preference</u>. Consistent with the foregoing Section 6.A, the Grantor, in renting the Comprehensive Permit Units, will be allowed to give the maximum preference allowed by law to current residents of the Municipality, employees of the Municipality, employees of businesses located in the Municipality and households with children attending school in the Municipality (a "Local Preference"); provided that (i) Grantor shall only implement such a Local Preference in conformity with the fair housing requirements of HUD, EOHLC, the Massachusetts Commission Against Discrimination, or any authority with jurisdiction and like purpose; and (ii) Municipality has provided to Grantor and Subsidizing Agency the information required to justify such a Local Preference in accordance with applicable laws, regulations and policies of EOHLC and Subsidizing Agency including, without limitation, the Comprehensive Permit Guidelines.
- 7. Management and Maintenance of Property. The Grantor shall maintain the Project in compliance with all applicable laws including, without limitation, health, safety and building codes and in good physical and financial condition in accordance with the Subsidizing Agency's standards and requirements and the standards and requirements of the Comprehensive Permit and any applicable Housing Subsidy Program, ordinary wear and tear and casualty excepted. The Grantor shall provide for the management of the Project in a manner that is consistent with accepted practices and industry standards for the management of multifamily rate rental housing. Notwithstanding the foregoing, the Subsidizing Agency shall have no obligation hereunder, expressed or implied, to monitor or enforce any such standards or requirements. The Grantor hereby grants to the Subsidizing Agency and it's duly authorized representatives the right to enter the Property and the Comprehensive Permit Units at reasonable times and upon reasonable notice for the purpose of inspecting the Project and the Comprehensive Permit Units to determine compliance with this Rider and to enforce the terms of this Rider or to prevent, remedy or abate any violation of this Rider.
- 8. <u>Change in Use of Project; Change in Composition of Grantor; Condominium Conversion.</u>
- A. <u>Use Change</u>. The Grantor shall not, without the prior written consent of the Subsidizing Agency and modification to the Comprehensive Permit, permit a Use Change. During the Fee-Based Monitoring Period, Grantor shall provide Subsidizing Agency with prompt notice of any amendment to the Comprehensive Permit effectuating a Use Change. So long as the Project is used for multi-family housing pursuant to the Comprehensive Permit, no Use Change shall result in the Project not meeting the requirements of the Act relative to the provision of Comprehensive Permit Units. In the case of casualty to all or a portion of the Project, Grantor shall not be required to restore any such casualty (except to the extent mandated by the Restriction or the Subsidy Documents during the term of such documents), but if Grantor fully or partially restores the Project, the Grantor shall provide the appropriate percentage of Comprehensive Permit Units and unit mix based on the total number of Units after such restoration.
- B. $\underline{\text{Transfer Restrictions}}$. The transfer restrictions under Section 4.13 of the Restriction shall apply to this Rider and any notice or approval right thereunder shall run in favor of the Subsidizing Agency. Notwithstanding the foregoing or anything herein to the



contrary, the provisions of—Section Section 4.13 of the Restriction shall not apply to: (i) the foreclosure or similar remedial action under the provisions of a mortgage on the Property or the conveyance of the Property in lieu of foreclosure to such mortgage holder, or (ii) to the sale of the Property or the Project by such mortgage holder.

C. <u>Condominium Conversion</u>. The Project shall not be converted to a condominium or cooperative form of ownership without modification of the Comprehensive Permit by the Municipality and, while the Subsidy is outstanding, the prior written consent of the Subsidizing Agency. During the Fee-Based Monitoring Period, if Grantor wishes to convert the Project to a condominium or cooperative form of ownership, Subsidizing Agency consent shall not be required, provided that Grantor obtains a replacement subsidizing agency in connection with such conversion to the extent that the Subsidizing Agency is unwilling to continue as the subsidizing agency upon such conversion.

9. <u>Limited Dividend Requirements</u>.

- A. <u>Definitions</u>. Capitalized terms used in this Section 9 are defined in this clause A, in Section 1 above and in Section 2 of the Restriction.
 - (i) <u>Accountant's Annual Determination</u>: An annual report to be prepared by the Grantor or the Grantor's accountant on a form prescribed by the Subsidizing Agency.
 - (ii) between the Current Distribution Amount calculated for each such prior Fiscal Year less the amount of funds available for making Permitted Distributions in each such prior Fiscal Year plus (y) simple interest on such difference computed at five percent (5%) per annum from the end of each such prior Fiscal Year until a Permitted Distribution on account of such unpaid amount is made. For the purposes of this calculation, any amounts available for distribution and permitted to be distributed in any prior Fiscal Year (excluding any amounts deposited by the Grantor into a reasonable working capital reserve equal to no more than onetwelfth of such prior Fiscal Year's Project expenses described in Section 9.D below, all as shown on the Grantor's audited financial statements for such prior Fiscal Year, provided that such amount is subsequently included in Operating Revenues in the year in which it is expended for Project expenses or otherwise withdrawn from such working capital reserve) shall be deemed to have been distributed regardless of whether such amounts were actually distributed.
 - (iii) <u>Allowable Development Costs</u>: Development costs paid or incurred with respect to the Project as determined by and in accordance with the Cost Certification Guidance.
 - (iv) Annual Excess Equity: As defined in Section 9.J.
 - (v) <u>Code</u>: The United States Internal Revenue Code of 1986, as amended.
 - (vi) <u>Current Distribution Amount</u>: For any particular Fiscal Year, an amount equal to ten percent (10%) of the Grantor's Equity for such Fiscal Year, as approved by the Subsidizing Agency and subject to adjustment as provided in Section 9.I below.



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- (vii) Excess Development Distributions: As defined in Section 9.M.
- (viii) Excess Equity Account: An interest-bearing account maintained by the Subsidizing Agency, or by a Project Lender approved by the Subsidizing Agency, for the benefit of the Project during the Limited Dividend Term (as defined below) containing deposits of Annual Excess Equity.
- (ix) <u>Grantor Party</u>: Any partner, member, manager, shareholder or other Related Person of Grantor.
- (x) <u>Grantor's Equity</u>: The Grantor's equity in the Project as set forth on the first page of this Rider, subject to adjustment as provided in Section 9.I below
- (xi) <u>Limited Dividend Organization</u>: Any applicant which proposes to sponsor housing under the Act and is not a public agency or non-profit corporation, and is eligible to receive a subsidy from a state or federal agency after a comprehensive permit has been issued and which, unless otherwise governed by a federal act or regulation, agrees to limit the annual dividend on the invested equity to no more than the Permitted Distributions during the Limited Dividend Term. Subsidizing Agency acknowledges that Grantor qualifies as a Limited Dividend Organization by executing this Rider and performing its obligations hereunder.
- (xii) <u>Limited Dividend Term</u>: The period commencing on the date that is 21 months after the date of the Restriction and ending on the 50th anniversary thereof, provided that if the Project is not completed within 21 months after the date of the Restriction for any reason and any holder of the Restriction records with the Barnstable Registry of Deeds a certificate of extension certifying the length of the delay in completing the Project, the Limited Dividend Term shall automatically be extended by an amount of time equal to the length of such delay.
- (xiii) Maximum Allowable Developer Fee: As defined in Section 9.M.
- (xiv) Operating Revenues: All revenues, income and other receipts of the Project, not including capital contributions made by members or partners of the Grantor, any loan proceeds received by Grantor, interest on reserves required to be added to such reserves, insurance proceeds held and subsequently used for restoration or repair of the Project or proceeds of a sale or other disposition of the Project.
- (xv) Permitted Distribution: The aggregate annual distributions permitted to be made to the Grantor or to Grantor Parties from time to time as calculated pursuant to the Accountant's Annual Determination or as otherwise permitted pursuant to this Rider. For any particular Fiscal Year, the Permitted Distribution shall equal the sum of the Current Distribution Amount for such Fiscal Year plus the amount of all Accumulated Unpaid Distributions calculated as of the first day of such Fiscal Year.
- (xvi) Project Bank Account: As defined in Section 9.B.
- (xvii) Related Person: A person whose relationship to another person is such that (i) the relationship between such persons would result in a disallowance of losses under Section 267 or 707(b) of the Code, or (ii)



such persons are members of the same controlled group of corporations (as defined in Section 1563(a) of the Code, except that "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears therein).

(xviii) Replacement Reserve: As defined in Section 9.J.

- B. <u>Deposit Account</u>. During the Limited Dividend Term, all Operating Revenues shall, if not held by the Subsidizing Agency in one of its accounts, be deposited in an account held in the name of the Grantor or a nominee for the Grantor in a bank or banks whose deposits are insured by the Federal Deposit Insurance Corporation or otherwise deposited in funds and accounts established hereunder (a "Project Bank Account"). The Subsidizing Agency shall at all times be advised of the names of the accounts and the names of the banks. Operating Revenues shall be used only in accordance with the provisions of this Rider. Any person receiving Operating Revenues other than as permitted by this Rider shall immediately deposit such funds in a Project Bank Account, or failing to do so in violation of this Rider, shall hold such funds in trust for the Project.
- C. <u>Payment Priorities</u>. During the Limited Dividend Term, the Grantor shall apply Operating Revenues in the following order of priority: (i) payment of or adequate reserves for all sums due or currently required to be paid under the terms of any Project Loan; and (ii) payment of or adequate reserve for all reasonable and appropriate expenses of the Property and the Project as identified in subsection D below. Any amounts remaining after application of Operating Revenues as provided above shall be governed by clauses E through M below.
- D. <u>Limitations</u>. With respect to the application of Operating Revenues as described above, the Grantor shall be allowed to use Operating Revenues to pay for any and all taxes, impositions, services, supplies or materials or other costs or liabilities incurred in the ownership, operation, management, maintenance and improvement of the Property and the Project, provided:
 - Payment for any and all services, supplies or materials shall not exceed the amount ordinarily and reasonably paid for such services, supplies or materials in the area where the services are rendered or the supplies or materials are furnished;
 - (ii) Reasonable and necessary expenses which may be payable pursuant to Section 9.D(i), above, shall be directly related to the operation, maintenance or management of the Property or the Project; and
 - (iii) Without the Subsidizing Agency's prior written consent, Grantor may not assign, transfer, create a security interest in, dispose of or encumber any Operating Revenues except as expressly permitted herein.
- E. <u>Project Expenses Only</u>. In operating the Project during the Limited Dividend Term, except with regard to (i) Permitted Distributions, or (ii) proceeds of any sale, financing or other capital transaction not subject to provisions of this Rider relative to Permitted Distributions, the Grantor shall not use any Operating Revenues to pay any liability, either direct or contingent, that is not related to the Property or the Project.



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- F. General Limitation on Distributions. The Grantor covenants and agrees that, during the Limited Dividend Term, distributions made in any Fiscal Year shall not exceed the Permitted Distribution for such Fiscal Year. The following types of payments shall be considered distributions hereunder and are subject to the foregoing limitation: (x) all Operating Revenues paid to any Grantor Party (i) as profit or income, (ii) as fees or expenses that are unrelated to the operation of the Project or (iii) as fees or expenses that are in excess of fees and expenses that would be incurred from persons providing similar goods or services who are not Grantor Parties and who provide such goods or services on an arm's length basis and (y) repayment of deferred developer's fee. Permitted Distributions may be made only once all currently payable amounts as identified in Section 9.C above are paid. No Permitted Distributions may be made if (i) an Event of Default has occurred, which shall include but not be limited to failure to maintain the Project in good physical condition in accordance with Section 7 hereof or (ii) there is outstanding against all or any part of the Property or the Project any lien or security interest other than a lien securing the Subsidy or a lien expressly permitted under the Subsidy Documents.
- G. <u>Timing of Distributions</u>. Permitted Distributions may be made by the Grantor at any time during a Fiscal Year, and as often as monthly, based on an operating budget for the Project prepared by the Grantor and approved by the Subsidizing Agency. Absent an approved operating budget, Permitted Distributions may be made only after approval or deemed approval of the Accountant's Annual Determination for such Fiscal Year pursuant to Section 9.0 below. If upon the approval of an Accountant's Annual Determination for a particular Fiscal Year pursuant to Section 9.0 below, such Accountant's Annual Determination shall show that distributions made during such Fiscal Year were in excess of the Permitted Distribution for such Fiscal Year, then upon ten (10) days' written notice from the Subsidizing Agency, the Grantor shall cause such excess to be deposited in the Excess Equity Account from sources other than Operating Revenues. If an Accountant's Annual Determination as approved shall show that distributions made during such Fiscal Year were less than the Permitted Distribution, such amounts may, if otherwise permitted herein, be distributed within thirty (30) days after the approval of the Accountant's Annual Determination.
- H. <u>Cost Certification</u>. Within ninety (90) days after substantial completion of the Project (as evidenced by issuance of a certificate of substantial completion (AIA Form G704) by the Grantor's architect and issuance of a certificate of occupancy by the Municipality), the Grantor shall provide the Subsidizing Agency with its Cost Certification for the Project as per the requirements of the Cost Certification Guidance. The Cost Certification must be examined in accordance with the attestation standards of the American Institute of Certified Public Accountants (AICPA) by an independent firm of certified public accountants. The Cost Certification must meet all requirements of the Cost Certification Guidance and of the Subsidizing Agency and is subject to the approval of the Subsidizing Agency.
- I. <u>Grantor's Equity</u>: Grantor's Equity shall be adjusted upon approval of the Cost Certification by the Subsidizing Agency as more fully set forth below. The adjustment to Grantor's Equity shall be calculated according to the formulas outlined in the Cost Certification Guidance. After adjustment of Grantor's Equity at Cost Certification, Grantor's Equity may be



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adjusted not more than once in any five-year period with the first five-year period commencing at the beginning of the Fiscal Year in which the Cost Certification is approved. Any adjustments shall be made only upon the written request of the Grantor and, unless the Grantor is otherwise directed by the Subsidizing Agency, shall be based upon an appraisal by an independent and qualified appraiser engaged by the Subsidizing Agency. The appraiser shall submit a self-contained appraisal report to the Subsidizing Agency in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP). The costs of such appraisal shall be borne by the Grantor. Upon completion of an appraisal as provided above, the Grantor's Equity shall be adjusted in accordance with the standards of the Subsidizing Agency. The adjusted Grantor's Equity shall take effect on the first day of the month following the date of such appraisal and shall remain in effect until the next subsequent adjustment. Notwithstanding the foregoing, if the Subsidizing Agency's standards later are amended to allow for more frequent adjustments to Grantor's Equity, the Grantor shall be allowed to make adjustments to Grantor's Equity at such times as are allowed under the amended standards.

Excess Equity. If, at the end of any Fiscal Year, Operating Revenues for such Fiscal Year remaining after the payment of Project expenses described in Section 9.D above exceed the sum of (i) the Permitted Distribution for such Fiscal Year plus (ii) the amount of funds required by any Project Lender to remain at the Project as a reserve to pay expenses of the Project, such excess (the "Annual Excess Equity") shall be deposited in the Excess Equity Account and not released except with the prior written consent of the Subsidizing Agency or if required by a Project Lender to avoid a default on such Project Lender's Project Loan. Upon the Grantor's request, amounts may also be withdrawn from the Excess Equity Account during the Limited Dividend Term for the following purposes: (i) payment of or adequate reserve for all sums due or currently required to be paid under the terms of a Project Loan; (ii) payment of or adequate reserve for all reasonable and necessary operating expenses of the Project as reasonably determined by the Grantor; (iii) deposits to a reserve fund for capital replacements reasonably determined by the Grantor to be necessary and sufficient to meet anticipated capital needs of the Project (the "Replacement Reserve"), which reserves may be held by a Project Lender reasonably acceptable to the Subsidizing Agency and may be used for capital expenditures for the Project reasonably determined to be necessary by the Grantor; (iv) repayments of operating expense loans made by Grantor Parties for Project expenses described in Section 9.D above, provided that Grantor shall have obtained prior written approval for such operating expense loans from the applicable Project Lender and from the Subsidizing Agency and shall have supplied the applicable Project Lender and the Subsidizing Agency with such evidence as the Project Lender or the Subsidizing Agency, as applicable, may reasonably request as to the application of the proceeds of such operating expense loans to Project expenses; or (v) for any other purposes, subject to a determination by a Project Lender that the expenditure is necessary to address the Project's physical or financial needs and that no other Project reserve funds are available to address such needs. Notwithstanding the foregoing, payment of the items set forth in clauses (i), (ii), (iii) and (v) above by the Grantor shall be subject to the prior written approval of the Subsidizing Agency, such approval not to be unreasonably withheld or delayed; it being agreed by the Subsidizing Agency that if the Grantor can demonstrate that its proposed operating expenditures, capital expenditures and reserves are substantially consistent with



those made for other developments of the Grantor or its affiliates or of other developers of similar developments within the Commonwealth of Massachusetts, the Subsidizing Agency shall approve such request. In no event shall such approval by the Subsidizing Agency be required if such capital expenditures or reserves are mandated by any Project Lender. Furthermore, the Subsidizing Agency agrees that it shall not unreasonably withhold or delay its consent to a written request from the Grantor for release of an amount held in the Excess Equity Account that will be used by the Grantor (i) to provide a direct and material benefit to Moderate Income Families residing in the Comprehensive Permit Units or (ii) to reduce rental rates to Moderate Income Families residing in the Comprehensive Permit Units. In the event that the Subsidizing Agency's approval is requested pursuant to this Section 9.J for expenditures out of the Excess Equity Account and such request contains in bold capital letters the statement "APPROVAL OF THIS REQUEST SHALL BE DEEMED GRANTED IF YOU FAIL TO RESPOND WITHIN THIRTY (30) DAYS OF YOUR RECEIPT HEREOF" and the Subsidizing Agency fails to respond within thirty (30) days of the Subsidizing Agency's receipt thereof, then the Subsidizing Agency shall be deemed to have approved the request and the Subsidizing Agency shall have no further rights to object to, or place conditions upon, the same.

- K. <u>Distributions to Municipality and Final Disposition of Excess Equity.</u>
 Operating Revenues available for distribution in any Fiscal Year in excess of twenty percent (20%) of Grantor's Equity, subject to payment of Accumulated Unpaid Distributions, shall be distributed to the Municipality within fifteen (15) business days of notice and demand given by the Subsidizing Agency, or as otherwise directed by the Subsidizing Agency. Upon the expiration of the Limited Dividend Term, any balance remaining in the Excess Equity Account shall be distributed by the Grantor to the Replacement Reserve held for the Project, if deemed necessary by the Subsidizing Agency, and otherwise shall be paid to the Municipality. All payments received by the Municipality hereunder shall be used solely for the purpose of developing and/or preserving affordable housing.
- Subsidizing Agency's Interest in Excess Equity. All funds in the Excess Equity Account shall be considered additional security for the performance of obligations of the Grantor under the Subsidy Documents and the Grantor hereby pledges and grants to Subsidizing Agency a continuing security interest in said funds. Furthermore, the Grantor recognizes and agrees that (i) possession of said funds by the Subsidizing Agency constitutes a bona fide pledge of said funds to the Subsidizing Agency for security purposes, (ii) to the extent required by applicable law, this Rider, in combination, as necessary, with other documents referred to herein, constitutes a valid and binding security agreement, and (iii) the validity and effectiveness of said pledge will not be compromised if said funds are held in a bank or other financial institution. The Grantor further acknowledges and agrees that, notwithstanding any nomenclature or title given to the Excess Equity Account by the bank or other financial institution at which the Excess Equity Account is held, or the fact that the Grantor's tax identification number is used with respect to the Excess Equity Account, the Subsidizing Agency, and not the Grantor, shall be the customer of the bank or other financial institution holding the Excess Equity Account; such bank or other financial institution shall comply with instructions originated by the Subsidizing Agency directing the disposition of funds in the Excess Equity Account, without



further consent of the Grantor; and the Subsidizing Agency, and not the Grantor, shall have the exclusive right to withdraw funds from the Excess Equity Account.

- Maximum Allowable Developer Fee. Payment of fees and profits from capital sources for the initial development of the Project to the Grantor and/or the Grantor Parties shall (unless otherwise limited by the Subsidizing Agency) be limited to no more than that amount resulting from the calculation in Attachment B, Step 3 ("Calculation of Maximum Allowable 40B Developer Fee and Overhead") of the Cost Certification Guidance (the "Maximum Allowable Developer Fee"). The Maximum Allowable Developer Fee shall not include fees or profits paid to any other party, whether or not related to the Grantor, to the extent the same are arm's length and commercially reasonable in light of the size and complexity of the Project. In accordance with the requirements of 760 CMR 56.04(8)(c), in the event that the Subsidizing Agency determines, following examination of the Cost Certification submitted by the Grantor pursuant to Section 9.H above, that amounts were paid or distributed by the Grantor in excess of the above limitations (the "Excess Development Distributions"), the Grantor shall pay over in full such Excess Development Distributions to the Municipality within fifteen (15) business days of notice and demand given by the Subsidizing Agency as provided herein. All payments received by the Municipality hereunder shall be used solely for the purpose of developing and/or preserving affordable housing.
- N. <u>Distributions from Certain Capital Events.</u> Notwithstanding anything to the contrary contained in this Rider, a distribution of the proceeds of a sale or refinancing of the Project shall not be regulated by this Rider. A sale or refinancing shall not result in an adjustment of Grantor's Equity. In clarification of the preceding sentence, upon any refinancing, the amount of Grantor's Equity shall remain the same, notwithstanding the fact that the amount of the mortgage loans secured by the Property may change. Per Section 9.I above, a reevaluation of Grantor's Equity shall occur no more frequently than once every five (5) years, and only pursuant to the standards of the Subsidizing Agency.
- Ο. Accountant's Annual Determination. Within ninety (90) days after the end of each Fiscal Year, the Grantor shall provide the Subsidizing Agency with a copy of its audited financial statements and an Accountant's Annual Determination for such Fiscal Year. Each Accountant's Annual Determination shall be accompanied by a form completed by an independent firm of certified public accountants and by a certificate of the Grantor in forms reasonably required by the Subsidizing Agency certifying under penalties of perjury as to the matters such as, without limitation, the fact that (i) the Grantor has made available all necessary financial records and related data to the certified public accountants who made such Accountant's Annual Determination, (ii) there are no material transactions related to the Project that have not been properly recorded in the accounting records underlying the Accountant's Annual Determination, (iii) no currently payable amounts as identified in Section 9.C above are more than thirty (30) days past due and there are no outstanding material extraordinary obligations incurred outside the ordinary course of business, even if thirty (30) or fewer days past due, (iv) the Grantor has no knowledge of any fraud or suspected fraud affecting the entity involving management, subcontractors, employees who have significant roles in internal control, or others where the fraud could have a material effect on the Accountant's Annual Determination

and has no knowledge of any allegations of fraud or suspected fraud affecting the Grantor or the Project received in communications from employees, former employees, subcontractors, regulators, or others and (v) the Grantor has reviewed the information presented in the Accountant's Annual Determination and believes that such determination is an appropriate representation of the operation of the Project. The Subsidizing Agency shall have sixty (60) days after the delivery of the Accountant's Annual Determination to accept it, to make its objections in writing to the Grantor and the certified public accountants, or to request from the Grantor and/or the certified public accountants additional information regarding it. If the Subsidizing Agency does not object to the Annual Accountant's Determination or request additional information, it shall be deemed accepted by the Subsidizing Agency. If the Subsidizing Agency shall request additional information, then the Grantor shall provide the Subsidizing Agency with such additional information as promptly as possible and the Subsidizing Agency shall have an additional thirty (30) days thereafter to review such information and either accept or raise objections to such Accountant's Annual Determination. If no such objections are made within such thirty-day period, the Accountant's Annual Determination shall be deemed accepted by the Subsidizing Agency. To the extent that the Subsidizing Agency shall raise any objections to an Accountant's Annual Determination as provided above, then the Grantor and the Subsidizing Agency shall consult in good faith and seek to resolve such objections within an additional thirtyday period. If any objections are not resolved during such period, then the Subsidizing Agency may enforce the provisions under this Section by the exercise of any remedies it may have under this Rider. Should the Grantor fail in any given year to comply with its obligations under this Section 9, the Subsidizing Agency shall have the right, in addition to any other rights and remedies available to the Subsidizing Agency hereunder, to require the Grantor to forfeit any Permitted Distributions to which Grantor might otherwise be entitled for such year pursuant to this Rider.

10. <u>Information</u>.

- A. <u>Compliance Information</u>. The Grantor covenants and agrees to submit to the Subsidizing Agency annually, or more frequently if required in writing by the Subsidizing Agency, reports detailing such facts as the Subsidizing Agency reasonably determines are sufficient to establish compliance with the restrictions contained in the Restriction and in this Rider; if requested, copies of leases for all Comprehensive Permit Units; and a certification by the Grantor that, to the best of its knowledge, the restrictions contained in the Restriction and in this Rider are being complied with. The Grantor further covenants and agrees promptly to notify the Subsidizing Agency if the Grantor discovers noncompliance with any restrictions contained in the Restriction or in this Rider.
- B. <u>Annual Report Under Restriction</u>. Annually, during the Rider Term, a copy of the annual report required to be furnished pursuant to the provisions of the Restriction, to be delivered to the Subsidizing Agency at the same time as it is delivered pursuant to the provisions of the Restriction.
- C. <u>Financial Statements</u>. Within ninety (90) days following the end of each Fiscal Year, Grantor shall furnish the Subsidizing Agency with a complete annual financial report for the Project based upon an examination of the books and records of Grantor containing a



detailed, itemized statement of all income and expenditures, prepared and certified by an independent firm of certified public accountants in accordance with the reasonable requirements of the Subsidizing Agency. A duly authorized agent of the Grantor must approve such submission in writing. The provisions of this Section 10.C may be waived or modified by the Subsidizing Agency.

D. <u>Confidentiality</u>. The Subsidizing Agency and the Grantor shall treat as confidential any of the foregoing information relating to a specific tenant or Comprehensive Permit Unit in compliance with all applicable state and federal statutes and regulations, including, without limitation, M.G.L c. 66A, and shall implement adequate systems and procedures for maintaining the confidentiality of such information (but the Subsidizing Agency and the Grantor may release general statistical and other information about the Project, so long as the privacy rights and interests of the individual tenants are protected). The Subsidizing Agency and the Grantor shall not use any of the information obtained and/or furnished pursuant to Section 10.A for any purpose described in the federal Fair Credit Reporting Act (15 U.S.C. §1681a(d)(1)) and Section 603(d)(1) of Public Law No. 91-508 or in any manner that would cause the Subsidizing Agency or the Grantor to be considered a "consumer reporting agency" under the federal Fair Credit Reporting Act (15 U.S.C. §1681a(f) and 603(f) of Public Law No. 91-508).

11. Monitoring.

- A. <u>Monitoring During Subsidy Term</u>. For the period commencing on the date the Restriction is recorded, and continuing until the start of the Fee-Based Monitoring Period, the Subsidizing Agency shall monitor the Grantor's compliance with this Rider and the occupancy restrictions set forth in the Restriction at no cost to the Grantor.
- B. <u>Monitoring Following Subsidy Term.</u> For the duration of the Fee-Based Monitoring Period, the Subsidizing Agency, its designee or assignee shall continue to monitor the Grantor's compliance with all or a portion of the ongoing requirements of this Rider. As partial compensation for its services in monitoring compliance with this Rider, on or about commencement of the Fee-Based Monitoring Period, the Subsidizing Agency shall invoice the Grantor for the annual monitoring services fee (calculated in accordance with Sections 11.C and 11.D below) due to be paid by the Grantor to the Subsidizing Agency for the portion of the calendar year remaining after commencement of the Fee-Based Monitoring Period. Thereafter, for each calendar year of the Fee-Based Monitoring Period, the Subsidizing Agency shall, after publication of the CPI-U, invoice the Grantor for the annual monitoring services fee due for such calendar year. The Grantor shall pay such invoice in full within thirty (30) days after the date of the invoice. The Grantor's failure or refusal to pay the monitoring fee to the Subsidizing Agency in a timely manner shall constitute a default hereunder.
- C. <u>Annual Monitoring Fee</u>. The annual per unit monitoring fee (the "Per Unit Fee") payable during the Fee-Based Monitoring Period shall be \$150.00 per Comprehensive Permit Unit escalated as described below. The annual invoice shall state the monitoring services fee (the "Annual Monitoring Fee") calculated by multiplying the current Per Unit Fee by the total number of Comprehensive Permit Units. The Per Unit Fee shall be adjusted annually



(commencing with the year following the year in which the Restriction is executed), following publication of the CPI-U for the immediately preceding calendar year by the Bureau of Labor Statistics. The Subsidizing Agency shall furnish the Grantor annually during the Fee-Based Monitoring Period with a Notice of Per Unit Fee (designated, by way of example: "Per Unit Fee: Year 2014"). The adjustment to the Per Unit Fee for the first year of the Fee-Based Monitoring Period shall be made by multiplying the Per Unit Fee set forth above by the lesser of (a) 1.1 to the x power, where x is the number of whole years from the date of the Restriction until the beginning of the Fee-Based Monitoring Period or (b) 1 + the increase in the CPI-U over the period from the date of the restriction to the beginning of the Fee-Based Monitoring Period, expressed as a decimal (e.g. if the CPI-U increased by 80% in the 15 years from the date of the Restriction until the commencement of the Fee-Based Monitoring Period, the adjusted Per Unit Fee for the first year of the Fee-Based Monitoring Period would equal \$150.00 multiplied by the lesser of 4.177 and 1.8, or \$270.00). The adjustment to the Per Unit Fee for each year thereafter shall be made by multiplying the most recent Per Unit Fee by the lesser of (a) 1.1 or (b) 1 +the increase in the CPI-U over the immediately preceding calendar year, expressed as a decimal (e.g. if the CPI-U increased by 5% in the prior year, the adjusted Per Unit Fee would equal the prior year's Per Unit Fee multiplied by 1.05).

- D. <u>Successor Price Index</u>. If the Bureau of Labor Statistics should cease to publish such the CPI-U in its present form and calculated on the present basis, a comparable price index or a price index reflecting changes in the cost of living determined in a similar manner shall be chosen at the sole discretion of the Subsidizing Agency, with notice to the Grantor. The level of the CPI-U or comparable price index as of any day relevant to the application of any part of this Section dealing with an adjustment shall be that published by the Bureau of Labor Statistics for the immediately preceding calendar year.
- E. <u>Relationship to Municipality</u>. The Grantor acknowledges that in performing its monitoring services hereunder the Subsidizing Agency is not acting as agent or fiduciary for the Municipality, and any waiver by the Subsidizing Agency of any requirement hereunder shall not be binding upon the Municipality and shall not be deemed a waiver of any obligation of the Grantor under the Comprehensive Permit.
- F. Third Party Monitor. The Subsidizing Agency may, from time to time, and after notice to the Municipality and the Grantor, engage the service of a qualified third party monitoring agent for purposes of monitoring the Grantor's performance under this Rider. If, within twenty (20) days of receipt of any such notice, the Municipality notifies the Subsidizing Agency in writing that it believes that such proposed monitoring agent is not properly qualified, the Subsidizing Agency shall, in good faith, make all reasonable efforts to address the Municipality's concerns. If a third party monitoring agent is engaged, such monitoring agent shall have authority to act in all matters relating to the Subsidizing Agency's obligations under this Rider and shall apply and adhere to the standards and policies of EOHLC relative to the administrative responsibilities of subsidizing agencies under the Act. Such monitoring agent shall not be held liable for any action taken or omitted under this Rider so long as it shall have acted in good faith and without gross negligence.

12. <u>Construction</u>.



Massbocs TAX CREDIT REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

- General. The Grantor agrees to construct the Project in accordance with plans and specifications approved by the Subsidizing Agency (the "Plans and Specifications"), in accordance with all on-site and off-site construction, design and land use conditions of the Comprehensive Permit, and in accordance with the information describing the Project presented by the Grantor to the Subsidizing Agency in its Application for Final Approval. All Comprehensive Permit Units must be similar in exterior appearance to other Units and shall be evenly dispersed throughout the Project. In addition, all Comprehensive Permit Units must contain complete living facilities including but not limited to a stove, kitchen cabinets, plumbing fixtures, and sanitary facilities, all as more fully shown in the Plans and Specifications. Materials used for the interiors of the Comprehensive Permit Units must be of good quality. The Project must fully comply with the State Building Code and with all applicable state and federal building, environmental, health, safety and other laws, rules, and regulations, including without limitation all applicable federal and state laws, rules and regulations relating to the operation of adaptable and accessible housing for the handicapped. Except to the extent that the Project is exempted from such compliance by the Comprehensive Permit, the Project must also comply with all applicable local codes, ordinances and by-laws.
- Monitoring. The Subsidizing Agency shall monitor compliance with the construction obligations set forth in this section in such manner as the Subsidizing Agency may deem reasonably necessary. In furtherance thereof, the Grantor shall provide to the Subsidizing Agency (i) evidence that the final plans and specifications for the Project comply with the requirements of the Comprehensive Permit and that the Project was built substantially in accordance with such plans and specifications; and (ii) such information as the Subsidizing Agency may reasonably require concerning the expertise, qualifications and scope of work of any construction monitor retained by the construction monitoring firm assisting the Subsidizing Agency. To ensure adequate monitoring of construction of the Project, the Grantor shall provide to the Subsidizing Agency such information as the Subsidizing Agency may reasonably require concerning the expertise, qualifications and scope of work of any construction monitor retained by one or more of the Project Lenders. If such information is reasonably acceptable to the Subsidizing Agency, the Grantor shall either (i) provide to the Subsidizing Agency prior to commencement of construction a certification from the relevant Project Lender(s) concerning construction monitoring in a form acceptable to the Subsidizing Agency or (ii) cause the Subsidizing Agency to be added as a party to the agreement with the construction monitor, provided that the Subsidizing Agency shall have no obligation to pay any portion of the cost of the services of such construction monitor and the Subsidizing Agency shall be entitled to receive copies of all reports produced by such construction monitor. If the construction monitor for the Project Lender(s) is not acceptable to the Subsidizing Agency, or if at any time after acceptance the construction monitor fails to provide adequate construction oversight in accordance with the requirements of the Lender's certification or the requirements of the agreement with the construction monitor, the Grantor shall fund the cost of a construction monitor retained by the Subsidizing Agency. In addition, the Grantor shall provide to the Subsidizing Agency evidence that the final plans and specifications for the Project comply with the requirements of the Comprehensive Permit and that the Project was built substantially in accordance with such plans and specifications.



- 13. <u>Incorporation of Provisions from the Restriction</u>. The following provisions from the Restriction are incorporated in this Rider by reference: Sections 2, 3.1, 3.2, 4.14, 4.15, 9.6, 10 and 12.1-12.4 and 13.
- 14. <u>Applicability</u>. Notwithstanding anything to the contrary in this Rider, the Subsidizing Agency and the Grantor agree that this Rider shall be given effect and shall apply to the Property only if and to the extent that the Grantor or Grantor's successor in title constructs the Project on the Property. Nothing in this Rider shall require the construction of the Project nor preclude the Grantor from using the Property for any other purpose.

15. Term of Rider.

- Α. General. The Grantor acknowledges that regardless of the duration of the term of the Restriction, the restrictions contained in this Rider are required pursuant to the terms of the Comprehensive Permit and accordingly shall remain in effect for the duration of the Rider Term. Upon receipt of the Notice of Minimum Rider Term Expiration, the Municipality shall have the right, by notice to the Subsidizing Agency, to assume the role of Subsidizing Agency hereunder effective as of the later of (i) the end of the Minimum Rider Term and (ii) the date six (6) months after the giving by the Subsidizing Agency of the Notice of Minimum Rider Term Expiration. If the Municipality makes such an election, then the Subsidizing Agency and the Municipality shall enter into an instrument ratifying the assignment to and assumption by the Municipality of the role of Subsidizing Agency, in form and substance mutually acceptable to the Municipality and the Subsidizing Agency, which instrument the Municipality shall cause to be recorded with the Barnstable Registry of Deeds, whereupon the term of the Restriction shall automatically be extended to be coterminous with the Rider Term, provided that only the provisions of the Restriction incorporated by reference in Section 13 above shall be enforceable by the Municipality. Notwithstanding the foregoing, the Grantor acknowledges that regardless of the term of the Restriction and this Rider, the Comprehensive Permit Units shall, pursuant to the Comprehensive Permit, remain affordable in "perpetuity", meaning for so long as the Project is maintained and occupied on the Property as contemplated by the Comprehensive Permit.
- B. <u>Early Termination</u>. Notwithstanding any provision in this Rider to the contrary, this Rider may be released by the Subsidizing Agency if the Project is financed by a state or federal agency and, in connection with such financing, a regulatory agreement acceptable to the Subsidizing Agency is recorded with the Barnstable <u>County</u> Registry of Deeds.
- 16. <u>Lien for Legal Fees</u>. If the Subsidizing Agency recovers fees and expenses incurred in enforcing this Rider against the Grantor, the Subsidizing Agency shall be entitled to assert a lien on the Property, junior to the liens securing the Project Loans, to secure payment by the Grantor of such fees and expenses. The Subsidizing Agency may perfect a lien on the Property by recording with the Barnstable <u>County</u> Registry of Deeds one or more certificates setting forth the amount of the costs and expenses due and owing.
- 17. <u>Necessary Modifications</u>. The Grantor hereby agrees to make such modifications to this Rider as may be required by the Subsidizing Agent to implement the Comprehensive Permit Rules, as amended from time to time.



18. <u>Conflicts</u>. In the event of any conflict or inconsistency (including without limitation more restrictive terms) between the terms of the Comprehensive Permit, any other document relating to the Project (other than the Restriction) and the terms of this Rider, the terms of this Rider shall control, except as otherwise provided in Section 2 above with respect to the federal low-income housing tax credit program.

19. <u>Limitation on Liability and Indemnification</u>.

- A. <u>Grantor's Indemnity</u>. The Grantor, for itself and its successors and assigns, agrees to indemnify and hold harmless the Subsidizing Agency against all damages, costs and liabilities, including reasonable attorney's fees, asserted against the Subsidizing Agency by reason of its relationship to the Project under this Rider and not involving the Subsidizing Agency acting in bad faith or with gross negligence.
- B. <u>Subsidizing Agency's Liability Limitation</u>. The Subsidizing Agency shall not be liable for any action taken or omitted under this Rider so long as its actions do not constitute gross negligence or willful misconduct.
- C. <u>Grantor's Liability Limitation</u>. Notwithstanding anything in this Rider to the contrary, upon the occurrence of any breach or default by Grantor hereunder, the Subsidizing Agency will look solely to the Property and the Project for satisfaction of any judgment against Grantor and no officer, partner, manager, member, agent or employee of Grantor shall have any personal liability hereunder or for the performance of any obligation of Grantor hereunder. Nothing in this paragraph shall affect or derogate from Subsidizing Agency's rights against any guarantor or any other party who may have liability under the Subsidy Documents while the Subsidy is outstanding.



Executed under seal as of the date of the Restriction.

CLOVERLEAF TRURO LLC, a Massachusetts limited liability company

	limite	ed liability company	
	Ву:	CLOVERLEAF TRURO MM LLC, Managing Member	its
		By:	
		Its: Authorized Agent	
COMMONWEALTH OF MASSACHUSETTS County, ss.	6		
On this day of, 202 personally appeared evidence of identification, which was (a c (my personal knowledge of the identity or signed on the preceding or attached docum it voluntarily, as Authorized Agent of Clor Cloverleaf Truro LLC, for its stated purpos	urrent dr f the prir nent, and verleaf T	_, proved to me through satisfactoriver's license) (a current U.S. passponcipal), to be the person whose name acknowledged to me that he/she sign fruro MM LLC, the managing member	ry rt) is ed
Notary Public	-		

My commission expires:



ACKNOWLEDGEMENT OF **ZONING BOARD THE TOWN** OF **APPEALS TRURO**

The undersigned duly authorized $\frac{\text{Chair of the Truro ZoningSelect}}{\text{Endown}}$ Board of $\frac{\text{Appeals the Town}}{\text{Endown}}$ of Truro hereby acknowledges that (i) the foregoing Rider (the "Rider") satisfies the requirements for a "Regulatory Agreement" and a "Town Regulatory Agreement" in the Comprehensive Permit and, in combination with the Affordable Housing Restriction granted by the Borrower and recorded with the Barnstable County Registry of Deeds herewith, constitutes compliance by the Grantor with Conditions 2, 24, 46 and 100 of the Comprehensive Permit requiring the execution by the Grantor, the Subsidizing Agency and the Town of Truro of various restrictions meeting the required levels of affordability set forth in such conditions; and (ii) that the Comprehensive Permit is subject to the Comprehensive Permit Rules. Without limiting the generality of the foregoing, the Units in the Project required to be affordable under the Comprehensive Permit shall be affordable if such Units are rented in accordance with the Rider; any local preference set forth in the Comprehensive Permit shall be implemented only in compliance with applicable state and federal fair housing rules and the Comprehensive Permit Rules; compliance with the Rider shall be determined solely by the Subsidizing Agency at any time prior to the Subsidy End Date in accordance with the Comprehensive Permit Rules; and the transfer of the Comprehensive Permit shall be governed exclusively by the Comprehensive Permit Rules. In addition, the Rider shall control over the Comprehensive Permit with respect to any matter that is addressed by the Rider. Capitalized terms used in this acknowledgement shall have the meanings ascribed to them in the Rider.

Name:	
Title: [Chair, T	ruro Zoning Board of Appeals]
	TOWN OF TRURO
	Susan Areson, Chair
	Debout Wainstein Chair
	Robert Weinstein, Chair
	Nancy Medoff, Clerk
	Stephanie Rein, Member
	Susan Girard-Irwin, Member
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THIS TAX CREDIT REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (this "Restriction") is made and entered into as of the [______ day of December], 2024 by and between the Commonwealth of Massachusetts, acting by and through the Executive Office of Housing and Livable Communities ("EOHLC"), and Cloverleaf Truro LLC, a Massachusetts limited liability company, and its successors and assigns (the "Grantor").

BACKGROUND

- A. EOHLC, as successor to the former Department of Housing and Community Development, is authorized by Executive Order 291 signed by the Governor of the Commonwealth of Massachusetts to administer the State Housing Credit Ceiling as defined in Section 42 of the United States Internal Revenue Code of 1986 as amended, (the "Code") in connection with the allocation and administration of low-income housing tax credits (the "Low-Income Housing Tax Credit").
- B. EOHLC has adopted a 2022-2023 Low-Income Housing Tax Credit Allocation Plan (the "Allocation Plan") and certain Low-Income Housing Tax Credit Guidelines (the "Guidelines"), which govern the process and standards for allocation of the Low-Income Housing Tax Credit.
- C. EOHLC is authorized pursuant to M.G.L. c.23B sec.3, M.G.L. c.62 sec.6I, and M.G.L. c.63 sec.31H (collectively, the "Massachusetts Act") to allocate, administer, and determine eligibility for a Massachusetts low-income housing tax credit ("State Credit").
- D. The Grantor is the developer of a 43 residential rental unit housing development located or to be located on the Property leased by the Grantor from the Town of Truro, Massachusetts (the "Ground Lessor") pursuant to the Ground Lease, which housing development is known as or to be known as Cloverleaf (the "Project").
- E. The Grantor has applied to EOHLC for an allocation of Low-Income Housing Tax Credits to the Project.
- F. The Grantor has applied to and received from EOHLC a binding commitment of State Credit and will receive in the future from EOHLC an allocation of State Credit (subject to pertinent conditions) for the Project.
- G. The Grantor has represented to EOHLC in the Grantor's Low-Income Housing Tax Credit Application (collectively, the "Application") that a certain percentage of the Units in the Project shall be both rent restricted and occupied by individuals or families whose income is a certain percentage or less of the Area Median Income in accordance with Section 42 of the Code, and that the Grantor will maintain other restrictions on the use and occupancy of the Project, as set

forth herein. Where reference is made herein to the Application, the term "Grantor" shall also mean any previous sponsor connected with the Project.

- H. EOHLC has determined that, as of the date hereof, the Project would support a Low-Income Housing Tax Credit allocation, as set forth herein, provided that the Units in the Project are placed in service in accordance with Section 42 of the Code and any other applicable requirements.
- The Code requires as a condition precedent to the allocation of the Low-Income Housing Tax Credit that the Grantor execute, deliver and record in the official land deed records of the county in which the Project is located this Restriction in order to create certain covenants running with the land for the purpose of enforcing the requirements of Section 42 of the Code and other applicable requirements by regulating and restricting the use and occupancy and transfer of the Project as set forth herein.
- J. As a condition precedent to determination of the Project as a Qualified Massachusetts Project, authorized and eligible for the State Credit, the Grantor must execute, deliver and record as an affordable housing restriction under M.G.L. c.184 with the registry of deeds in the county in which the Project is located a regulatory agreement for the State Credit.
- K. The Grantor, under this Restriction, intends, declares and covenants that the regulatory and restrictive covenants set forth herein governing the use, occupancy and transfer of the Project shall be and are covenants running with the Property for the term stated herein and binding upon all subsequent owners of the Property for such term, and are not merely personal covenants of the Grantor.

SECTION 1. GENERAL

- 1.1 EOHLC and the Grantor, in consideration of the covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby agree as set forth below.
- 1.2 This Restriction shall constitute an "extended low-income housing commitment" as defined in Section 42(h)(6)(B) of the Code with respect to each building included within the Project.

SECTION 2. DEFINITIONS

Unless otherwise expressly provided herein or unless the context clearly requires otherwise, the following terms shall have the respective meanings set forth below for all purposes of this Restriction:

Applicable Fraction:

The smaller of the "unit fraction" or the "floor space fraction," as these terms are defined in Section 42(c)(1) of the Code, which has been determined for the purposes of this Restriction to be [73.2]%.



Applicable Income Limit: The percentage of Area Median Income applicable to a Low-

Income Unit, which shall be equal to 60 percent.

Area: Barnstable, MA MSA

Area Median Income: The median income for the Area, with adjustments for family

size, determined in accordance with Section 142(d)(2)(B) of

the Code.

<u>Code:</u> The Internal Revenue Code of 1986 as amended and all

regulations applicable thereto.

<u>Compliance Period:</u> The 15-year compliance period under Section 42 of the Code.

Gross Rent: The total amount received from a Low-Income Tenant as a rental

payment, excluding any payment under Section 8 of the United States Housing Act of 1937 or any comparable rental assistance (with respect to such Unit or occupants thereof) and including any utility allowance under Section 8 of the aforementioned act.

Ground Lease: The Ground Lease entered into by and between Ground

Lessor as landlord, and The Community Builders, Inc., as tenant ("TCB"), dated as of the date hereof, authorizing TCB to lease the Property, as assigned by TCB to the Grantor, by that certain Assignment and Assumption of Ground Lease by and among TCB, the Town and the Grantor dated as of the date hereof, notice of which is recorded with the Barnstable

County Registry of Deeds herewith.

Income Certification: A certification as to income executed by a Low-Income Tenant of

the Project.

Low-Income Tenant: The occupant(s) of a Unit whose income on admission to the

Project, as computed in accordance with the rules and regulations governing the Low-Income Housing Tax Credit, does

not exceed the Applicable Income Limit.

<u>Low-Income Unit</u>: As defined in Section 5.2 below.

<u>Low-Income Tenant Rental Period:</u> As defined in Section 7.1 below.

<u>Property:</u> The land described on <u>Exhibit A</u> attached hereto situated at

the Property Address. For Grantor's title see the notice of ground lease recorded with the Barnstable County Registry of

Deeds herewith.

<u>Property Address:</u> Before completion of construction: 22 Highland Road, Truro,

Massachusetts; after completion of construction: 1-22

Cloverleaf Trail, Truro, Massachusetts.

Rent Restricted: The Gross Rent to be charged for a Low-Income Unit which does

not exceed thirty percent (30%) of the Applicable Income Limit.

<u>Sponsor:</u> Community Housing Resource, Inc.

<u>State</u>: The Commonwealth of Massachusetts.

<u>Unit:</u> A housing unit in the Project.

Any term not defined in this Restriction shall have the same meaning as terms defined in Section 42 of the Code and the Treasury regulations promulgated thereunder or under the Massachusetts Act and 760 CMR 54.00 et seq. promulgated thereunder (the "State Regulations").

SECTION 3. RECORDING AND FILING; COVENANTS TO RUN WITH THE LAND

- 3.1 Upon execution, the Grantor shall cause this Restriction and all amendments hereto to be recorded with the Barnstable County Registry of Deeds and shall pay all fees and charges incurred in connection therewith. Upon recording, the Grantor shall immediately transmit to EOHLC evidence of the recording including the date and instrument number or book and page numbers. The Grantor agrees that EOHLC will not issue the Internal Revenue Service Form 8609 constituting final allocation of the Low-Income Housing Tax Credit or a Massachusetts Eligibility Statement constituting final allocation of the State Credit unless and until EOHLC has received a certified copy of the recorded Restriction.
- The Grantor intends, declares and covenants, on behalf of itself and all future owners and operators of the Property during the Low-Income Tenant Rental Period, that this Restriction and the covenants and restrictions set forth in this Restriction regulating and restricting the use, occupancy and transfer of the Property and the Project (i) shall be and are covenants running with the Property, encumbering the Property for the Low-Income Tenant Rental Period, binding upon the Grantor's successors in title and all subsequent owners and operators of the Project, (ii) are not merely personal covenants of the Grantor, and (iii) shall bind the Grantor (and the benefits shall inure to EOHLC and any past, present or prospective tenant of the Project) and its respective successors and assigns during the Low-Income Tenant Rental Period. The restrictions contained herein are intended to be construed as an affordable housing restriction as that term is defined in Section 31 of Chapter 184 of the Massachusetts General Laws, and which has the benefit of Section 32 of said Chapter 184, such that the restrictions contained herein shall not be limited in duration by any rule or operation of law but rather shall run for the full Low-Income Tenant Rental Period. The Grantor 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 Restriction to constitute deed restrictions and covenants running with the land shall be deemed to be satisfied in full, and that any requirements of privity of estate are intended to be satisfied, or in the alternate, that an equitable servitude has been created to ensure that these restrictions run with the land. For the longer of the period the Low-Income Housing Tax Credit is claimed or the Low-Income Tenant Rental Period, each and every contract, deed or other instrument hereafter executed conveying the Project or portion thereof shall expressly provide that such conveyance is

subject to this Restriction, provided, however, that the covenants contained herein shall survive and be effective regardless of whether such contract, deed or other instrument hereafter executed conveying the Project or portion thereof provides that such conveyance is subject to this Restriction.

SECTION 4. REPRESENTATIONS, COVENANTS AND WARRANTIES OF THE GRANTOR

The Grantor hereby represents, covenants and warrants to EOHLC as follows:

- **4.1** The Grantor (i) is a limited liability company 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 Restriction.
- **4.2** The execution and performance of this Restriction by the Grantor (i) will not violate or, as applicable, have 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, have not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the Grantor 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.
- **4.3** The Grantor will, at the time of execution and delivery of this Restriction, have good and marketable leasehold title to the Project, including the Property, free and clear of any lien or encumbrance (subject to encumbrances created pursuant to this Restriction, any loan documents relating to the Project the general terms of which are approved by EOHLC, or other permitted encumbrances).
- **4.4** 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 Grantor, 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 Restriction) or would materially adversely affect its financial condition.
- **4.5** The Project constitutes or will constitute a qualified low-income building or qualified project, as applicable, as defined in Section 42 of the Code and Applicable Regulations (as defined below).
- **4.6** Each Unit contains complete facilities for living, sleeping, eating, cooking and sanitation (unless the Project qualifies as a single-room occupancy project).
- 4.7 During the Low-Income Tenant Rental Period, all Low-Income Units shall be Rent Restricted and shall be leased, rented or made available to members of the general public who qualify as Low-Income Tenants (or otherwise qualify for occupancy of the Low-Income Units as set forth in Section 5.4 hereof) under the applicable election specified in Section 42(g) of the Code and as set forth in Section 5.1 of this Restriction. During the Low-Income Tenant Rental Period,

the Gross Rent for a Low-Income Unit, other than at turnover, shall not be increased more often than once a year and no notice of change in rent to be charged for Low-Income Units shall be given prior to providing the affected tenants with a thirty (30) day opportunity to comment on the increase. The Grantor shall provide, on a form and in a manner acceptable to EOHLC, an annual notification to each Low-Income Tenant indicating the manner in which the Gross Rents for Low-Income Units are determined.

- 4.8 The Grantor shall insure that all Low-Income Units shall be of comparable quality to other Units or if not comparable, the excess cost of the other Units shall not exceed the percentage set forth in Section 42(d)(3) of the Code and the Grantor will file the election provided for therein. The Low-Income Units shall be, to the extent possible, dispersed evenly throughout the Project.
- **4.9** During the Low-Income Tenant Rental Period, each Low-Income Unit is and will remain suitable for occupancy and in compliance with all local health, safety and building codes.
- 4.10 The Grantor shall not discriminate on the basis of race, religious creed, color, sex, age, marital status, sexual orientation (which shall not include persons whose sexual orientation involves minor children as the sex object), gender identity, genetic information, veteran status, membership in the armed forces, ancestry, national origin, handicap, blindness, hearing impairment, or because a person possesses a trained guide dog as a consequence of blindness, hearing impairment or other handicap of such person or any other basis prohibited by law in the lease, use, occupancy and marketing of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project. Without limiting the foregoing, the Grantor is expressly prohibited from refusing to lease to a holder of a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as such a holder.
- 4.11 Prior to occupancy of any Unit or the undertaking of any marketing activities with respect to the Project, the Grantor shall adopt and implement (i) an affirmative fair housing marketing plan for all Units and (ii) a tenant selection plan for the Low-Income Units, in both cases consistent with any standards and guidelines adopted by EOHLC as then in effect and all applicable laws. Both the affirmative fair marketing and tenant selection plans shall be subject to review by EOHLC, at EOHLC's request from time to time during the Low-Income Tenant Rental Period. The affirmative fair housing marketing plan shall require the Grantor to create a listing for all Low-Income Units with the Housing Navigator (www.housingnavigatorma.org), which listing shall be updated and confirmed prior to holding a tenant-selection lottery for the Low-Income Units and shall thereafter be updated at least annually or more frequently if appropriate in EOHLC's opinion (e.g. in connection with the re-opening of any waiting list for Low-Income Units). The affirmative fair housing marketing plan shall also require the Grantor to notify the Housing Navigator when waiting lists for Low-Income Units open and close and whenever there is a Low-Income Unit available on a first come, first served basis.
- **4.12** The Grantor shall enter into a lease with each tenant of a Low-Income Unit (other than Units that qualify as single-room occupancy units) which shall be for a minimum period of one (1) year and which shall provide that no tenant of a Low-Income Unit shall be evicted during the Low-Income Tenant Rental Period for any reason other than a substantial breach of a material

provision of such lease. Without limiting the foregoing, the lease shall comply in all respects with applicable state, local, and federal law and the terms and conditions of this Restriction.

- The Grantor may not sell, transfer or exchange less than all of the Project during the Low-Income Tenant Rental Period. The Grantor shall not sell, transfer, convey, rent (except for residential leases or occupancy agreements conforming to the occupancy requirements hereof), encumber as security for financing, or in any other way exchange all or any portion of the Property nor shall the Grantor permit the sale, transfer or pledge of any direct or indirect interests in the Grantor, without the express written permission of EOHLC. Notwithstanding the foregoing: (i) the investor member interest of Grantor held by MCI Cloverleaf, LLC (the "Investor") may be transferred to an entity in which the Investor or an affiliate of the Investor is the general partner or managing member, provided that EOHLC receives notice of such transfer and (ii) the Grantor's investor member may remove and replace the manager of the Grantor in accordance with the provisions of the Grantor's operating agreement upon the consent of EOHLC, which consent will not be unreasonably withheld, conditioned or delayed. In connection with any transfer requiring the consent of EOHLC, the Grantor shall provide such information to EOHLC as EOHLC may reasonably request, shall pay a fee to EOHLC pursuant to EOHLC's then-current fee schedule and shall pay all legal fees incurred by EOHLC in connection with such transfer request. The Grantor agrees that EOHLC may void any sale, transfer or exchange of the Project if the buyer or successor or other person fails to assume in writing the requirements of this Restriction and the requirements of Section 42 of the Code.
- **4.14** The Grantor 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 any Unit for any purpose other than rental housing during the Low-Income Tenant Rental Period unless required by law.
- **4.15** If the Project, or any part thereof, shall be damaged or destroyed or shall be condemned or acquired for public use, the Grantor (subject to the approval of the lenders that have provided the financing) will use commercially reasonable 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 the terms of this Restriction.
- **4.16** The Grantor has not and will not execute any other agreement with provisions contradictory to, or in opposition to, the provisions hereof, and that in any event, the requirements of this Restriction are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith.
- **4.17** The Grantor has obtained the consent of all current holders of existing mortgages on the Project to this Restriction either (i) in the form attached hereto as <u>Exhibit B</u> or (ii) pursuant to an intercreditor or subordination agreement dated on or about the date hereof providing for consent by all holders of existing mortgages on substantially the same terms as set forth in <u>Exhibit B</u>.
- **4.18** If the Project has received a Low-Income Housing Tax Credit allocation as a special needs project, the Grantor will maintain special needs services throughout the Low-Income Tenant

Rental Period as represented in the Grantor's EOHLC approved service plan which is incorporated herein.

Grantor shall indemnify and hold harmless EOHLC from and against all liabilities, damages, losses, obligations, penalties, claims, demands, actions, costs and expenses (including without limitation attorneys and expert fees and costs) of any kind or nature directly or indirectly resulting from the breach of any of the foregoing representations, warranties or covenants or of any of the covenants contained elsewhere in this Restriction, including, without limitation, costs of defending or settling any claim arising therefrom against EOHLC.

SECTION 5. OCCUPANCY RESTRICTIONS

- **5.1** No later than the end of the first year of the Compliance Period and continuing throughout the Low-Income Tenant Rental Period and in order to satisfy the requirements of Section 42 of the Code, other applicable requirements and the representations made in the Application, no less than the Applicable Fraction of the Units in the Project shall be both rent-restricted and occupied by Low-Income Tenants.
- The applicable fraction (as defined in Section 42(c)(1) of the Code), for each 5.2 taxable year during the Low-Income Tenant Rental Period, will not be less than the Applicable Fraction. Initially, Low-Income Tenants shall occupy [35] units ("Low-Income Units"): 1 of which shall be three-bedroom units; [12] of which shall be two-bedroom units; and 22 of which shall be one-bedroom units. No less than 6 of the Low-Income Units shall be occupied by Low-Income Tenants whose income is 30% or less of the Area Median Income. As of the date hereof, the Project has or is expected to have the benefit of a contract for 8 project-based vouchers under Section 8 of the United States Housing Act of 1937, as amended (the "Section 8 Contract"), 8 project-based vouchers under the Massachusetts Rental Voucher Program (the "MRVP Contract") and 3 [project-based vouchers under the Massachusetts Alternative Housing Voucher Program] (the "AHVP Program" and, collectively with the Section 8 Contract and the MRVP Contract, the "Rental Subsidy Contracts"). If during the Low-Income Tenant Rental Period any of the Rental Subsidy Contracts is not renewed at the end of its term or is terminated or otherwise is no longer in full force and effect, EOHLC will consider a request by the Grantor to reduce the number of Low-Income Units required to be occupied by Low-Income Tenants whose income is 30% or less of the Area Median Income. A decision by EOHLC on such a request shall take into consideration the financial viability of the Project and shall be made in the sole reasonable discretion of EOHLC.
- 5.3 As a condition to occupancy, each person who is intended to be a Low-Income Tenant shall be required to sign and deliver to the Grantor an Income Certification using a form, acceptable to EOHLC, adopted for such use by the Grantor which meets the requirements of the Code and the Treasury regulations promulgated thereunder. The determination of whether a tenant meets the definition of a Low-Income Tenant shall be made by the Grantor at least annually on the basis of the current income of such tenant.
- **5.4** Subject to the next succeeding sentence, any Unit occupied by an individual or family who is a Low-Income Tenant at the commencement of occupancy shall continue to be

treated as if occupied by a Low-Income Tenant regardless of increases in such Low-Income Tenant's income so long as such Unit (the "Over-Income Unit") continues to be rent-restricted. Notwithstanding the foregoing, if a Low-Income Tenant's income increases above 140% of the Applicable Income Limit set forth in Section 5.2 above, such tenant shall no longer be considered a Low Income Tenant if the next available Unit of comparable or smaller size is rented to a tenant who is not a Low-Income Tenant.

SECTION 6. CONVERSION RESTRICTIONS

The following conversion restrictions are applicable to the Project:

- 6.1 No tenant in the Project shall be evicted due to conversion to condominium or cooperative form of ownership unless and until said tenant has received the rights and benefits as set forth in Chapter 527 of the Acts of the Commonwealth of Massachusetts of 1983, as amended, or any successor act, as then currently in effect (the "Conversion Act") (notwithstanding any exemption provided in the third paragraph of Section 2 of the Conversion Act to the city or town in which the Project is located) and any applicable local laws and ordinances.
- 6.2 No tenant of a Low-Income Unit shall be evicted due to conversion to condominium or cooperative form of ownership nor shall a Low-Income Unit be converted to conventional rental housing (which shall mean housing having an annual rental greater than that permitted for Low-Income Units under the Low-Income Housing Tax Credit rules and regulations) unless and until the following restrictions have been met and completed with respect to such Unit:
- (a) the tenant of a Low-Income Unit so affected shall be given prior written notice of intent to convert to condominium or cooperative form of ownership or to convert to conventional rental housing (the "Notice Period") of at least four (4) years, such Notice Period beginning on a date no sooner than four years prior to the expiration of the Low-Income Tenant Rental Period. Once such notice of intent to convert is provided to a tenant, in the event such tenant later vacates the Unit, the new tenant is entitled to receive notice under this subsection for a period equal to the remaining time pursuant to the original notice of intent to convert. The notice of intent shall include notice of the tenant's rights and notice of the right of first refusal provided in paragraph (d) of this Section 6.2; the notice of intent shall also inform tenants that EOHLC should be notified if the Grantor is not fulfilling its obligations under this Restriction; only tenants occupying Low-Income Units within the Project shall be entitled to receive the additional rights enumerated in this paragraph; EOHLC shall be provided with a copy of the notice for review and approval before such notice is sent to the Low-Income Tenant;
- (b) the Grantor shall give EOHLC six months' notice of its intent to convert a Project to condominiums or cooperatives; at the end of the conversion of the market rate Units to condominiums or cooperatives, the Grantor shall certify to EOHLC its compliance with the conversion terms of this Restriction;
- (c) every Low-Income Tenant given, or entitled to be given, the notice of intent shall receive an extension of their lease or rental agreement, with substantially the same terms, subject to permissible rental increases, during the Notice Period;

- (d) in the event the Grantor intends to convert the Project to a condominium or cooperative form of ownership, not later than two (2) years prior to the expiration of the Notice Period, an affected Low-Income Tenant shall receive a right of first refusal for purchase of such tenant's Unit which right shall last for a period of not less than six (6) months; such right of first refusal shall be accompanied by a copy of the purchase and sale agreement for the Unit; during this period, the Unit shall be offered to the tenant at a discount of at least ten percent (10%) from the offering price for the Unit; if the tenant of an affected Unit chooses not to purchase the Unit, the Unit shall be offered for purchase to EOHLC or its designee for an additional period of at least ninety (90) days at the same price the Unit was offered to the tenant;
- (e) all tenants given, or entitled to be given the notice of intent who are unable or choose not to exercise their right to purchase or to remain and to pay the conventional rental shall be entitled to relocation benefits in accordance with the Conversion Act.

SECTION 7. TERM OF AGREEMENT.

- 7.1 This Restriction and the restrictions set forth herein shall commence with the first day of the Compliance Period and shall extend through the date ending a period of an additional 25 years after the close of the Compliance Period (the "Low-Income Tenant Rental Period"). This term will be determined in accordance with the Code for each building in the Project. EOHLC and the Grantor expressly acknowledge and agree that the Low-Income Tenant Rental Period covers and is in compliance with the requirement under the Massachusetts Act that a regulatory agreement for the State Credit be for a term not less than thirty (30) years from the expiration date of the Compliance Period. Except as hereinafter provided, this Restriction and the restrictions set forth herein shall not terminate or expire any earlier than the end of the Low-Income Tenant Rental Period. The Grantor has waived all rights to request or obtain at any time a Qualified Contract for the Project under Section 42 of the Code
- 7.2 Notwithstanding Section 7.1 above and except as provided in Section 7.3 below, this Restriction and the restrictions set forth herein shall terminate on the date the Project is acquired by foreclosure or instrument in lieu of foreclosure unless the Secretary of the United States Treasury or his or her designee determines that such acquisition is part of an arrangement with the Grantor, a purpose of which is to terminate this Restriction and the restrictions set forth herein. EOHLC hereby agrees to execute any and all documents necessary to evidence the foregoing termination.
- 7.3 The tenant protections set forth in Section 42(h)(6)(E)(ii) of the Code shall survive for a period of three (3) years following a termination pursuant to Section 7.2 above and for such three-year period such tenant protections shall be binding upon any holder of a mortgage on the Project, or any successor or assign of such holder, who succeeds to all or any part of the Grantor's interest in, or otherwise acquires title to, the Project.
- 7.4 Notwithstanding Sections 7.1 and 7.2 above, this Restriction shall not terminate and shall remain in full force and effect to enable EOHLC, and any other person with the right to enforce this Restriction pursuant to Section 9.6 of this Restriction, to enforce and/or monitor

under Section 9 any remaining obligations under Section 7.3 above, and the Conversion Restrictions set forth in Section 6 above provided, however, in the event this Restriction has terminated pursuant to Section 7.2 above, it shall be assumed for purpose of giving notice pursuant to Section 6 that the Low-Income Rental Period has ended.

SECTION 8. CERTIFICATIONS

- **8.1** On the date of execution and delivery of this Restriction, the Grantor shall deliver to EOHLC the following certifications or documents:
 - (a) Evidence of transfer of ownership of the Project to the Grantor;
- (b) For projects requiring a waiver of the ten year holding requirement in order to obtain a credit for the acquisition of an existing building, a copy of the waiver obtained from the Internal Revenue Service;
- (c) Opinion of Grantor's Counsel as to Grantor's organization, execution, delivery and enforceability of Restriction; and organizational documents for the Grantor and Grantor's manager or general partner, if any, as follows:
 - (i) if a limited partnership, a copy of the partnership agreement; and two separate long form certificates of legal existence (identifying general partners and any amendments) from the Massachusetts Secretary of State;
 - (ii) if a corporation, a clerk's certificate with vote, certified articles of incorporation and by-laws and certificate of legal existence from the state of incorporation;
 - (iii) if a trust, a copy of the Declaration of Trust, a Trustee's Certificate and Direction of Beneficiaries;
 - (iv) if a limited liability company, a copy of the operating agreement; and a certificate of good standing from the Massachusetts Secretary of State; and
 - (v) any additional organizational documents as EOHLC deems appropriate;
- (d) Original certification from the Grantor of the full extent of all federal, State and local subsidies which apply (or which the Grantor expects to apply) with respect to the Project;
- (e) Original Release and Indemnification Agreement agreeing to release and indemnify EOHLC from any claim, loss, demand or judgment as a result of the allocation of Low-Income Housing Tax Credit to the Project or the recapture of the Low-Income Housing Tax Credit by the Internal Revenue Service;
- (f) Original certification from the Grantor pursuant to Massachusetts General Laws Chapter 62C Section 49A that the Grantor has complied with all laws of the Commonwealth related to taxes;
- (g) Any and all other documents required by Section 42 of the Code or the applicable Treasury Regulations and any documents that EOHLC may require.

- **8.2** The Grantor shall deliver to EOHLC the following certifications or documents no later than the date for submission of the audited certification of costs pursuant to Section 11.1 below.
- (a) Audited certification of costs, an audited schedule of sources (including rental and/or operating subsidies) and uses (including reserves), and an audited schedule of low-income housing tax credit eligible basis as well as any supplementary schedules required by EOHLC in the format provided by EOHLC;
- (b) Original certification from the Grantor as to the actual date the Project is "placed in service" as that term is defined in the regulations or notices promulgated under Section 42 of the Code;
- (c) Certificate(s) of occupancy from the municipality or other governmental authority having jurisdiction; and
- (d) Original certification from the Project's Architect that the Project is in compliance with all applicable federal and state statutes and regulations in regard to the operation of adaptable and accessible housing for the disabled.

SECTION 9. MONITORING AND ENFORCEMENT

- **9.1** The Grantor agrees to comply with any monitoring plan, guidelines, procedures, or requirements as may be adopted or amended from time to time by EOHLC in accordance with requirements of the Code or regulations promulgated thereunder by the U.S. Department of the Treasury, Internal Revenue Service (the "Federal Regulations") and the requirements of the Massachusetts Act and the State Regulations or in order to monitor compliance with the provisions of this Restriction. The Federal Regulations and the State Regulations are collectively referred to as the "Applicable Regulations".
- 9.2 The Grantor covenants that it will not knowingly take or permit any action that would result in a violation of the requirements of Section 42 of the Code, the Massachusetts Act and Applicable Regulations or this Restriction. Moreover, Grantor covenants to take any lawful action (including amendment of this Restriction as may be necessary, in the opinion of EOHLC) to comply fully with the Code, the Massachusetts Act, the State Regulations and all applicable regulations, rules, rulings, policies, procedures, or other official statements promulgated or proposed by the United States Department of the Treasury, Internal Revenue Service, from time to time pertaining to Grantor's obligations under Section 42 of the Code.
- **9.3** The Grantor will permit, during normal business hours and upon reasonable notice, any duly authorized representative of EOHLC (or its authorized delegate) to inspect any books and records of the Grantor regarding the Project that pertain to compliance with the Code, the Massachusetts Act, Applicable Regulations, and this Restriction. The Grantor further agrees to cooperate with any on-site inspection of the Project by EOHLC (or its authorized delegate) during normal business hours and upon reasonable notice.

- 9.4 The Grantor will take any and all actions reasonably necessary and required by EOHLC to substantiate the Grantor's compliance under the Code, the Massachusetts Act, Applicable Regulations, and this Restriction. The Grantor shall at least annually (or more frequently as required by EOHLC) submit to EOHLC a certification concerning program compliance in such form, including such documentation, and within such timeframe, as may be required by EOHLC pursuant to any monitoring plan, guidelines, or procedure adopted or amended by EOHLC. At EOHLC's request, the Grantor will submit any other information, documents, forms or certifications which EOHLC deems reasonably necessary to substantiate the Grantor's continuing compliance with the Code, the Massachusetts Act, Applicable Regulations, and this Restriction.
- violation of the Grantor's obligations hereunder within seven (7) business days of first discovering such violation. In accordance with the provisions of any monitoring plan, guidelines, or procedures as then may be in effect, EOHLC covenants and agrees to inform the Grantor by written notice of any violation of the Grantor's obligations hereunder and to provide the Grantor a period of time in which to correct such violation. If any violation is not corrected to the satisfaction of EOHLC within the period of time specified by EOHLC in a notice, or within such further time as EOHLC determines is necessary to correct the violation, but not to exceed any time limitation set by Applicable Regulations, then without further notice, EOHLC may declare a default under this Restriction effective on the date of such declaration of default, and EOHLC may apply to any court, state or federal, for specific performance of this Restriction, or any other remedies at law or in equity, or take any other action as may be necessary or desirable to correct noncompliance with this Restriction. The foregoing is not intended to limit in any way EOHLC's obligation to notify the Internal Revenue Service or the Massachusetts Department of Revenue, pursuant to Applicable Regulations, of a noncompliance on the part of the Grantor.
- the Grantor acknowledges that the primary purpose for requiring compliance by the Grantor with the restrictions provided in this Restriction is to assure compliance of the Project and the Grantor with Section 42 of the Code, the Massachusetts Act and the Applicable Regulations, and by reason thereof, the Grantor in consideration for receiving Low-Income Housing Tax Credits for this Project hereby agrees and consents that EOHLC and any individual who meets the income limitation applicable under Section 42 of the Code, the Massachusetts Act (whether a prospective, present or former occupant or the Town of Truro) 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 specific performance by the Grantor of its obligations under this Restriction in a court of competent jurisdiction. The Grantor hereby further specifically acknowledges that the beneficiaries of the Grantor's obligations hereunder cannot be adequately compensated by monetary damages in the event of any default hereunder. In the event of a breach of this Restriction, the Grantor shall reimburse EOHLC for all costs and attorneys' fees incurred associated with such breach.
- **9.7** The Grantor hereby agrees that the representations and covenants set forth herein may be relied upon by EOHLC and all persons interested in Project compliance under Section 42, the Massachusetts Act and the Applicable Regulations.

- 9.8 Notwithstanding anything in this Restriction to the contrary, in the event that the Grantor fails to comply fully with the covenants and agreements contained herein or with the Code, the Massachusetts Act, all Applicable Regulations, rules, rulings, policies, procedures, or other official statements promulgated by the Department of the Treasury, the Internal Revenue Service, the Massachusetts Department of Revenue or EOHLC from time to time pertaining to the obligations of the Grantor as set forth therein or herein, EOHLC may, in addition to all of the remedies provided by law or in equity, report such noncompliance to the Internal Revenue Service and/or to the Massachusetts Department of Revenue which could result in penalties and/or recapture of federal and/or state tax credit.
- 9.9 The Grantor agrees to pay an annual monitoring fee in such amount and by such method as may be selected by EOHLC pursuant to the applicable provisions set forth in the Allocation Plan, as such provisions may be amended or superseded in a subsequent year's Allocation Plan. EOHLC reserves the right to charge a reasonable monitoring fee to perform compliance monitoring functions after the completion of the Compliance Period for the remainder of the Low-Income Tenant Rental Period.
- **9.10** EOHLC expressly reserves the right to continue monitoring, during the Low-Income Tenant Rental Period, for compliance with the provisions of this Restriction beyond any timeframe provided for monitoring in the Code, the Massachusetts Act or Applicable Regulations.
- **9.11** During the Compliance Period, the Grantor will retain records in accordance with the requirements of the Applicable Regulations, EOHLC monitoring plan and/or guidelines. After the end of the Compliance Period, the Grantor will retain records adequate to demonstrate compliance with the terms and conditions of this Restriction, including, but not necessarily limited to, income and rent records pertaining to tenants.

SECTION 10. ANNUAL DATA COLLECTION

- **10.1** Annually, no later than September 30, the Grantor shall submit to EOHLC, via the web-based annual reporting system, an annual report consisting of the following in a form approved by EOHLC and containing such supporting documentation as EOHLC shall reasonably require:
 - (a) Annual adjusted income of each Family occupying a Low-Income Unit;
- (b) Monthly gross rents (rents plus utility allowances, if applicable) for all Low-Income Units, such rents to be consistent with the schedule of maximum rents published annually by EOHLC;
- (c) Data required by EOHLC regulations at 760 CMR 61.00, promulgated pursuant to Chapter 334 of the Acts of 2006 and all applicable EOHLC directives, guidelines and forms as may be amended from time to time. The Grantor shall collect said data for the express purpose of reporting to EOHLC, and the collection and reporting of said data shall comply with said regulations, directives, guidelines and forms; and
 - (d) Rental assistance data on all existing residents of Low-Income Units.

- 10.2 EOHLC and the Grantor shall treat as confidential any of the foregoing information relating to a specific resident or Unit in compliance with all applicable state and federal statutes and regulations, including M.G.L. c. 66A, and shall implement adequate systems and procedures for maintaining the confidentiality of such information (but EOHLC and the Grantor may release general statistical and other information about the Project, so long as the privacy rights and interests of the individual residents are protected). EOHLC and the Grantor shall not use any of the foregoing information in Section 10.1(b) for any purpose described in Section 603(d)(1) of the federal Fair Credit Reporting Act (15 U.S.C. § 1681a(d)(1)) or in any manner that would cause EOHLC or the Grantor to be considered a "consumer reporting agency" under Section 603(f) of the federal Fair Credit Reporting Act (15 U.S.C. § 1681a(f)).
- 10.3 The Grantor shall prepare and submit to EOHLC such additional reports as EOHLC may deem necessary to ensure compliance with the requirements of this Restriction and of the Low-Income Housing Tax Credit, including such tenant-level data as required pursuant to the Housing and Economic Recovery Act of 2008 (Public Law 110-289).
- 10.4 The Grantor shall maintain as part of its records (i) copies of all leases of Low-Income Units; (ii) all initial and annual income certifications by residents of Low-Income Units and (iii) such additional records as EOHLC may deem necessary to ensure compliance with the requirements of this Restriction and of the Low-Income Housing Tax Credit.

SECTION 11. TAX CREDIT ALLOCATION

11.1 The Grantor shall deliver to EOHLC an audited certification of costs, an audited schedule of sources (including rental and/or operating subsidies) and uses (including reserves), and an audited schedule of low-income housing tax credit eligible basis as well as any supplementary schedules required by EOHLC in the format provided by EOHLC as required by Section 8.2 of this Restriction at least 30 days prior to Grantor's request to EOHLC for issuance of Internal Revenue Service Form 8609 constituting final allocation of the Low-Income Housing Tax Credit and a Massachusetts Eligibility Statement constituting final allocation of the State Credit. EOHLC will thereafter notify the Grantor of EOHLC's final determination of the Low-Income Housing Tax Credit allocation for the Project, which will be the minimum amount of Low-Income Housing Tax Credit necessary for the financial feasibility of the Project and its viability as a qualified low-income housing project throughout the credit period. Such final determination will be specified in the Form(s) 8609 to be issued by EOHLC for the Project.

SECTION 12. MISCELLANEOUS

- **12.1** The invalidity of any clause, part or provision of this Restriction shall not affect the validity of the remaining portions thereof.
- **12.2** All notices to be given pursuant to this Restriction shall be in writing and shall be deemed to have been properly given if hand delivered, if sent by recognized overnight courier, receipt confirmed, or if mailed by United States registered or certified mail, postage prepaid,

return receipt requested, addressed to the parties at their respective addresses set forth below, or to such other address as the party to be served with notice may have furnished in writing to the party seeking or desiring to serve notice as a place for the service of notice. A notice sent by any of the foregoing methods shall be deemed given upon documented receipt or refusal.

If to EOHLC: Executive Office of Housing and Livable Communities

100 Cambridge Street, Suite 300

Boston, MA 02114

ATTENTION: Tax Credit Program Director

With a Copy to: Executive Office of Housing and Livable Communities

100 Cambridge Street, Suite 300

Boston, MA 02114

ATTENTION: Chief Counsel

If to Grantor: Cloverleaf Truro LLC

c/o Community Housing Resource, Inc.

36 Conwell Street

Provincetown, Massachusetts 02657

EOHLC shall use reasonable efforts to send courtesy copies of all notices sent to the Grantor to the Grantor's investor at the address set forth below, provided that any failure to send such a courtesy copy shall not affect the validity of any notice:

MCI Province Post, LLC 410 Monon Boulevard, 2nd Floor Carmel, Indiana 46032

Attention: Asset Management

With a copy to:

Nixon Peabody LLP 53 State Street Boston, Massachusetts 02109 Attention: John M. Marti, Esq.

EOHLC and the Grantor, may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

- 12.3 This Restriction may not be amended without the express written consent of EOHLC and the Grantor. The Grantor agrees that it will take all actions necessary to effect amendment of this Restriction as may be necessary to comply with the Code and all applicable rules, regulations, policies, procedures, rulings or other official statements pertaining to the Low-Income Housing Tax Credit.
- **12.4** This Restriction shall be governed by the laws of The Commonwealth of Massachusetts and, where applicable, the laws of the United States of America.

- 12.5 The obligations of the Grantor as set forth herein shall survive the allocation of the Low-Income Housing Tax Credit and shall not be deemed to terminate or merge with the awarding of the allocation.
- **12.6** The Chapter 40B Rider attached hereto is incorporated herein by reference, the same as if it was fully set forth herein.
- 12.7 Prior to initial tenant selection for Low-Income Units, and thereafter whenever there is a vacancy in a Low-Income Unit, the Grantor shall list such Unit(s) with (i) the MassAccess accessible housing registry maintained by the Citizens' Housing and Planning Association (http://www.massaccesshousingregistry.org) and (ii) the Housing Navigator (http://www.housingnavigatorma.org).

SECTION 13. GROUND LEASE

- **13.1** The Grantor is the tenant under the Ground Lease of the Property from the Ground Lessor as landlord and fee owner.
- 13.2 On the date of execution and delivery of this Restriction, the Grantor shall deliver to EOHLC a true and complete copy of the Ground Lease and the Notice of Ground Lease, together with all amendments thereto, and any other documents relating thereto as EOHLC shall deem appropriate.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

THE COMMONWEALTH OF MASSACHUSETTS ACTING BY AND THROUGH THE EXECUTIVE OFFICE OF HOUSING AND LIVABLE COMMUNITIES

	Undersecretary Office of Housing Development
COMMONWEALTH OF MASSACHUSETTS	
County, ss.	
appeared Catherine Racer, proved to me thr (a current driver's license) (a current U.S. p principal), to be the person whose name is acknowledged to me that he/she signed Development, of the Executive Office of Ho	before me, the undersigned notary public, personally rough satisfactory evidence of identification, which was assport) (my personal knowledge of the identity of the signed on the preceding or attached document, and it voluntarily, as Undersecretary, Office of Housing using and Livable Communities of The Commonwealth the the voluntary act of the Executive Office of Housing ealth of Massachusetts.
Notary Public	
My commission expires:	

By: ____

Catherine Racer

CLOVERLEAF TRURO LLC, a Massachusetts limited liability company

Ву:	CLOVERLE Member	AF	TRURO	MM	LLC,	its	Managing
	Ву:						
	Name:						
	Its: A	utho	orized A	gent			

COMMONWEALTH OF MASSACHUSETTS

County, ss.	
appearedidentification, which was (a current of knowledge of the identity of the print preceding or attached document, and	24, before me, the undersigned notary public, personally proved to me through satisfactory evidence or driver's license) (a current U.S. passport) (my persona cipal), to be the person whose name is signed on the acknowledged to me that he/she signed it voluntarily, as M LLC, the managing member of Cloverleaf Truro LLC, for of Cloverleaf Truro LLC.
Notary Public My commission expires:	

EXHIBITS

- A. Legal Description of Property
- B. Form of Prior Recorded Lienholder Consent

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EXHIBIT A: LEGAL DESCRIPTION OF PROPERTY

EXHIBIT B: FORM OF PRIOR RECORDED LIENHOLDER CONSENT

PRIOR RECORDED LIENHOLDER CONSENT

Pursuant to the provision of that certain , 202 , between	[Mortgage and Security Agreement] dated (with its successors and assigns, the "Lender")
hereby consents to the recording in the Registry Declaration of Restrictive Covenants, dated as of The Commonwealth of Massachusetts, acting by	(with its successors and assigns, the "Lender") ded with the Barnstable Registry of Deeds, the Lender of that certain Tax Credit Regulatory Agreement and of, 202 by and between the Grantor and and through the Executive Office of Housing and elized terms used herein and not otherwise defined
Lender agrees that if Lender or any successor o any part of the Grantor's interest in the Project, bound by the terms and provisions of Section 7 Section 42(h)(6)(E)(ii) of the Internal Revenue termination of the Restriction as a result of the succeeding to or acquiring such interest by fore successors and assigns shall not evict or termin	closure or deed in lieu of foreclosure, Lender and its ate the tenancy (other than for good cause) of an project nor increase the gross rent with respect to any
Executed under seal as of the	_ day of 202
	By:
Т	ype warrie:
	Title:
COMMONWEALT	TH OF MASSACHUSETTS
County, ss.	
personally appeared evidence of identification, which was (a current personal knowledge of the identity of the princip preceding or attached document, and acknowle	pal), to be the person whose name is signed on the dged to me that he/she signed it voluntarily, as
the voluntary act of	, for its stated purpose as
	Notary Public
	My commission expires:



CHAPTER 40B RIDER TO TAX CREDIT REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (this "Rider")

GRANTOR: Cloverleaf Truro LLC

PROPERTY NAME: Cloverleaf

TOTAL NUMBER OF COMPREHENSIVE PERMIT UNITS: 11

TENANT INCOME STANDARD: MODERATE INCOME UNITS (80% AMI)

GRANTOR'S EQUITY:

(subject to adjustment per Section 9.J below)

PROPERTY ADDRESS: Before completion of construction: 22 Highland Road; after

completion of construction: 1-22 Cloverleaf Trail, Truro,

Massachusetts

BACKGROUND:

- A. The Property is subject to and has the benefit of a comprehensive permit, issued by the Town of Truro, acting by and through its Zoning Board of Appeals (the "Municipality") pursuant to M.G.L. c. 40B, §§ 20-23 (the "Act") and recorded with the Barnstable Registry of Deeds in Book 36669, Page 1, as amended by Amendments to Comprehensive Permit dated January 31, 2024 recorded in Book 36669, Page 33, as further amended by Second Amendments to Comprehensive Permit dated [July 1], 2024 recorded in Book 36669, Page 38 (as amended, the "Comprehensive Permit").
- B. The Commonwealth of Massachusetts acting by and through the Executive Office of Housing and Livable Communities (the "Subsidizing Agency") is a subsidizing agency under the Act and has agreed to provide to the Grantor a portion of the financing for the Project pursuant to the Low-Income Housing Tax Credit Program (the "Subsidy") and, in connection therewith, the Grantor has entered into that certain Tax Credit Regulatory Agreement and Declaration Of Restrictive Covenants to which this Rider is attached (the "Restriction").
- C. The Grantor has agreed to enter into this Rider imposing covenants running with the Property as a condition of the Comprehensive Permit, for the purposes of providing for the monitoring and enforcement of the limited dividend requirement, the affordable housing restrictions and the affirmative marketing requirements for the Rider Term (as defined below).
- D. This Rider shall serve as a use restriction as required by the Comprehensive Permit Rules (as defined below).

RESTRICTIONS

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor hereby covenants as follows:

1. <u>Definitions</u>. Capitalized terms used in this Rider are defined herein, in Section 9.A below and in Section 2 of the Restriction.

- A. <u>AFHM Plan</u>: The Affirmative Fair Housing Marketing and Resident Selection Plan prepared by the Grantor in accordance with the Comprehensive Permit Rules and approved by the Subsidizing Agency, with such changes thereto that may be approved by the Subsidizing Agency, as further set forth in Section 6.
 - B. <u>Annual Monitoring Fee</u>: As defined in Section 11.C.
- C. <u>Bedroom Adjusted AMI:</u> The median income for the Area, with adjustments for the number of bedrooms in a particular Unit, as determined from time to time by HUD pursuant to Section 8 of the United States Housing Act of 1937, as amended. For purposes of adjustments for the number of bedrooms in a Unit, a Unit that does not have a separate bedroom is assumed to be occupied by one individual and a Unit with one or more separate bedrooms is deemed assumed to be occupied by 1.5 individuals for each bedroom (with the total number of individuals rounded up).
- D. <u>Comprehensive Permit Guidelines</u>: The guidelines entitled "G.L. C.40B Comprehensive Permit Projects" promulgated by EOHLC, as in effect as of the date hereof and as they may be amended from time to time, relating to comprehensive permits under the Act.
- E. <u>Comprehensive Permit Rules</u>: The Act, the regulations promulgated by EOHLC at 760 CMR 56.00 and the Comprehensive Permit Guidelines, all as in effect as of the date hereof and as they may be amended from time to time, relating to the issuance of comprehensive permits under the Act.
 - F. <u>Comprehensive Permit Units</u>: As defined in Section 2.A.
- G. <u>Cost Certification</u>: The documents required to be submitted to and approved by the Subsidizing Agency in accordance with the Cost Certification Guidance to establish the Allowable Development Costs and Maximum Allowable Developer Fee, each as defined in Section 9.A. below.
- H. <u>Cost Certification Guidance</u>: The document entitled "Preparation of Cost Certification for 40B Rental Developments: Inter-Agency 40B Rental Cost Certification Guidance for Owners, Certified Public Accountants and Municipalities" dated as of May 15, 2013 which shall govern the Cost Certification and limited dividend requirements for the Project pursuant to the Comprehensive Permit Rules, as it may be amended from time to time. A copy of the Cost Certification Guidance is available from the Subsidizing Agency.
- I. <u>CPI-U</u>: The Consumer Price Index for Urban Consumers, further distinguished as the index for "Selected Areas, Northeast-Urban, Size A" published by the Bureau of Labor Statistics of the United States Department of Labor, or any comparable successor or substitute index designated by the Subsidizing Agency appropriately adjusted.
- J. <u>EOHLC</u>: The Executive Office of Housing and Livable Communities of The Commonwealth of Massachusetts and any successor agency thereto.
- K. <u>Event of Default</u>: A default in the observance of any covenant under this Rider or under any Subsidy Document existing after the expiration of any applicable notice and cure periods.

- L. <u>Family</u>: As defined in 24 C.F.R. §5.403 (or any successor regulation).
- M. <u>Family-size Adjusted AMI:</u> The median income for the Area, adjusted for family size, as determined from time to time by HUD pursuant to Section 8 of the United States Housing Act of 1937, as amended.
- N. <u>Fee-Based Monitoring Period</u>: The period commencing on the date that is 31 years and 9 months from the date of the Restriction, provided that if the Project is not completed within 21 months after the date of the Restriction for any reason and any holder of the Restriction recorded with the Barnstable County Registry of Deeds a certificate of extension certifying the length of the delay in completing the Project, the foregoing date shall automatically be extended by an amount of time equal to the length of such delay, and continuing until the expiration of the Rider Term (as defined below).
 - O. Fiscal Year: The fiscal year of the Grantor ending December 31.
- P. <u>Household Income</u>: A Family's adjusted annual income determined in the manner set forth in 24 C.F.R. §5.609 (or any successor regulations).
- Q. <u>Housing Subsidy Program</u>: Any state or federal housing subsidy program providing rental or other subsidy to the Project.
- R. $\underline{\text{HUD:}}$ The United States Department of Housing and Urban Development.
 - S. <u>Local Preference</u>: As defined in Section 6.E.
- T. <u>Minimum Rider Term</u>: The period commencing on the date of the Restriction and continuing until the Subsidy End Date or, if later, for 51 years and 9 months from the date of the Restriction, provided that if the Project is not completed within 21 months after the date of the Restriction for any reason and any holder of the Restriction recorded with the Barnstable Registry of Deeds a certificate of extension certifying the length of the delay in completing the Project, the Minimum Rider Term shall automatically be extended by an amount of time equal to the length of such delay.
- U. <u>Moderate Income Family:</u> A Family whose Household Income is less than or equal to eighty percent (80%) of the Family-size Adjusted AMI.
- V. <u>Notice of Minimum Rider Term Expiration</u>: A notice given by the Subsidizing Agency to the Chief Executive Officer of the Municipality setting forth the date on which the Minimum Rider Term expires or expired, which notice shall be given not more than twelve (12) months and not less than six (6) months prior to the expiration of the Minimum Rider Term, provided that the sole consequence of a failure to send such notice at least six (6) months prior to the expiration of the Minimum Rider Term shall be an extension of the Rider Term as set forth in the definition thereof.
 - W. Per Unit Fee: As defined in Section 11.C.
 - X. <u>Project Lender</u>: A holder of a Project Loan.

- Y. <u>Project Loan</u>: A loan, other than a loan from a Grantor Party, to the Grantor that is secured by the Property, which loan has been approved by the Subsidizing Agency.
 - Z. Qualified Family: As defined in Section 2.A.
- AA. <u>Rider Term</u>: The period commencing on the date the Restriction is recorded with the Barnstable Registry of Deeds and continuing for so long as the Project is maintained and occupied on the Property as contemplated by the Comprehensive Permit, provided that this Rider shall terminate as of the later of (i) the end of the Minimum Rider Term and (ii) the date six (6) months after the giving by the Subsidizing Agency of the Notice of Minimum Rider Term Expiration, unless the Municipality assumes the role of the Subsidizing Agency as provided in Section 15.A below.
- BB. <u>Subsidy Documents</u>: All documents evidencing and securing the Subsidy entered into or to be entered into between Grantor and Subsidizing Agency (including, without limitation, this Rider, but only during the period that the Subsidy is outstanding). During the period that the Subsidy is outstanding, in the event of any conflict between the terms of the other Subsidy Documents and this Rider, the terms of the other Subsidy Documents shall control. The parties acknowledge and agree that this Rider may remain in effect during the Fee-Based Monitoring Period despite the occurrence of the Subsidy End Date, and at that time the Subsidizing Agency and Grantor shall no longer have the relationship of allocator and allocatee, but the Subsidizing Agency shall act solely in its capacity as the enforcer of this Rider pursuant to 760 CMR 56.05(13).
- CC. <u>Subsidy End Date</u>: The date on which the Low-Income Tenant Rental Period under the Restriction ends.
 - DD. Unit: Any residential unit within the Project.
- EE. <u>Use Change</u>: A change in the type or number of Units or a change in the use of Units for any purpose except residential dwellings or a change in the use of the Project from dwelling units and appurtenant uses, if any, permitted by the Comprehensive Permit.
- 2. <u>Affordability Requirements</u>. The following restrictions shall apply during the period commencing with the first date on which any Units are occupied and continuing for the balance of the Rider Term, subject always to any applicable rent restrictions of the federal low-income housing tax credit program under Section 42 of the Internal Revenue Code of 1986, as amended, and any provision herein that conflicts with the requirements of the federal low-income housing tax credit program shall be suspended so long as the restrictions under the federal low income housing tax credit program are in effect.
- A. <u>Comprehensive Permit Units</u>. At least [twenty-five percent (25%)] of the Units shall be leased exclusively to Moderate Income Families ("Comprehensive Permit Units"). In fulfilling the foregoing requirement, the Grantor will accept referrals of prospective tenants from the public housing authority in the Municipality, and will not unreasonably refuse occupancy to any prospective tenants so referred who otherwise meet the requirements of the

AFHM Plan. The monthly rent charged to a Family occupying a Comprehensive Permit Unit shall not exceed an amount equal to (x) one-twelfth of thirty percent (30%) of eighty percent (80%) of the Bedroom Adjusted AMI, minus (y) if applicable, an allowance established by the Subsidizing Agency for any utilities (excluding telephone, cable television and internet service) to be paid by the occupying Family. If any of the Comprehensive Permit Units are subsidized under any state or federal rental subsidy program, then the rent applicable to such Comprehensive Permit Units may equal that permitted by such rental subsidy program, provided that the share of rent paid by the Families occupying such Comprehensive Permit Units does not exceed the maximum annual rental expense as provided in this Rider. A Family who resides in a Comprehensive Permit Unit, who qualified as a Moderate Income Family at the time of such Family's initial occupancy at the Property shall continue to be treated as an income-qualified Family (a "Qualified Family") so long as such Family's Household Income does not exceed one hundred forty percent (140%) of eighty percent (80%) of the Family-size Adjusted AMI. If such Family's Household Income exceeds one hundred forty percent (140%) of eighty percent (80%) of the Family-size Adjusted AMI, such Family shall, from and after the expiration of the then-current term of such Family's lease, no longer be treated as a Qualified Family and must pay as monthly rent the Over-income Rent.

- B. <u>Next Available Unit Rule</u>. If at any time fewer than the required number of Comprehensive Permit Units are leased, rented or occupied by Qualified Families (i.e. Families earning not more than one hundred forty percent (140%) of the qualifying income), the next available Units shall all be leased, rented or otherwise made available to Moderate Income Families until the required number of Comprehensive Permit Units occupied by Qualified Families is again obtained.
- C. <u>Conflicts</u>. In the event of any conflict between the affordability provisions of this Rider and the affordability provisions of the Restriction, the more restrictive provisions shall control.
- 3. Term of Limited Dividend Requirements. Notwithstanding anything to the contrary contained herein, any provision of this Rider relative to the limitation of the use or distribution of Operating Revenues, and any reporting or enforcement rights with respect thereto (including without limitation, the provisions of Section 9) (the "Limited Dividend Provisions") shall bind, and the benefits shall inure to, respectively, Grantor and Subsidizing Agency and their respective successors and assigns, only until the expiration of the Limited Dividend Term (if it is not perpetual) and the satisfaction of all obligations herein applicable during the Limited Dividend Term, upon which the Limited Dividend Provisions shall be of no further force and effect.
- 4. <u>Priority of Rider</u>. This Rider is senior to any and all mortgages encumbering the Property.
- 5. <u>Subsidized Housing Inventory</u>. It is the intent of Grantor and Subsidizing Agency that all of the Units shall be included in the Subsidized Housing Inventory maintained by EOHLC in accordance with current EOHLC policies and EOHLC regulations implementing the

Act, but in no event shall Grantor be in breach or default under this Rider due to any change in such policies or regulations which affect the counting of Units.

6. <u>Affirmative Marketing and Tenant Selection</u>.

- A. <u>General</u>. Grantor shall not discriminate on the basis of race, color, creed, religious creed, sex, age, handicap, marital status, sexual orientation, national origin or any other basis prohibited by law in the lease, use or occupancy of Units in the Project, or in the employment or application for employment of persons for the operation and management of the Project.
- B. <u>AFHM Plan</u>. Prior to marketing any Units, the Grantor shall submit an AFHM Plan for the Subsidizing Agency's approval. At a minimum the AFHM Plan shall meet the requirements of the Comprehensive Permit Rules, as the same may be amended from time to time, and the AFHM Plan shall be updated from time to time during the Rider Term as required by the Comprehensive Permit Guidelines. The AFHM Plan, upon approval by the Subsidizing Agency, shall become a part of this Rider and shall have the same force and effect as if set out in full in this Rider. The AFHM Plan shall designate entities to implement the plan that are qualified to perform such implementation. The Subsidizing Agency may require that another entity be found if the Subsidizing Agency finds that the entity designated by the Grantor is not qualified. Moreover, the Subsidizing Agency may require the removal of an entity responsible for a duty under the AFHM Plan if that entity does not meet its obligations under the AFHM Plan.
- C. <u>Occupancy of Comprehensive Permit Units</u>. Grantor shall notify Subsidizing Agency in writing at least thirty (30) days prior to commencing marketing of Comprehensive Permit Units. Grantor shall use its good faith efforts during the Rider Term to maintain all Comprehensive Permit Units at full occupancy as set forth in Section 2 hereof. In marketing and renting Comprehensive Permit Units, the Grantor shall comply with the AFHM Plan.
- D. Form of Occupancy Agreement. Occupancy agreements for Comprehensive Permit Units shall meet the requirements of the Comprehensive Permit Rules, this Agreement, the Subsidizing Agency and any applicable Housing Subsidy Program, and shall contain clauses, among others, wherein each resident of a Comprehensive Permit Unit (i) certifies the accuracy of the statements made in the application and income survey and agrees that the family income, family composition and other eligibility requirements shall be deemed substantial and material obligations of his or her occupancy; (ii) agrees that he or she will comply promptly with all requests for information with respect thereto from Grantor or the Subsidizing Agency and that his or her failure or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of his or her occupancy; (iii) agrees that at such time as the Grantor or the Subsidizing Agency may direct, he or she will furnish to the Grantor certification of then current family income, with such documentation as the Subsidizing Agency shall reasonably require; and (iv) agrees to such charges as the Subsidizing Agency has previously approved for any facilities and/or services which may be furnished by Grantor or others to such resident upon his or her

request, in addition to the facilities included in the rentals, as amended from time to time pursuant to Section 2 above.

- E. <u>Local Preference</u>. Consistent with the foregoing Section 6.A, the Grantor, in renting the Comprehensive Permit Units, will be allowed to give the maximum preference allowed by law to current residents of the Municipality, employees of the Municipality, employees of businesses located in the Municipality and households with children attending school in the Municipality (a "Local Preference"); provided that (i) Grantor shall only implement such a Local Preference in conformity with the fair housing requirements of HUD, EOHLC, the Massachusetts Commission Against Discrimination, or any authority with jurisdiction and like purpose; and (ii) Municipality has provided to Grantor and Subsidizing Agency the information required to justify such a Local Preference in accordance with applicable laws, regulations and policies of EOHLC and Subsidizing Agency including, without limitation, the Comprehensive Permit Guidelines.
- 7. <u>Management and Maintenance of Property</u>. The Grantor shall maintain the Project in compliance with all applicable laws including, without limitation, health, safety and building codes and in good physical and financial condition in accordance with the Subsidizing Agency's standards and requirements and the standards and requirements of the Comprehensive Permit and any applicable Housing Subsidy Program, ordinary wear and tear and casualty excepted. The Grantor shall provide for the management of the Project in a manner that is consistent with accepted practices and industry standards for the management of multi-family rate rental housing. Notwithstanding the foregoing, the Subsidizing Agency shall have no obligation hereunder, expressed or implied, to monitor or enforce any such standards or requirements. The Grantor hereby grants to the Subsidizing Agency and it's duly authorized representatives the right to enter the Property and the Comprehensive Permit Units at reasonable times and upon reasonable notice for the purpose of inspecting the Project and the Comprehensive Permit Units to determine compliance with this Rider and to enforce the terms of this Rider or to prevent, remedy or abate any violation of this Rider.
- 8. <u>Change in Use of Project; Change in Composition of Grantor; Condominium</u> Conversion.
- A. <u>Use Change</u>. The Grantor shall not, without the prior written consent of the Subsidizing Agency and modification to the Comprehensive Permit, permit a Use Change. During the Fee-Based Monitoring Period, Grantor shall provide Subsidizing Agency with prompt notice of any amendment to the Comprehensive Permit effectuating a Use Change. So long as the Project is used for multi-family housing pursuant to the Comprehensive Permit, no Use Change shall result in the Project not meeting the requirements of the Act relative to the provision of Comprehensive Permit Units. In the case of casualty to all or a portion of the Project, Grantor shall not be required to restore any such casualty (except to the extent mandated by the Restriction or the Subsidy Documents during the term of such documents), but if Grantor fully or partially restores the Project, the Grantor shall provide the appropriate percentage of Comprehensive Permit Units and unit mix based on the total number of Units after such restoration.

- B. <u>Transfer Restrictions</u>. The transfer restrictions under Section 4.13 of the Restriction shall apply to this Rider and any notice or approval right thereunder shall run in favor of the Subsidizing Agency. Notwithstanding the foregoing or anything herein to the contrary, the provisions of Section 4.13 of the Restriction shall not apply to: (i) the foreclosure or similar remedial action under the provisions of a mortgage on the Property or the conveyance of the Property in lieu of foreclosure to such mortgage holder, or (ii) to the sale of the Property or the Project by such mortgage holder.
- C. <u>Condominium Conversion</u>. The Project shall not be converted to a condominium or cooperative form of ownership without modification of the Comprehensive Permit by the Municipality and, while the Subsidy is outstanding, the prior written consent of the Subsidizing Agency. During the Fee-Based Monitoring Period, if Grantor wishes to convert the Project to a condominium or cooperative form of ownership, Subsidizing Agency consent shall not be required, provided that Grantor obtains a replacement subsidizing agency in connection with such conversion to the extent that the Subsidizing Agency is unwilling to continue as the subsidizing agency upon such conversion.
 - 9. Limited Dividend Requirements.
- A. <u>Definitions</u>. Capitalized terms used in this Section 9 are defined in this clause A, in Section 1 above and in Section 2 of the Restriction.
 - (i) <u>Accountant's Annual Determination</u>: An annual report to be prepared by the Grantor or the Grantor's accountant on a form prescribed by the Subsidizing Agency.
 - (ii) Accumulated Unpaid Distributions. For any particular Fiscal Year, the sum, for all prior Fiscal Years, of (x) the positive difference, if any, between the Current Distribution Amount calculated for each such prior Fiscal Year less the amount of funds available for making Permitted Distributions in each such prior Fiscal Year plus (y) simple interest on such difference computed at five percent (5%) per annum from the end of each such prior Fiscal Year until a Permitted Distribution on account of such unpaid amount is made. For the purposes of this calculation, any amounts available for distribution and permitted to be distributed in any prior Fiscal Year (excluding any amounts deposited by the Grantor into a reasonable working capital reserve equal to no more than one-twelfth of such prior Fiscal Year's Project expenses described in Section 9.D below, all as shown on the Grantor's audited financial statements for such prior Fiscal Year, provided that such amount is subsequently included in Operating Revenues in the year in which it is expended for Project expenses or otherwise withdrawn from such working capital reserve) shall be deemed to have been distributed regardless of whether such amounts were actually distributed.
 - (iii) <u>Allowable Development Costs</u>: Development costs paid or incurred with respect to the Project as determined by and in accordance with the Cost Certification Guidance.
 - (iv) Annual Excess Equity: As defined in Section 9.J.
 - (v) <u>Code</u>: The United States Internal Revenue Code of 1986, as amended.

- (vi) <u>Current Distribution Amount</u>: For any particular Fiscal Year, an amount equal to ten percent (10%) of the Grantor's Equity for such Fiscal Year, as approved by the Subsidizing Agency and subject to adjustment as provided in Section 9.I below.
- (vii) Excess Development Distributions: As defined in Section 9.M.
- (viii) Excess Equity Account: An interest-bearing account maintained by the Subsidizing Agency, or by a Project Lender approved by the Subsidizing Agency, for the benefit of the Project during the Limited Dividend Term (as defined below) containing deposits of Annual Excess Equity.
- (ix) <u>Grantor Party</u>: Any partner, member, manager, shareholder or other Related Person of Grantor.
- (x) <u>Grantor's Equity</u>: The Grantor's equity in the Project as set forth on the first page of this Rider, subject to adjustment as provided in Section 9.I below.
- (xi) <u>Limited Dividend Organization</u>: Any applicant which proposes to sponsor housing under the Act and is not a public agency or non-profit corporation, and is eligible to receive a subsidy from a state or federal agency after a comprehensive permit has been issued and which, unless otherwise governed by a federal act or regulation, agrees to limit the annual dividend on the invested equity to no more than the Permitted Distributions during the Limited Dividend Term. Subsidizing Agency acknowledges that Grantor qualifies as a Limited Dividend Organization by executing this Rider and performing its obligations hereunder.
- (xii) <u>Limited Dividend Term</u>: The period commencing on the date that is 21 months after the date of the Restriction and ending on the 50th anniversary thereof, provided that if the Project is not completed within 21 months after the date of the Restriction for any reason and any holder of the Restriction records with the Barnstable Registry of Deeds a certificate of extension certifying the length of the delay in completing the Project, the Limited Dividend Term shall automatically be extended by an amount of time equal to the length of such delay.
- (xiii) <u>Maximum Allowable Developer Fee</u>: As defined in Section 9.M.
- (xiv) Operating Revenues: All revenues, income and other receipts of the Project, not including capital contributions made by members or partners of the Grantor, any loan proceeds received by Grantor, interest on reserves required to be added to such reserves, insurance proceeds held and subsequently used for restoration or repair of the Project or proceeds of a sale or other disposition of the Project.
- (xv) Permitted Distribution: The aggregate annual distributions permitted to be made to the Grantor or to Grantor Parties from time to time as calculated pursuant to the Accountant's Annual Determination or as otherwise permitted pursuant to this Rider. For any particular Fiscal Year, the Permitted Distribution shall equal the sum of the Current Distribution Amount for such Fiscal Year plus the amount of all Accumulated Unpaid Distributions calculated as of the first day of such Fiscal Year.

- (xvi) Project Bank Account: As defined in Section 9.B.
- (xvii) Related Person: A person whose relationship to another person is such that (i) the relationship between such persons would result in a disallowance of losses under Section 267 or 707(b) of the Code, or (ii) such persons are members of the same controlled group of corporations (as defined in Section 1563(a) of the Code, except that "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears therein).
- (xviii) Replacement Reserve: As defined in Section 9.J.
- B. <u>Deposit Account</u>. During the Limited Dividend Term, all Operating Revenues shall, if not held by the Subsidizing Agency in one of its accounts, be deposited in an account held in the name of the Grantor or a nominee for the Grantor in a bank or banks whose deposits are insured by the Federal Deposit Insurance Corporation or otherwise deposited in funds and accounts established hereunder (a "Project Bank Account"). The Subsidizing Agency shall at all times be advised of the names of the accounts and the names of the banks. Operating Revenues shall be used only in accordance with the provisions of this Rider. Any person receiving Operating Revenues other than as permitted by this Rider shall immediately deposit such funds in a Project Bank Account, or failing to do so in violation of this Rider, shall hold such funds in trust for the Project.
- C. <u>Payment Priorities</u>. During the Limited Dividend Term, the Grantor shall apply Operating Revenues in the following order of priority: (i) payment of or adequate reserves for all sums due or currently required to be paid under the terms of any Project Loan; and (ii) payment of or adequate reserve for all reasonable and appropriate expenses of the Property and the Project as identified in subsection D below. Any amounts remaining after application of Operating Revenues as provided above shall be governed by clauses E through M below.
- D. <u>Limitations</u>. With respect to the application of Operating Revenues as described above, the Grantor shall be allowed to use Operating Revenues to pay for any and all taxes, impositions, services, supplies or materials or other costs or liabilities incurred in the ownership, operation, management, maintenance and improvement of the Property and the Project, provided:
 - Payment for any and all services, supplies or materials shall not exceed the amount ordinarily and reasonably paid for such services, supplies or materials in the area where the services are rendered or the supplies or materials are furnished;
 - (ii) Reasonable and necessary expenses which may be payable pursuant to Section 9.D(i), above, shall be directly related to the operation, maintenance or management of the Property or the Project; and
 - (iii) Without the Subsidizing Agency's prior written consent, Grantor may not assign, transfer, create a security interest in, dispose of or encumber any Operating Revenues except as expressly permitted herein.

- E. <u>Project Expenses Only</u>. In operating the Project during the Limited Dividend Term, except with regard to (i) Permitted Distributions, or (ii) proceeds of any sale, financing or other capital transaction not subject to provisions of this Rider relative to Permitted Distributions, the Grantor shall not use any Operating Revenues to pay any liability, either direct or contingent, that is not related to the Property or the Project.
- F. General Limitation on Distributions. The Grantor covenants and agrees that, during the Limited Dividend Term, distributions made in any Fiscal Year shall not exceed the Permitted Distribution for such Fiscal Year. The following types of payments shall be considered distributions hereunder and are subject to the foregoing limitation: (x) all Operating Revenues paid to any Grantor Party (i) as profit or income, (ii) as fees or expenses that are unrelated to the operation of the Project or (iii) as fees or expenses that are in excess of fees and expenses that would be incurred from persons providing similar goods or services who are not Grantor Parties and who provide such goods or services on an arm's length basis and (y) repayment of deferred developer's fee. Permitted Distributions may be made only once all currently payable amounts as identified in Section 9.C above are paid. No Permitted Distributions may be made if (i) an Event of Default has occurred, which shall include but not be limited to failure to maintain the Project in good physical condition in accordance with Section 7 hereof or (ii) there is outstanding against all or any part of the Property or the Project any lien or security interest other than a lien securing the Subsidy or a lien expressly permitted under the Subsidy Documents.
- G. <u>Timing of Distributions</u>. Permitted Distributions may be made by the Grantor at any time during a Fiscal Year, and as often as monthly, based on an operating budget for the Project prepared by the Grantor and approved by the Subsidizing Agency. Absent an approved operating budget, Permitted Distributions may be made only after approval or deemed approval of the Accountant's Annual Determination for such Fiscal Year pursuant to Section 9.0 below. If upon the approval of an Accountant's Annual Determination for a particular Fiscal Year pursuant to Section 9.0 below, such Accountant's Annual Determination shall show that distributions made during such Fiscal Year were in excess of the Permitted Distribution for such Fiscal Year, then upon ten (10) days' written notice from the Subsidizing Agency, the Grantor shall cause such excess to be deposited in the Excess Equity Account from sources other than Operating Revenues. If an Accountant's Annual Determination as approved shall show that distributions made during such Fiscal Year were less than the Permitted Distribution, such amounts may, if otherwise permitted herein, be distributed within thirty (30) days after the approval of the Accountant's Annual Determination.
- H. <u>Cost Certification</u>. Within ninety (90) days after substantial completion of the Project (as evidenced by issuance of a certificate of substantial completion (AIA Form G704) by the Grantor's architect and issuance of a certificate of occupancy by the Municipality), the Grantor shall provide the Subsidizing Agency with its Cost Certification for the Project as per the requirements of the Cost Certification Guidance. The Cost Certification must be examined in accordance with the attestation standards of the American Institute of Certified Public Accountants (AICPA) by an independent firm of certified public accountants.



The Cost Certification must meet all requirements of the Cost Certification Guidance and of the Subsidizing Agency and is subject to the approval of the Subsidizing Agency.

- T. Grantor's Equity: Grantor's Equity shall be adjusted upon approval of the Cost Certification by the Subsidizing Agency as more fully set forth below. The adjustment to Grantor's Equity shall be calculated according to the formulas outlined in the Cost Certification Guidance. After adjustment of Grantor's Equity at Cost Certification, Grantor's Equity may be adjusted not more than once in any five-year period with the first five-year period commencing at the beginning of the Fiscal Year in which the Cost Certification is approved. Any adjustments shall be made only upon the written request of the Grantor and, unless the Grantor is otherwise directed by the Subsidizing Agency, shall be based upon an appraisal by an independent and qualified appraiser engaged by the Subsidizing Agency. The appraiser shall submit a self-contained appraisal report to the Subsidizing Agency in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP). The costs of such appraisal shall be borne by the Grantor. Upon completion of an appraisal as provided above, the Grantor's Equity shall be adjusted in accordance with the standards of the Subsidizing Agency. The adjusted Grantor's Equity shall take effect on the first day of the month following the date of such appraisal and shall remain in effect until the next subsequent adjustment. Notwithstanding the foregoing, if the Subsidizing Agency's standards later are amended to allow for more frequent adjustments to Grantor's Equity, the Grantor shall be allowed to make adjustments to Grantor's Equity at such times as are allowed under the amended standards.
- J. Excess Equity. If, at the end of any Fiscal Year, Operating Revenues for such Fiscal Year remaining after the payment of Project expenses described in Section 9.D above exceed the sum of (i) the Permitted Distribution for such Fiscal Year plus (ii) the amount of funds required by any Project Lender to remain at the Project as a reserve to pay expenses of the Project, such excess (the "Annual Excess Equity") shall be deposited in the Excess Equity Account and not released except with the prior written consent of the Subsidizing Agency or if required by a Project Lender to avoid a default on such Project Lender's Project Loan. Upon the Grantor's request, amounts may also be withdrawn from the Excess Equity Account during the Limited Dividend Term for the following purposes: (i) payment of or adequate reserve for all sums due or currently required to be paid under the terms of a Project Loan; (ii) payment of or adequate reserve for all reasonable and necessary operating expenses of the Project as reasonably determined by the Grantor; (iii) deposits to a reserve fund for capital replacements reasonably determined by the Grantor to be necessary and sufficient to meet anticipated capital needs of the Project (the "Replacement Reserve"), which reserves may be held by a Project Lender reasonably acceptable to the Subsidizing Agency and may be used for capital expenditures for the Project reasonably determined to be necessary by the Grantor; (iv) repayments of operating expense loans made by Grantor Parties for Project expenses described in Section 9.D above, provided that Grantor shall have obtained prior written approval for such operating expense loans from the applicable Project Lender and from the Subsidizing Agency and shall have supplied the applicable Project Lender and the Subsidizing Agency with such evidence as the Project Lender or the Subsidizing

Agency, as applicable, may reasonably request as to the application of the proceeds of such operating expense loans to Project expenses; or (v) for any other purposes, subject to a determination by a Project Lender that the expenditure is necessary to address the Project's physical or financial needs and that no other Project reserve funds are available to address such needs. Notwithstanding the foregoing, payment of the items set forth in clauses (i), (ii), (iii) and (v) above by the Grantor shall be subject to the prior written approval of the Subsidizing Agency, such approval not to be unreasonably withheld or delayed; it being agreed by the Subsidizing Agency that if the Grantor can demonstrate that its proposed operating expenditures, capital expenditures and reserves are substantially consistent with those made for other developments of the Grantor or its affiliates or of other developers of similar developments within the Commonwealth of Massachusetts, the Subsidizing Agency shall approve such request. In no event shall such approval by the Subsidizing Agency be required if such capital expenditures or reserves are mandated by any Project Lender. Furthermore, the Subsidizing Agency agrees that it shall not unreasonably withhold or delay its consent to a written request from the Grantor for release of an amount held in the Excess Equity Account that will be used by the Grantor (i) to provide a direct and material benefit to Moderate Income Families residing in the Comprehensive Permit Units or (ii) to reduce rental rates to Moderate Income Families residing in the Comprehensive Permit Units. In the event that the Subsidizing Agency's approval is requested pursuant to this Section 9.J for expenditures out of the Excess Equity Account and such request contains in bold capital letters the statement "APPROVAL OF THIS REQUEST SHALL BE DEEMED GRANTED IF YOU FAIL TO RESPOND WITHIN THIRTY (30) DAYS OF YOUR RECEIPT HEREOF" and the Subsidizing Agency fails to respond within thirty (30) days of the Subsidizing Agency's receipt thereof, then the Subsidizing Agency shall be deemed to have approved the request and the Subsidizing Agency shall have no further rights to object to, or place conditions upon, the same.

- K. <u>Distributions to Municipality and Final Disposition of Excess Equity</u>. Operating Revenues available for distribution in any Fiscal Year in excess of twenty percent (20%) of Grantor's Equity, subject to payment of Accumulated Unpaid Distributions, shall be distributed to the Municipality within fifteen (15) business days of notice and demand given by the Subsidizing Agency, or as otherwise directed by the Subsidizing Agency. Upon the expiration of the Limited Dividend Term, any balance remaining in the Excess Equity Account shall be distributed by the Grantor to the Replacement Reserve held for the Project, if deemed necessary by the Subsidizing Agency, and otherwise shall be paid to the Municipality. All payments received by the Municipality hereunder shall be used solely for the purpose of developing and/or preserving affordable housing.
- L. <u>Subsidizing Agency's Interest in Excess Equity</u>. All funds in the Excess Equity Account shall be considered additional security for the performance of obligations of the Grantor under the Subsidy Documents and the Grantor hereby pledges and grants to Subsidizing Agency a continuing security interest in said funds. Furthermore, the Grantor recognizes and agrees that (i) possession of said funds by the Subsidizing Agency constitutes a bona fide pledge of said funds to the Subsidizing Agency for security purposes, (ii) to the extent required by applicable law, this Rider, in combination, as necessary, with other

documents referred to herein, constitutes a valid and binding security agreement, and (iii) the validity and effectiveness of said pledge will not be compromised if said funds are held in a bank or other financial institution. The Grantor further acknowledges and agrees that, notwithstanding any nomenclature or title given to the Excess Equity Account by the bank or other financial institution at which the Excess Equity Account is held, or the fact that the Grantor's tax identification number is used with respect to the Excess Equity Account, the Subsidizing Agency, and not the Grantor, shall be the customer of the bank or other financial institution holding the Excess Equity Account; such bank or other financial institution shall comply with instructions originated by the Subsidizing Agency directing the disposition of funds in the Excess Equity Account, without further consent of the Grantor; and the Subsidizing Agency, and not the Grantor, shall have the exclusive right to withdraw funds from the Excess Equity Account.

- М. Maximum Allowable Developer Fee. Payment of fees and profits from capital sources for the initial development of the Project to the Grantor and/or the Grantor Parties shall (unless otherwise limited by the Subsidizing Agency) be limited to no more than that amount resulting from the calculation in Attachment B, Step 3 ("Calculation of Maximum Allowable 40B Developer Fee and Overhead") of the Cost Certification Guidance (the "Maximum Allowable Developer Fee"). The Maximum Allowable Developer Fee shall not include fees or profits paid to any other party, whether or not related to the Grantor, to the extent the same are arm's length and commercially reasonable in light of the size and complexity of the Project. In accordance with the requirements of 760 CMR 56.04(8)(c), in the event that the Subsidizing Agency determines, following examination of the Cost Certification submitted by the Grantor pursuant to Section 9.H above, that amounts were paid or distributed by the Grantor in excess of the above limitations (the "Excess Development Distributions"), the Grantor shall pay over in full such Excess Development Distributions to the Municipality within fifteen (15) business days of notice and demand given by the Subsidizing Agency as provided herein. All payments received by the Municipality hereunder shall be used solely for the purpose of developing and/or preserving affordable housing.
- N. <u>Distributions from Certain Capital Events.</u> Notwithstanding anything to the contrary contained in this Rider, a distribution of the proceeds of a sale or refinancing of the Project shall not be regulated by this Rider. A sale or refinancing shall not result in an adjustment of Grantor's Equity. In clarification of the preceding sentence, upon any refinancing, the amount of Grantor's Equity shall remain the same, notwithstanding the fact that the amount of the mortgage loans secured by the Property may change. Per Section 9.I above, a re-evaluation of Grantor's Equity shall occur no more frequently than once every five (5) years, and only pursuant to the standards of the Subsidizing Agency.
- O. <u>Accountant's Annual Determination</u>. Within ninety (90) days after the end of each Fiscal Year, the Grantor shall provide the Subsidizing Agency with a copy of its audited financial statements and an Accountant's Annual Determination for such Fiscal Year. Each Accountant's Annual Determination shall be accompanied by a form completed by an independent firm of certified public accountants and by a certificate of the Grantor in forms reasonably required by the Subsidizing Agency certifying under penalties of perjury as to the

matters such as, without limitation, the fact that (i) the Grantor has made available all necessary financial records and related data to the certified public accountants who made such Accountant's Annual Determination, (ii) there are no material transactions related to the Project that have not been properly recorded in the accounting records underlying the Accountant's Annual Determination, (iii) no currently payable amounts as identified in Section 9.C above are more than thirty (30) days past due and there are no outstanding material extraordinary obligations incurred outside the ordinary course of business, even if thirty (30) or fewer days past due, (iv) the Grantor has no knowledge of any fraud or suspected fraud affecting the entity involving management, subcontractors, employees who have significant roles in internal control, or others where the fraud could have a material effect on the Accountant's Annual Determination and has no knowledge of any allegations of fraud or suspected fraud affecting the Grantor or the Project received in communications from employees, former employees, subcontractors, regulators, or others and (v) the Grantor has reviewed the information presented in the Accountant's Annual Determination and believes that such determination is an appropriate representation of the operation of the Project. The Subsidizing Agency shall have sixty (60) days after the delivery of the Accountant's Annual Determination to accept it, to make its objections in writing to the Grantor and the certified public accountants, or to request from the Grantor and/or the certified public accountants additional information regarding it. If the Subsidizing Agency does not object to the Annual Accountant's Determination or request additional information, it shall be deemed accepted by the Subsidizing Agency. If the Subsidizing Agency shall request additional information, then the Grantor shall provide the Subsidizing Agency with such additional information as promptly as possible and the Subsidizing Agency shall have an additional thirty (30) days thereafter to review such information and either accept or raise objections to such Accountant's Annual Determination. If no such objections are made within such thirty-day period, the Accountant's Annual Determination shall be deemed accepted by the Subsidizing Agency. To the extent that the Subsidizing Agency shall raise any objections to an Accountant's Annual Determination as provided above, then the Grantor and the Subsidizing Agency shall consult in good faith and seek to resolve such objections within an additional thirty-day period. If any objections are not resolved during such period, then the Subsidizing Agency may enforce the provisions under this Section by the exercise of any remedies it may have under this Rider. Should the Grantor fail in any given year to comply with its obligations under this Section 9, the Subsidizing Agency shall have the right, in addition to any other rights and remedies available to the Subsidizing Agency hereunder, to require the Grantor to forfeit any Permitted Distributions to which Grantor might otherwise be entitled for such year pursuant to this Rider.

10. <u>Information</u>.

A. <u>Compliance Information</u>. The Grantor covenants and agrees to submit to the Subsidizing Agency annually, or more frequently if required in writing by the Subsidizing Agency, reports detailing such facts as the Subsidizing Agency reasonably determines are sufficient to establish compliance with the restrictions contained in the Restriction and in this Rider; if requested, copies of leases for all Comprehensive Permit Units; and a certification by the Grantor that, to the best of its knowledge, the restrictions contained in the Restriction and

in this Rider are being complied with. The Grantor further covenants and agrees promptly to notify the Subsidizing Agency if the Grantor discovers noncompliance with any restrictions contained in the Restriction or in this Rider.

- B. <u>Annual Report Under Restriction</u>. Annually, during the Rider Term, a copy of the annual report required to be furnished pursuant to the provisions of the Restriction, to be delivered to the Subsidizing Agency at the same time as it is delivered pursuant to the provisions of the Restriction.
- C. <u>Financial Statements</u>. Within ninety (90) days following the end of each Fiscal Year, Grantor shall furnish the Subsidizing Agency with a complete annual financial report for the Project based upon an examination of the books and records of Grantor containing a detailed, itemized statement of all income and expenditures, prepared and certified by an independent firm of certified public accountants in accordance with the reasonable requirements of the Subsidizing Agency. A duly authorized agent of the Grantor must approve such submission in writing. The provisions of this Section 10.C may be waived or modified by the Subsidizing Agency.
- D. <u>Confidentiality</u>. The Subsidizing Agency and the Grantor shall treat as confidential any of the foregoing information relating to a specific tenant or Comprehensive Permit Unit in compliance with all applicable state and federal statutes and regulations, including, without limitation, M.G.L c. 66A, and shall implement adequate systems and procedures for maintaining the confidentiality of such information (but the Subsidizing Agency and the Grantor may release general statistical and other information about the Project, so long as the privacy rights and interests of the individual tenants are protected). The Subsidizing Agency and the Grantor shall not use any of the information obtained and/or furnished pursuant to Section 10.A for any purpose described in the federal Fair Credit Reporting Act (15 U.S.C. §1681a(d)(1)) and Section 603(d)(1) of Public Law No. 91-508 or in any manner that would cause the Subsidizing Agency or the Grantor to be considered a "consumer reporting agency" under the federal Fair Credit Reporting Act (15 U.S.C. §1681a(f) and 603(f) of Public Law No. 91-508).

11. Monitoring.

- A. <u>Monitoring During Subsidy Term</u>. For the period commencing on the date the Restriction is recorded, and continuing until the start of the Fee-Based Monitoring Period, the Subsidizing Agency shall monitor the Grantor's compliance with this Rider and the occupancy restrictions set forth in the Restriction at no cost to the Grantor.
- B. <u>Monitoring Following Subsidy Term</u>. For the duration of the Fee-Based Monitoring Period, the Subsidizing Agency, its designee or assignee shall continue to monitor the Grantor's compliance with all or a portion of the ongoing requirements of this Rider. As partial compensation for its services in monitoring compliance with this Rider, on or about commencement of the Fee-Based Monitoring Period, the Subsidizing Agency shall invoice the Grantor for the annual monitoring services fee (calculated in accordance with Sections 11.C and 11.D below) due to be paid by the Grantor to the Subsidizing Agency for the portion of the calendar year remaining after commencement of the Fee-Based Monitoring Period.

Thereafter, for each calendar year of the Fee-Based Monitoring Period, the Subsidizing Agency shall, after publication of the CPI-U, invoice the Grantor for the annual monitoring services fee due for such calendar year. The Grantor shall pay such invoice in full within thirty (30) days after the date of the invoice. The Grantor's failure or refusal to pay the monitoring fee to the Subsidizing Agency in a timely manner shall constitute a default hereunder.

- C. Annual Monitoring Fee. The annual per unit monitoring fee (the "Per Unit Fee") payable during the Fee-Based Monitoring Period shall be \$150.00 per Comprehensive Permit Unit escalated as described below. The annual invoice shall state the monitoring services fee (the "Annual Monitoring Fee") calculated by multiplying the current Per Unit Fee by the total number of Comprehensive Permit Units. The Per Unit Fee shall be adjusted annually (commencing with the year following the year in which the Restriction is executed), following publication of the CPI-U for the immediately preceding calendar year by the Bureau of Labor Statistics. The Subsidizing Agency shall furnish the Grantor annually during the Fee-Based Monitoring Period with a Notice of Per Unit Fee (designated, by way of example: "Per Unit Fee: Year 2014"). The adjustment to the Per Unit Fee for the first year of the Fee-Based Monitoring Period shall be made by multiplying the Per Unit Fee set forth above by the lesser of (a) 1.1 to the x power, where x is the number of whole years from the date of the Restriction until the beginning of the Fee-Based Monitoring Period or (b) 1 + the increase in the CPI-U over the period from the date of the restriction to the beginning of the Fee-Based Monitoring Period, expressed as a decimal (e.g. if the CPI-U increased by 80% in the 15 years from the date of the Restriction until the commencement of the Fee-Based Monitoring Period, the adjusted Per Unit Fee for the first year of the Fee-Based Monitoring Period would equal \$150.00 multiplied by the lesser of 4.177 and 1.8, or \$270.00). The adjustment to the Per Unit Fee for each year thereafter shall be made by multiplying the most recent Per Unit Fee by the lesser of (a) 1.1 or (b) 1 + the increase in the CPI-U over the immediately preceding calendar year, expressed as a decimal (e.g. if the CPI-U increased by 5% in the prior year, the adjusted Per Unit Fee would equal the prior year's Per Unit Fee multiplied by 1.05).
- D. <u>Successor Price Index</u>. If the Bureau of Labor Statistics should cease to publish such the CPI-U in its present form and calculated on the present basis, a comparable price index or a price index reflecting changes in the cost of living determined in a similar manner shall be chosen at the sole discretion of the Subsidizing Agency, with notice to the Grantor. The level of the CPI-U or comparable price index as of any day relevant to the application of any part of this Section dealing with an adjustment shall be that published by the Bureau of Labor Statistics for the immediately preceding calendar year.
- E. <u>Relationship to Municipality</u>. The Grantor acknowledges that in performing its monitoring services hereunder the Subsidizing Agency is not acting as agent or fiduciary for the Municipality, and any waiver by the Subsidizing Agency of any requirement hereunder shall not be binding upon the Municipality and shall not be deemed a waiver of any obligation of the Grantor under the Comprehensive Permit.
- F. <u>Third Party Monitor</u>. The Subsidizing Agency may, from time to time, and after notice to the Municipality and the Grantor, engage the service of a qualified third party monitoring agent for purposes of monitoring the Grantor's performance under this Rider.

If, within twenty (20) days of receipt of any such notice, the Municipality notifies the Subsidizing Agency in writing that it believes that such proposed monitoring agent is not properly qualified, the Subsidizing Agency shall, in good faith, make all reasonable efforts to address the Municipality's concerns. If a third party monitoring agent is engaged, such monitoring agent shall have authority to act in all matters relating to the Subsidizing Agency's obligations under this Rider and shall apply and adhere to the standards and policies of EOHLC relative to the administrative responsibilities of subsidizing agencies under the Act. Such monitoring agent shall not be held liable for any action taken or omitted under this Rider so long as it shall have acted in good faith and without gross negligence.

12. <u>Construction</u>.

- General. The Grantor agrees to construct the Project in accordance with plans and specifications approved by the Subsidizing Agency (the "Plans and Specifications"), in accordance with all on-site and off-site construction, design and land use conditions of the Comprehensive Permit, and in accordance with the information describing the Project presented by the Grantor to the Subsidizing Agency in its Application for Final Approval. All Comprehensive Permit Units must be similar in exterior appearance to other Units and shall be evenly dispersed throughout the Project. In addition, all Comprehensive Permit Units must contain complete living facilities including but not limited to a stove, kitchen cabinets, plumbing fixtures, and sanitary facilities, all as more fully shown in the Plans and Specifications. Materials used for the interiors of the Comprehensive Permit Units must be of good quality. The Project must fully comply with the State Building Code and with all applicable state and federal building, environmental, health, safety and other laws, rules, and regulations, including without limitation all applicable federal and state laws, rules and regulations relating to the operation of adaptable and accessible housing for the handicapped. Except to the extent that the Project is exempted from such compliance by the Comprehensive Permit, the Project must also comply with all applicable local codes, ordinances and by-laws.
- В. Monitoring. The Subsidizing Agency shall monitor compliance with the construction obligations set forth in this section in such manner as the Subsidizing Agency may deem reasonably necessary. In furtherance thereof, the Grantor shall provide to the Subsidizing Agency (i) evidence that the final plans and specifications for the Project comply with the requirements of the Comprehensive Permit and that the Project was built substantially in accordance with such plans and specifications; and (ii) such information as the Subsidizing Agency may reasonably require concerning the expertise, qualifications and scope of work of any construction monitor retained by the construction monitoring firm assisting the Subsidizing Agency. To ensure adequate monitoring of construction of the Project, the Grantor shall provide to the Subsidizing Agency such information as the Subsidizing Agency may reasonably require concerning the expertise, qualifications and scope of work of any construction monitor retained by one or more of the Project Lenders. If such information is reasonably acceptable to the Subsidizing Agency, the Grantor shall either (i) provide to the Subsidizing Agency prior to commencement of construction a certification from the relevant Project Lender(s) concerning construction monitoring in a form acceptable to the Subsidizing Agency or (ii) cause the Subsidizing Agency to be added as a party to the agreement with the

construction monitor, provided that the Subsidizing Agency shall have no obligation to pay any portion of the cost of the services of such construction monitor and the Subsidizing Agency shall be entitled to receive copies of all reports produced by such construction monitor. If the construction monitor for the Project Lender(s) is not acceptable to the Subsidizing Agency, or if at any time after acceptance the construction monitor fails to provide adequate construction oversight in accordance with the requirements of the Lender's certification or the requirements of the agreement with the construction monitor, the Grantor shall fund the cost of a construction monitor retained by the Subsidizing Agency. In addition, the Grantor shall provide to the Subsidizing Agency evidence that the final plans and specifications for the Project comply with the requirements of the Comprehensive Permit and that the Project was built substantially in accordance with such plans and specifications.

- 13. <u>Incorporation of Provisions from the Restriction</u>. The following provisions from the Restriction are incorporated in this Rider by reference: Sections 2, 3.1, 3.2, 4.14, 4.15, 9.6, 10 and 12.1-12.4 and 13.
- 14. <u>Applicability</u>. Notwithstanding anything to the contrary in this Rider, the Subsidizing Agency and the Grantor agree that this Rider shall be given effect and shall apply to the Property only if and to the extent that the Grantor or Grantor's successor in title constructs the Project on the Property. Nothing in this Rider shall require the construction of the Project nor preclude the Grantor from using the Property for any other purpose.

15. Term of Rider.

- Α. General. The Grantor acknowledges that regardless of the duration of the term of the Restriction, the restrictions contained in this Rider are required pursuant to the terms of the Comprehensive Permit and accordingly shall remain in effect for the duration of the Rider Term. Upon receipt of the Notice of Minimum Rider Term Expiration, the Municipality shall have the right, by notice to the Subsidizing Agency, to assume the role of Subsidizing Agency hereunder effective as of the later of (i) the end of the Minimum Rider Term and (ii) the date six (6) months after the giving by the Subsidizing Agency of the Notice of Minimum Rider Term Expiration. If the Municipality makes such an election, then the Subsidizing Agency and the Municipality shall enter into an instrument ratifying the assignment to and assumption by the Municipality of the role of Subsidizing Agency, in form and substance mutually acceptable to the Municipality and the Subsidizing Agency, which instrument the Municipality shall cause to be recorded with the Barnstable Registry of Deeds, whereupon the term of the Restriction shall automatically be extended to be coterminous with the Rider Term, provided that only the provisions of the Restriction incorporated by reference in Section 13 above shall be enforceable by the Municipality. Notwithstanding the foregoing, the Grantor acknowledges that regardless of the term of the Restriction and this Rider, the Comprehensive Permit Units shall, pursuant to the Comprehensive Permit, remain affordable in "perpetuity", meaning for so long as the Project is maintained and occupied on the Property as contemplated by the Comprehensive Permit.
- B. <u>Early Termination</u>. Notwithstanding any provision in this Rider to the contrary, this Rider may be released by the Subsidizing Agency if the Project is financed by a



state or federal agency and, in connection with such financing, a regulatory agreement acceptable to the Subsidizing Agency is recorded with the Barnstable County Registry of Deeds.

- 16. <u>Lien for Legal Fees</u>. If the Subsidizing Agency recovers fees and expenses incurred in enforcing this Rider against the Grantor, the Subsidizing Agency shall be entitled to assert a lien on the Property, junior to the liens securing the Project Loans, to secure payment by the Grantor of such fees and expenses. The Subsidizing Agency may perfect a lien on the Property by recording with the Barnstable County Registry of Deeds one or more certificates setting forth the amount of the costs and expenses due and owing.
- 17. <u>Necessary Modifications</u>. The Grantor hereby agrees to make such modifications to this Rider as may be required by the Subsidizing Agent to implement the Comprehensive Permit Rules, as amended from time to time.
- 18. <u>Conflicts</u>. In the event of any conflict or inconsistency (including without limitation more restrictive terms) between the terms of the Comprehensive Permit, any other document relating to the Project (other than the Restriction) and the terms of this Rider, the terms of this Rider shall control, except as otherwise provided in Section 2 above with respect to the federal low-income housing tax credit program.

19. Limitation on Liability and Indemnification.

- A. <u>Grantor's Indemnity</u>. The Grantor, for itself and its successors and assigns, agrees to indemnify and hold harmless the Subsidizing Agency against all damages, costs and liabilities, including reasonable attorney's fees, asserted against the Subsidizing Agency by reason of its relationship to the Project under this Rider and not involving the Subsidizing Agency acting in bad faith or with gross negligence.
- B. <u>Subsidizing Agency's Liability Limitation</u>. The Subsidizing Agency shall not be liable for any action taken or omitted under this Rider so long as its actions do not constitute gross negligence or willful misconduct.
- C. <u>Grantor's Liability Limitation</u>. Notwithstanding anything in this Rider to the contrary, upon the occurrence of any breach or default by Grantor hereunder, the Subsidizing Agency will look solely to the Property and the Project for satisfaction of any judgment against Grantor and no officer, partner, manager, member, agent or employee of Grantor shall have any personal liability hereunder or for the performance of any obligation of Grantor hereunder. Nothing in this paragraph shall affect or derogate from Subsidizing Agency's rights against any guarantor or any other party who may have liability under the Subsidy Documents while the Subsidy is outstanding.



Executed under seal as of the date of the Restriction.

CLOVERLEAF TRURO LLC, a Massachusetts limited liability company

CLOVERLEAF TRURO MM LLC, its By:

Managing Member

By:	
Nam	ne:
Its:	Authorized Agent

COMMONWEALTH OF MASSACHUSETTS

County, ss.
On this day of, 2024, before me, the undersigned notary public, personally appeared, proved to me through satisfactory evidence of identification, which was (a current driver's license) (a current U.S. passport) (my personal knowledge of the identity of the principal), to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily, as Authorized Agent of Cloverleaf Truro MM LLC, the managing member of Cloverleaf Truro LLC, for its stated purpose as the voluntary act of Cloverleaf Truro LLC.
Notary Public

My commission expires:



TOWN OF TRUBO

ACKNOWLEDGEMENT OF THE TOWN OF TRUPO

The undersigned duly authorized Select Board of the Town of Truro hereby acknowledges that (i) the foregoing Rider (the "Rider") satisfies the requirements for a "Regulatory Agreement" and a "Town Regulatory Agreement" in the Comprehensive Permit and, in combination with the Affordable Housing Restriction granted by the Borrower and recorded with the Barnstable County Registry of Deeds herewith, constitutes compliance by the Grantor with Conditions 2, 24, 46 and 100 of the Comprehensive Permit requiring the execution by the Grantor, the Subsidizing Agency and the Town of Truro of various restrictions meeting the required levels of affordability set forth in such conditions; and (ii) that the Comprehensive Permit is subject to the Comprehensive Permit Rules. Without limiting the generality of the foregoing, the Units in the Project required to be affordable under the Comprehensive Permit shall be affordable if such Units are rented in accordance with the Rider; any local preference set forth in the Comprehensive Permit shall be implemented only in compliance with applicable state and federal fair housing rules and the Comprehensive Permit Rules; compliance with the Rider shall be determined solely by the Subsidizing Agency at any time prior to the Subsidy End Date in accordance with the Comprehensive Permit Rules; and the transfer of the Comprehensive Permit shall be governed exclusively by the Comprehensive Permit Rules. In addition, the Rider shall control over the Comprehensive Permit with respect to any matter that is addressed by the Rider. Capitalized terms used in this acknowledgement shall have the meanings ascribed to them in the Rider.

TOWN OF TRURO
Susan Areson, Chair
Robert Weinstein, Chair
Nancy Medoff, Clerk
Stephanie Rein, Member
Susan Girard-Irwin, Member



COMMONWEALTH OF MASSACHUSETTS

	County, ss.	
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COMMONWEALTH OF MASSACHUSETTS

	County, ss.	
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Agenda Item: 7A3



AFFORDABLE HOUSING RESTRICTION

DATE: As of [December ____], 2024

_	·		
GRANTOR:		Cloverleaf Truro LLC	
PROPERTY NAME:		Cloverleaf	
TOTAL NUMBER OF UNITS:		43	
TOTAL NUMBER OF RESTRICT	ED UNITS:1	39	
NUMBER OF HIGH MODERATE	: INCOME UNITS (110 100% AMI): ²	3 4	
NUMBER OF MODERATE INCO	ME UNITS (80% AMI):	0	
NUMBER OF LOW INCOME UN	ITS (60% AMI):	30 29	
NUMBER OF VERY LOW INCOME UNITS (50% AMI): 0			
NUMBER OF EXTREMELY LOW	INCOME UNITS (30% AMI):	6	
NUMBER OF HOME ASSISTED	UNITS:	11	
PROPERTY ADDRESS:	Before completion of construction: 22 Highland	l Road, Truro,	
	Massachusetts; after completion of constructio	n: 1-22 Cloverleaf	
	Trail, Truro, Massachusetts		
AFFORDABILITY TERM:	51 years and 9 months (subject to extension fo	r any extension of the	
	construction period and/or extension of one or	more of the Loans to	
	which this Restriction relates, as set forth below	w)	
AFFORDARII ITY TERM:	Pernetual		

AFFORDABILITY TERM: Perpetual

This Affordable Housing Restriction (this "Restriction") is granted by the undersigned Grantor, a Massachusetts limited liability company having a mailing address of c/o Community Housing Resources, Inc., 36 Conwell Street, Provincetown, Massachusetts 02657, for the benefit of The Commonwealth of

 $^{^{1}}$ In order to satisfy the affordability requirements of the MHP first mortgage loan at least eighteen of the total Units shall be Low Income Units.

 $^{^2}$ Numbers in parentheses are the percentage of median income for the Area (AMI, as defined below), adjusted for family size, as determined from time to time by HUD (as defined below) pursuant to Section 8 of the United States Housing Act, as amended.



Massachusetts acting by and through the Executive Office of Housing and Livable Communities having a mailing address of 100 Cambridge Street, Suite 300, Boston, Massachusetts 02114-2524 ("EOHLC"); The Commonwealth of Massachusetts, acting by and through the Executive Office of Housing and Livable Communities under the Affordable Housing Trust Fund Statute, M.G.L. c. 121D, by the Massachusetts Housing Finance Agency ("MHFA"), as Administrator, having an address at One Beacon Street, Boston, Massachusetts 02108 ("AHT"); Massachusetts Housing Partnership Fund Board, having a mailing address of 160 Federal Street, Boston, Massachusetts 02110 ("MHP"), as agent for The Commonwealth of Massachusetts, acting by and through the Executive Office of Housing and Livable Communities under the Housing Stabilization and Investment Trust Fund Statute, M.G.L. c. 121F ("HSITF"); Barnstable County, a body politic of the Commonwealth of Massachusetts, as recipient and sub-grantor of State and Local Fiscal Recovery Funds through the American Rescue Plan Act (ARPA), acting by and through its County Commissioners, having an address at 3195 Main Street, P.O. Box 427, Barnstable, Massachusetts 02630 ("Barnstable County ARPA Lender"); Barnstable County, a body politic of the Commonwealth of Massachusetts, as lead entity for the Barnstable County HOME Consortium, acting by and through its County Commissioners, having an address at 3195 Main Street, P.O. Box 427, Barnstable, Massachusetts 02630 ("Barnstable County HOME Lender"); and Massachusetts Housing Finance Agency, having a mailing address of One Beacon Street, Boston, Massachusetts 02108, as agent for The Commonwealth of Massachusetts, acting by and through the Executive Office of Housing and Livable Communities (the "MHFA ARPA Lender"); and the Town of Truro, Massachusetts, [acting by and through its Select Board], having an address at 24 Town Hall Road, Truro, Massachusetts 02666 (the <u>"Town</u>").

As of the date hereof, Massachusetts Housing Partnership Fund Board, a Massachusetts public instrumentality and body politic and corporate, with an office at 160 Federal Street, 2nd Floor, Boston, Massachusetts 02110 ("MHP"), is making a loan to the Grantor under the Massachusetts workforce housing program funded under the American Rescue Plan Act of 2021 and set forth in Item 1599-6084 of Chapter 268 of the Massachusetts Act of 2022 (the "Workforce Housing Fund Loan"), and accordingly, MHP, together with its successors and assigns, in its capacity as workforce housing fund lender (the "Workforce Housing Fund Lender"), shall be deemed a Holder of this Restriction.

<u>In addition</u>, MHP is, or is anticipated to be, the first mortgage lender for the Project (as defined below). Upon the closing of the MHP first mortgage loan for the Project, MHP, together with its successors and assigns, in its capacity as first mortgage lender, shall be deemed a Holder of this Restriction. The Grantor acknowledges that, notwithstanding the order of recording, this Restriction is senior to the MHP first mortgage loan, subject to the provisions of Section 19 below.

BACKGROUND

- A. The Grantor holds or will acquire a leasehold interest in the Property <u>from the Town</u> and intends to construct a 43-unit rental housing development, consisting of ten residential buildings, at the Property (the "Project").
- B. As a condition of the Loan(i) the Loan, (ii) the Workforce Housing Loan, and (iii) the Town's grant to Sponsor under the Local AHT Program and the CPA Program, the proceeds of which



the Sponsor will loan to the Grantor, the Grantor has agreed that this Restriction be imposed upon the Property as a covenant running with the land and binding upon any successor to the Grantor, as owner thereof.

RESTRICTIONS

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor hereby covenants as follows:

- 1. **Definitions.** Capitalized terms used herein are defined herein and in <u>Exhibit D</u> attached hereto.
- **Use Restrictions.** The Property shall be reserved and used for the Permitted Uses and for 2. no other purpose. The Restricted Units shall include at least 22 one-bedroom Units, 15 two-bedroom Units and 2 three-bedroom Units. Eleven of the Restricted Units shall be deemed to be assisted under the HOME Program ("HOME Assisted Units") provided that certain of the provisions of the HOME Program may cease to be effective 20 years after the completion of the Project (the "HOME Term") as more fully set forth in Section 5.2 of the Loan Agreement between Grantor as Borrower and Massachusetts Housing Partnership Fund Board, as agent for The Commonwealth of Massachusetts, acting by and through the Executive Office of Housing and Livable Communities under the Housing Stabilization and Investment Trust Fund Statute, M.G.L. c. 121F for itself and as agent for certain other lenders. Such HOME Assisted Units may also constitute Restricted Units with respect to other programs hereunder. As of the date hereof, the Property has or is expected to have the benefit of a contract for 8 project-based vouchers under Section 8 of the United States Housing Act of 1937, as amended (the "Section 8 Contract"), 8 project-based vouchers under the Massachusetts Rental Voucher Program (the "MRVP Contract") and 3 [project-based vouchers under the Massachusetts Alternative Housing Voucher Program] (the "AHVP Program" and, collectively with the Section 8 Contract and the MRVP Contract, the "Rental Subsidy Contracts"). If during the HOME Term any of the Rental Subsidy Contracts is not renewed at the end of its term or is terminated or otherwise is no longer in full force and effect, the number of HOME Assisted Units required to be Very Low Income Units (as set forth on Exhibit C) shall be reduced to 3 Units of the types shown on Exhibit $\underline{\text{C-1}}$ and the number of HOME Assisted Units required to be Low Income Units (as set forth on $\underline{\text{Exhibit}}$ \underline{C}) shall be increased to 8 Units of the types shown on $\underline{Exhibit C-1}$. In such event, references in this Restriction to Exhibit C shall thereafter be deemed to refer to Exhibit C-1. Furthermore, if during the Term any of the Rental Subsidy Contracts is not renewed at the end of its term or is terminated or otherwise is no longer in full force and effect, the Holders will consider a request by the Grantor to modify the mix of Restricted Units by converting Extremely Low Income Units to Very Low Income Units or Low Income Units. A decision by the Holders on such a request shall take into consideration the financial viability of the Property and shall be made in the sole reasonable discretion of the Participating Lenders who have required such Extremely Low Income Units, as shown on Exhibit C. The Property also shall include at least four (4) Units accessible to individuals with mobility impairments (consisting of 3 one-bedroom Units and 1 two-bedroom Unit) and at least one (1) additional Units accessible to individuals with sensory impairments (consisting of 1 one-bedroom Unit). Each Unit shall contain complete facilities for living, sleeping, eating, cooking and sanitation that are to be



used on other than a transient basis. Each Unit shall meet the housing quality standards set forth in the regulations of HUD at 24 C.F.R. §982.401 or any successor thereto, the accessibility requirements at 24 C.F.R. Part 8 or any successor thereto (which implement Section 504 of the Rehabilitation Act of 1973), and, if applicable, the design and construction requirements of 24 C.F.R. §100.205 or any successor thereto (which implement the Fair Housing Act). The Restricted Units shall be of comparable quality to the other Units at the Property. The Restricted Units shall be dispersed evenly throughout the buildings comprising the Improvements. Throughout the term hereof, the Grantor shall maintain the Property and the Improvements in good, safe and habitable condition in all respects and in full compliance with all applicable laws, by-laws, rules and regulations of any governmental (or quasi-governmental) body with jurisdiction over matters concerning the condition of the Property.

- **3. Occupancy Restrictions.** The following restrictions shall apply during the period commencing with the first date on which any Units are occupied and continuing for the balance of the Affordability Term, subject always to any applicable rent restrictions of the federal low-income housing tax credit program under Section 42 of the Internal Revenue Code of 1986, as amended, and any provision herein that conflicts with the requirements of the federal low-income housing tax credit program shall be suspended so long as the restrictions under the federal low income housing tax credit program are in effect.
 - A. High Moderate Income Units. At least 34 of the Units of the types shown on Exhibit C attached hereto shall be leased exclusively to High Moderate Income Families ("High Moderate Income Units"). The monthly rent charged to a Family occupying a High Moderate Income Unit shall be one-twelfth of thirty percent (30%) of one-hundred-ten percent (110100%) of the Bedroom Adjusted AMI, minus, if applicable, an allowance established by the Holders for any utilities and services (excluding telephone) to be paid by the occupying Family A Family who resides in a Restricted Unit, who qualified as a High Moderate Income Family at the time of such Family's initial occupancy at the Property and whose Household Income exceeds one-hundred-ten percent (110100%) of the Family-size Adjusted AMI, shall, from and after the expiration of the then-current term of such Family's lease, no longer be treated as an income-qualified Family and (i) until such time as the Property again has the required number of income-qualified Families at all income levels hereunder, must pay as monthly rent the Over-income Rent and (ii) once the Property again has the required number of income-qualified Families at all income levels hereunder, such Family's Unit shall, from and after the expiration of the then-current term of such Family's lease, no longer be deemed a Restricted Unit hereunder.
 - B. Low Income Units. At least 3029 of the Units of the types shown on Exhibit C attached hereto shall be leased exclusively to Low Income Families ("Low Income Units"). With respect to each Low Income Unit designated as a HOME Assisted Unit, the monthly rent charged to a Family occupying such HOME Assisted Unit shall not exceed the lesser of Fair Market Rent or an amount equal to (x) one-twelfth of thirty percent (30%) of sixty-five percent (65%) of the Bedroom Adjusted AMI, minus (y) if applicable, an allowance established by the Holders for any utilities and services (excluding telephone) to be paid by the occupying Family or (z) the comparable market rent for the Family's Unit. With respect to each Low Income Unit that is not a HOME



Assisted Unit, the monthly rent charged to a Family occupying a Low Income Unit shall be onetwelfth of thirty percent (30%) of sixty percent (60%) of the Bedroom Adjusted AMI, minus (y) if applicable, an allowance established by the Holders for any utilities and services (excluding telephone) to be paid by the occupying Family. A Family who resides in a Restricted Unit, who qualified as a Low Income Family at the time of such Family's initial occupancy at the Property and whose Household Income exceeds sixty percent (60%), but does not exceed eighty percent (80%) of the Family-size Adjusted AMI, shall continue to be treated as a Low Income Family and the foregoing maximum rent shall continue to apply to such Family. A Family who resides in a Restricted Unit, who qualified as a Low Income Family at the time of such Family's initial occupancy at the Property and whose Household Income exceeds eighty percent (80%) of the Family-size Adjusted AMI, shall, from and after the expiration of the then-current term of such Family's lease, no longer be treated as an income-qualified Family and (i) until such time as the Property again has the required number of income-qualified Families at all income levels hereunder must pay as monthly rent the Over-income Rent and (ii) once the Property again has the required number of income-qualified Families at all income levels hereunder, such Family's Unit shall, from and after the expiration of the then-current term of such Family's lease, no longer be deemed a Restricted Unit hereunder.

C. Extremely Low Income Units. At least 6 of the Units of the types shown on Exhibit C attached hereto shall be leased exclusively to Extremely Low Income Families ("Extremely Low Income Units"). The monthly rent charged to a Family occupying an Extremely Low Income Unit shall be one-twelfth of thirty percent (30%) of thirty percent (30%) of the Bedroom Adjusted AMI, minus, if applicable, an allowance established by the Holders for any utilities and services (excluding telephone) to be paid by the occupying Family. A Family who resides in a Restricted Unit, who qualified as an Extremely Low Income Family at the time of such Family's initial occupancy at the Property and whose Household Income exceeds thirty percent (30%), but does not exceed fifty percent (50%) of the Family-size Adjusted AMI, shall continue to be treated as an Extremely Low Income Family but, from and after the expiration of the then-current term of such Family's lease, must pay as monthly rent the Over-income Rent. A Family who resides in a Restricted Unit, who qualified as an Extremely Low Income Family at the time of such Family's initial occupancy at the Property and whose Household Income exceeds fifty percent (50%), but does not exceed eighty percent (80%), of the Family-size Adjusted AMI, shall, from and after the expiration of the then-current term of such Family's lease, be treated as a Low Income Family and must pay as monthly rent the lesser of (x) the maximum amount payable by the Family under the laws of the municipality in which the Property is located or of The Commonwealth of Massachusetts, (y) one-twelfth of thirty percent (30%) of sixty percent (60%) of the Bedroom Adjusted AMI (minus, if applicable, an allowance established by the Holders for any utilities and services [excluding telephone] to be paid by the occupying Family) A Family who resides in a Restricted Unit, who qualified as an Extremely Low Income Family at the time of such Family's initial occupancy at the Property and whose Household Income exceeds eighty percent (80%) of the Family-size Adjusted AMI, shall, from and after the expiration of the then-current term of such Family's lease, no longer be treated as an income-qualified Family and (i) until such time as the Property again has the required number of income-



qualified Families at all income levels hereunder must pay as monthly rent the Over-income Rent and (ii) once the Property again has the required number of income-qualified Families at all income levels hereunder, such Family's Unit shall, from and after the expiration of the then-current term of such Family's lease, no longer be deemed a Restricted Unit hereunder.

- D. HERA Rent. Notwithstanding the foregoing, the Borrower shall be permitted to increase the rents to those permitted under Section 3009(a)(E)(i) of the Housing and Economic Recovery Act of 2008 (Public Law 110-289) ("HERA"), even if such rents would be above those that would otherwise be permitted under the above provisions.
- E. MHP First Mortgage Affordability Requirements. In order to satisfy the affordability requirements of the MHP first mortgage loan at least eighteen of the total Units shall be Low Income Units.
- F. Applicable Lease Term, Change of Status. References in the foregoing provisions of the "then-current term of such Family's lease" shall refer to the term of the lease or occupancy agreement in effect on the date of the required delivery of the income certification that reflects (or that, if duly delivered, would have reflected) the applicable increase in such Family's income or, as applicable, the term of the lease or occupancy agreement in effect at the time the Property regains the required number of income-qualified Families. If, with the Holders' consent, the Grantor does not require that a lease be signed for a Restricted Unit (e.g., a property providing short-term transitional housing), the provisions set forth above shall apply, except that the applicable date on which a Family's income-qualified status and/or applicable rent restriction is modified shall be the first day of the month that is at least thirty (30) days following the date of the required delivery of the income certification that reflects (or that, if duly delivered, would have reflected) the applicable increase in such Family's income and the applicable date on which a Restricted Unit's status is modified shall be the first day of the month that is at least thirty (30) days following the date on which the Property regains the required number of income-qualified Families.
- G. Federal or State Rental Subsidy. Except with respect to HOME Assisted Units, if a Restricted Unit or the Family occupying such Unit receives federal or state rental subsidy, then the Family's contribution towards rent shall be the contribution allowable under the federal or state rental subsidy program and the maximum rent (i.e., tenant contribution plus rental subsidy) shall be the rent allowable under the federal or state rental subsidy program. In the case of HOME Assisted Units, if a Restricted Unit receives federal or state project-based rental subsidy and the occupying Family qualifies as a Very Low Income Family and pays as a contribution towards rent not more than thirty percent (30%) of one-twelfth of the Family's Household Income, then the maximum rent (i.e., tenant contribution plus rental subsidy) shall be the rent allowable under the federal or state rental subsidy program.
- H. Next Available Unit Rule. If at any time fewer than the required number of Units are leased, rented or occupied by Extremely Low Income Families, the next available Units shall all be leased, rented or otherwise made available to Extremely Low Income Families until the required number of Units occupied by Extremely Low Income Families is again obtained.



Subject to the foregoing, if at any time fewer than the required number of Units are leased, rented or occupied by Low Income Families, the next available Units shall all be leased, rented or otherwise made available to Low Income Families until the required number of Units occupied by Low Income Families is again obtained. Subject to the foregoing, if at any time fewer than the required number of Units are leased, rented or occupied by High Moderate Income Families, the next available Units shall all be leased, rented or otherwise made available to High Moderate Income Families until the required number of Units occupied by High Moderate Income Families is again obtained. The foregoing provisions shall be applied so as to maintain a mix of Restricted Units that is comparable in size, features and number of bedrooms to the originally designated Restricted Units (i.e., a Unit will not be considered an available Unit for purposes of this Paragraph if classification of such Unit as a Restricted Unit would cause the then current mix of Restricted Units to no longer be comparable to the original mix of Restricted Units described in Section 2 above and as shown on Exhibit C).

Rent Schedule. Except as is set forth in Sections 3.B., 3.C., 3.D. and 3.G, projected initial monthly maximum rents including utilities for all Restricted Units shall be as set forth in Exhibit B and Exhibit B-1 attached hereto. If permitted maximum rents and utility allowances as reflected in the annual schedule of rents and utility allowances issued by EOHLC increase prior to initial occupancy of the Project, the initial monthly maximum rents and utility allowances shall be as set forth in the latest schedule issued by EOHLC. Notwithstanding the rent restrictions set forth in Section 3 above, the maximum monthly rent permitted to be charged for a Restricted Unit at any particular income level is not required to be lower than the maximum rent applicable at such income level pursuant to Exhibit B and Exhibit B-1 or such higher initial maximum rent applicable at such income level pursuant to the immediately preceding sentence, regardless of changes in fair market rents or in median income over time (subject only to the restrictions applicable in the event of any federal or state subsidy, as set forth in Section 3 above). Rents for Restricted Units shall not be increased above applicable maximums without all Holders' prior written approval of a specific request by the Grantor for a rent increase, except for increases implemented in accordance with an annual schedule of maximum rents and allowances issued by EOHLC. Notwithstanding the foregoing, rent increases shall be subject to the provisions of outstanding leases and shall not be implemented without at least thirty (30) days' prior written notice by the Grantor to all affected Residents and notwithstanding any provision in a lease or occupancy agreement to the contrary, in the event of any increase in the rent payable by such Residents in connection with an increase in the income of such Residents, consistent with the terms hereof, the Residents shall have the right to terminate their lease or occupancy agreement by written notice to the Grantor delivered within such thirty-day period.

5. Resident Selection.

A. Nondiscrimination. The Grantor shall not discriminate on the basis of race, religious creed, color, sex, age, marital status, sexual orientation (which shall not include persons whose sexual orientation involves minor children as the sex object), gender identity, genetic information, veteran status, membership in the armed forces, ancestry, national origin, handicap, blindness, hearing impairment, or because a person possesses a trained guide dog



as a consequence of blindness, hearing impairment or other handicap of such person or any other basis prohibited by law in the lease, use and occupancy of the Units or in connection with the employment or application for employment of persons for the operation and management of the Units. The Grantor shall not discriminate against, or refuse to lease, rent or otherwise make available the Units to, a holder of a certificate or voucher under the Federal Rental Certificate Program or the Federal Rental Voucher Program or a holder of a comparable document evidencing participation in a HOME Program tenant-based assistance program because of the status of the prospective tenant as a holder of such certificate, voucher or comparable HOME Program tenant-based assistance document.

- **B. Selection Policies.** The Grantor shall adopt and submit to the Holders for approval resident selection policies and criteria for the Restricted Units that:
 - Are consistent with the purpose of providing housing for a High Moderate Income Family, a Low Income Family or an Extremely Low Income Family, as defined below and required herein;
 - (ii) Are reasonably related to eligibility of prospective tenants under the Programs and to the prospective tenants' ability to perform the obligations of the Grantor's form lease;
 - (iii) Provide for (x) the selection of Residents from a written waiting list in the chronological order of their application, insofar as practicable, and (y) the prompt written notification to any rejected applicant of the grounds for any rejection.

The Grantor shall also provide the Holders with an affirmative marketing plan acceptable to all Holders. The affirmative marketing plan must comply with all applicable statutes, regulations and executive orders, with all Holders' affirmative marketing requirements and with EOHLC's directives reflecting the agreement between EOHLC and HUD in the case of NAACP, Boston Chapter v. Kemp. The approved marketing plan and the approved resident selection policies and criteria shall be adhered to in every respect and any changes thereto shall be subject to the prior written approval of the Holders. The affirmative fair housing marketing plan shall require the Grantor to create a listing for all Restricted Units with the Housing Navigator (www.housingnavigatorma.org), which listing shall be updated and confirmed prior to holding a tenant-selection lottery for the Restricted Units and shall thereafter be updated at least annually or more frequently if appropriate in EOHLC's opinion (e.g. in connection with the re-opening of any waiting list for Restricted Units). The affirmative fair housing marketing plan shall also require the Grantor to notify the Housing Navigator when waiting lists for Restricted Units open and close and whenever there is a Restricted Unit available on a first come, first served basis. The Grantor shall list vacancies in Restricted Units in the MassAccess Housing Registry at http://www.massaccesshousingregistry.org and on the Housing http://housingnavigatorma.org.

6. Lease Form. The Grantor shall not include in any lease for a Restricted Unit any of the following provisions:



- **A.** Agreement by the tenant to be sued, to admit guilt or to a judgment in favor of the Grantor in a lawsuit brought in connection with the lease.
- **B.** Agreement by the tenant that the Grantor may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the Unit after the tenant has moved out of the Unit. The Grantor may dispose of such personal property in accordance with state law.
- **C.** Agreement by the tenant not to hold the Grantor or the Grantor's agents legally responsible for any action or failure to act, whether intentional or negligent.
- D. Agreement of the tenant that the Grantor may institute a lawsuit without notice to the tenant.
- **E.** Agreement by the tenant that the Grantor may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties.
- F. Agreement by the tenant to waive any right to a trial by jury.
- **G.** Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease.
- H. Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the Grantor against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

All leases for Restricted Units shall be consistent with the requirements set forth herein, shall be on a form reasonably approved by the Holders, shall be for terms of not less than one (1) year (unless a shorter term is specified by mutual agreement between the Resident and the Grantor, subject to the Holders' program requirements) and shall require tenants to provide information required for the Grantor to meet its reporting requirements hereunder. The Grantor may not terminate the tenancy or refuse to renew the lease of an occupant of a Restricted Unit except (i) for serious or repeated violation of the terms and conditions of the lease; (ii) for violations of applicable federal, state or local law; (iii) for completion of the tenancy period for transitional housing; or (iv) for other good cause. Any termination or refusal to renew must be preceded by not less than thirty (30) days by the Grantor's service on the tenant of a written notice specifying the grounds for the action.

7. Transfer Restrictions. The Grantor shall not sell, transfer, convey, rent (except for leases or occupancy agreements made in connection with the Permitted Uses that are substantially in the form approved by the Holders), encumber as security for financing, or in any other way exchange all or any portion of the Property nor shall the Grantor permit the sale, transfer or pledge of any direct or indirect interests in the Grantor, without the express written permission of the Holders. For purposes of the foregoing sentence, a withdrawal by the investor member of Grantor shall be deemed to be a transfer of an interest in the Grantor. Without limiting the generality of the foregoing, the Permitted Encumbrances are hereby approved by the Holders. Any sale, transfer or other disposition (each, a "transfer") of all or any part of the Property shall further be subject to the Purchase Option and the First Refusal Right described below, and to such further terms and



conditions with respect thereto as may be set forth in the HSF Statute, the HSF Regulations, and the HSF Guidelines. Upon request by the Grantor, EOHLC shall sign a certificate, in form and substance reasonably acceptable to EOHLC, stating whether, as of a specified date, any Purchase Option or First Refusal Right in favor of EOHLC remains in effect, or has been exercised, terminated, waived or assigned, and otherwise conforming with the certification requirements described below. No transfer of all or any part of the Property to any party other than EOHLC or its assignee shall be consummated unless and until (i) the period for the exercise of all Purchase Options and/or First Refusal Rights, as applicable, shall have expired without EOHLC's exercise of rights thereunder or (ii) EOHLC shall have unconditionally waived its rights thereunder in writing. Notwithstanding the foregoing: (i) the investor member interest of Grantor held by MCI Cloverleaf, LLC (the "Investor") may be transferred to an entity in which the Investor or an affiliate of the Investor is the general partner or managing member, provided that the Holders receive notice of such transfer and (ii) the Grantor's investor member may remove and replace the manager of the Grantor in accordance with the provisions of the Grantor's operating agreement upon the consent of the Holders, which consent will not be unreasonably withheld, conditioned or delayed. In connection with any transfer requiring the consent of the Holders, the Grantor shall provide such information to the Holders as the Holders may reasonably request, shall pay a fee to EOHLC pursuant to EOHLC's then-current fee schedule and shall pay all legal fees incurred by the Holders in connection with such transfer request.

8. HSF Purchase Option.

- A. UponAfter the expirationfiftieth anniversary of the Affordability Term (as defined in Section 10 below), date hereof. EOHLC shall have the right to purchase the Grantor's interest in the Property from the Grantor, at a price equal to the then-current appraised value of the Property, less the total outstanding balance, at the time of such purchase, of all principal, interest and any other charges payable under the HSF Loan, and any and all other outstanding obligations of the Grantor with respect thereto (the "HSF Purchase Option"), by delivering written notice to the Grantor of its election to exercise the HSF Purchase Option by or before the date that is one hundred twenty (120) days after the expiration of the Affordability Termfiftieth anniversary of the date hereof (the "Option Exercise Deadline"). If EOHLC shall have failed to deliver such written notice of its election to exercise the HSF Purchase Option to the Grantor by the Option Exercise Deadline, EOHLC shall be deemed to have unconditionally waived the HSF Purchase Option, and the HSF Purchase Option shall automatically terminate, and shall have no further force or effect.
- **B.** EOHLC shall have the right at any time to assign its rights under this Purchase Option to a qualified developer selected by EOHLC in accordance with the HSF Statute and HSF Regulations, and effective as of any such assignment, all rights and obligations of EOHLC with respect to such Purchase Option shall automatically be deemed to apply to such assignee, and all references to "EOHLC" in this Section shall automatically be deemed to refer to such assignee (except to the extent a provision explicitly provides otherwise).
- C. Promptly upon request by EOHLC at any time or from time to time, either before the Option Exercise Deadline or after EOHLC's exercise of the HSF Purchase Option, the Grantor shall provide EOHLC with a copy of, or otherwise make available for EOHLC's review at a mutually convenient time and location, any and all material owned by or readily available to the

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Grantor that an unrelated third-party potential buyer would reasonably request in connection with its due diligence for the acquisition of the Property, including, by way of example but not of limitation, deeds, title insurance policies, appraisals, studies, reports, and other materials relating to the Property and/or any encumbrance(s) subject to which the Property is to be conveyed, or otherwise reasonably necessary or appropriate for EOHLC to review in connection with its exercise of the HSF Purchase Option.

- D. The appraised value of the Property shall be determined at EOHLC's request by the method specified in the HSF Statute (as may be more fully described in the HSF Regulations) and in accordance with EOHLC policies, and the costs of the appraisers shall be shared equally by EOHLC and the Grantor (unless the HSF Regulations provide otherwise). Notwithstanding anything to the contrary contained in this Restriction, the Grantor shall not be required to use its own funds to repay any debt secured by the Property in the event the appraised value of the Property is less than the aggregate of all permitted debt secured by the Property.
- E. The closing for the sale of the Property to EOHLC shall take place in accordance with applicable provisions of the HSF Regulations, by or before the date that is one hundred twenty (120) days after the Option Exercise Deadline (i.e., on or before the date that is two hundred forty (240) days after the expiration fiftieth anniversary of the Affordability Termdate hereof), by the close of the business day, at the Registry of Deeds; provided, however, that if EOHLC reasonably determines additional time is necessary to effect the closing due to delays of the Grantor in providing EOHLC with the due diligence material described above or any other failure by the Grantor fully to cooperate with preparations for the sale, the closing date may be extended to a date reasonably determined by EOHLC as necessary to redress the delays caused by the Grantor, which shall be specified in a written notice from EOHLC setting forth the reasons for such extension, delivered to the Grantor by or before the date originally scheduled for the closing. The parties may also mutually agree to extend the date of the closing by written instrument.
- F. The transfer to EOHLC pursuant to the HSF Purchase Option shall be subject to such other requirements as may be more fully described in the HSF Regulations consistent with the HSF Statute. Adjustments in the purchase price for recording fees, deed stamps and other charges shall be made, and any other issues associated with the transfer shall be resolved, in accordance with standard conveyancing practice in The Commonwealth of Massachusetts. If either party so desires, the parties shall enter into a purchase and sale agreement memorializing the terms of the sale, consistent with the terms hereof and of the HSF Statute; provided, however, that the HSF Purchase Option shall be binding regardless of whether the parties execute a purchase and sale agreement. Notwithstanding any other provision hereof to the contrary, if, after delivering notice of its intention to exercise the HSF Purchase Option, EOHLC determines, in its sole discretion, that it is not in the best interests of EOHLC to effect the purchase, EOHLC may terminate the HSF Purchase Option at any time, upon written notice to the Grantor recorded with the Registry of Deeds; provided, however, that such termination right shall apply to EOHLC only and not to any assignee.



G. Concurrently with its acquisition of the Property, EOHLC shall cause to be recorded with the Registry of Deeds an affordable housing restriction, in compliance with the HSF Statute and any other applicable statutory requirements for the same (and, in the case of an assignee, in form acceptable to EOHLC, in its discretion), which shall require that the Property shall be used only for the purposes of preserving or providing affordable housing thereon, which housing shall remain affordable for a period of not less than fifty (50) years.

9. HSF First Refusal Right.

- A. If the Grantor intends at any time or from time to time, to transfer all or any part of its interest in the Property, and the Grantor receives a bona fide offer for such transfer that the Grantor desires to accept (each, an "Offer"), the Grantor shall promptly deliver to EOHLC written notice of the same (which shall not be deemed to have been duly delivered to EOHLC unless it contains a copy of clause C. below), together with a copy of such Offer (the "Offer Notice"). The Grantor shall provide EOHLC with such reasonable evidence as EOHLC may require to satisfy EOHLC as to the bona fide nature of the Offer. A transfer of a member interest in the Grantor shall be considered an Offer that triggers the EOHLC First Refusal Right if (x) such member interest is all or substantially all of the non-managing member interests in the Grantor (except for transfers to affiliates of the member) and (y) such transfer takes place within one year of a transfer of a managing member interest in the Grantor or of a controlling interest in a managing member of the Grantor to the transferee of the member interest or an affiliate of such transferee, provided that a removal of a managing member by a member pursuant to a removal provision in the operating agreement of the Grantor and the substitution of a new managing member that is an affiliate of such member shall not constitute a transfer of a managing member interest for purposes of this clause.
- B. EOHLC shall have the right to purchase the Grantor's interest in the Property (or the portion(s) thereof to which the Offer relates), at the same price and on the same terms set forth in such Offer (the "HSF First Refusal Right"), by delivering to the Grantor and recording with the Registry of Deeds written notice of its election to exercise such First Refusal Right, in accordance with the terms set forth below (the "Exercise Notice"), by or before the date that is one hundred twenty (120) days after EOHLC's receipt of such Offer Notice (such 120-day period, the "HSF First Refusal Period"). If EOHLC does not intend to exercise the HSF First Refusal Right, EOHLC may, but shall have no obligation to, notify the Grantor in writing that the HSF First Refusal Right will not be exercised (a "Waiver Notice").
- C. If, by the expiration of the HSF First Refusal Period with respect to an Offer, EOHLC shall have failed to deliver to the Grantor an Exercise Notice or a Waiver Notice, EOHLC shall be deemed to have waived its First Refusal Right with respect to such Offer, subject to any revived First Refusal Right with respect to a modified Offer, as described below. However, EOHLC shall retain a First Refusal Right for subsequent Offers, notwithstanding any prior actual or deemed waiver of the HSF First Refusal Right, or any intervening transfer of the Property or any portion(s) thereof.
- **D.** If any of the terms of an Offer shall be revised from the terms reflected in the Offer Notice in such a manner as to be materially more favorable to the buyer or if a closing pursuant to



the Offer has not occurred on or before the date six months after the date of the Offer Notice but the Grantor desires to continue pursuing a sale pursuant to such Offer, the Grantor shall promptly deliver to EOHLC an Offer Notice with respect to such revised or continued Offer (which shall not be deemed to have been duly delivered to EOHLC unless it contains a copy of clause C. above), and EOHLC shall have a new First Refusal Right with respect to such modified or continued Offer. The HSF First Refusal Period for such new First Refusal Right shall run for a period of one hundred twenty (120) days from the date of EOHLC's receipt of the Offer Notice with respect to such revised or continued Offer.

- E. EOHLC shall have the right at any time to assign its rights under the HSF First Refusal Right to a qualified developer selected by EOHLC in accordance with the HSF Statute and the HSF Regulations and, effective as of any such assignment, the rights and obligations of EOHLC with respect to such First Refusal Right shall automatically be deemed to apply to such assignee, and all references to "EOHLC" in this Section shall automatically be deemed to refer to such assignee (except to the extent a provision explicitly provides otherwise). EOHLC shall provide written notice of any such assignment to the Grantor.
- **F.** In accordance with the provisions of the HSF Statute:
 - (i) An Offer Notice containing the required language as described above shall be deemed to have been duly delivered if sent by regular and certified mail, return receipt requested (or by such other method as may be authorized under the HSF Statute and the HSF Regulations), addressed to EOHLC (or to any assignee of EOHLC, if EOHLC has previously given the Grantor notice of such assignment, including the name and notice address of such assignee, in accordance with the notice provisions set forth herein) in the care of the keeper of records for EOHLC, which for purposes hereof shall be deemed to be the General or Chief Counsel of EOHLC (or in care of the keeper of records for such assignee of EOHLC, as applicable).
 - (ii) The Exercise Notice or Waiver Notice shall be duly signed by a designated representative of EOHLC or of the assignee of EOHLC, as the case may be, and (x) mailed to the Grantor by certified mail (or such other method as may be authorized under the HSF Statute) at the notice address set forth in the Offer Notice and (y) recorded with the Registry of Deeds by the expiration of the HSF First Refusal Period. If EOHLC shall have assigned the HSF First Refusal Right to a qualified developer prior to delivery of the Exercise Notice, the Exercise Notice shall include the name and address of such assignee and the terms and conditions of such assignment.
 - (iii) An affidavit acknowledged by a notary public that EOHLC or its designated representative has mailed an Exercise Notice or a Waiver Notice (the "Affidavit") shall conclusively establish the manner and time of the giving of such notice. Any Affidavit may be recorded with the Registry of Deeds by either party. Each Affidavit shall have attached to it a copy of the Offer Notice to which it relates.
 - (iv) Each Offer Notice, Exercise Notice and Waiver Notice shall contain the name of the record owner of the Property and a description of the premises to be transferred, in form



adequate to identify the same. Each Affidavit shall have attached to it a copy of the Offer Notice to which it relates.

- **G.** The closing for the sale of the Property (or, if applicable, the part thereof that is the subject of the Offer) to EOHLC shall take place in accordance with applicable provisions of the HSF Regulations, by or before the date that is one hundred twenty (120) days after the expiration of the HSF First Refusal Period (i.e., on or before the date that is two hundred forty (240) days after EOHLC's receipt of the relevant Offer Notice), by the close of the business day, at the Registry of Deeds (such date, the "Closing Deadline"); provided, however, that if EOHLC reasonably determines additional time is necessary to effect the closing, due to delays of the Grantor in providing EOHLC with the due diligence material described below or any other failure by the Grantor fully to cooperate with preparations for the sale, the Closing Deadline may be extended to a date reasonably determined by EOHLC as necessary to redress the delays caused by the Grantor, which shall be specified in a written notice from EOHLC setting forth the reasons for such extension, delivered to the Grantor and recorded with the Registry of Deeds, by or before the date originally scheduled for the closing. The parties may also mutually agree to extend the Closing Deadline, by written instrument; provided, however, that in such event, the parties shall execute an instrument reflecting such extension, which shall be recorded with the Registry of Deeds by or before the date originally scheduled for the closing.
- H. Concurrently with the delivery of the Offer Notice, the Grantor shall provide EOHLC with a copy of, or otherwise make available for EOHLC's review at a mutually convenient time and location, all material relating to the Property (or the part thereof that is the subject of the Offer) and/or the proposed sale, transfer, or other disposition thereof that has been made available to the party making the Offer, and shall thereafter promptly make available to EOHLC any additional material made available to such party. Promptly upon any request therefor by EOHLC, the Grantor shall provide EOHLC with a copy of, or otherwise make available for EOHLC's review at a mutually convenient time and location, any and all other material owned by or readily available to the Grantor that an unrelated third-party buyer would reasonably request in connection with its due diligence for an acquisition of such Property, including, by way of example but not of limitation, deeds, title insurance policies, appraisals, studies, reports, or other materials relating to such Property and/or any encumbrance(s) subject to which the Property is to be conveyed, or otherwise reasonably necessary or appropriate for EOHLC to review in connection with its exercise of the HSF First Refusal Right.
- I. The transfer to EOHLC pursuant to the HSF First Refusal Right shall be subject to such other requirements as may be more fully described in the HSF Regulations consistent with the HSF Statute. Adjustments in the purchase price for recording fees, deed excise stamp taxes and other charges shall be made, and any other issues associated with the transfer shall be resolved, in accordance with standard conveyancing practice in The Commonwealth of Massachusetts. If either party so desires, the parties shall enter into a purchase and sale agreement memorializing the terms of the sale, consistent with the terms hereof and of the HSF Statute; provided, however, that the HSF First Refusal Right shall be binding regardless



of whether the parties execute a purchase and sale agreement. Notwithstanding any other provision hereof to the contrary, if, after delivering notice of its intention to exercise the HSF First Refusal Right, EOHLC determines, in its sole discretion, that it is not in the best interests of EOHLC to effect the purchase, EOHLC may terminate the HSF First Refusal Right at any time, upon written notice delivered to the Grantor and recorded with the Registry of Deeds; provided, however, that such termination right shall apply to EOHLC only, and not to any assignee. If EOHLC exercises such termination right or if either EOHLC or its assignee fails to perform hereunder on or before the Closing Deadline through no fault of the Grantor, then the HSF First Refusal Right shall lapse and be of no further force or effect.

- J. Concurrently with its acquisition of the Property, EOHLC shall cause to be recorded with the Registry of Deeds an affordable housing restriction, in compliance with the HSF Statute and any other applicable statutory requirements for the same (and, in the case of an assignee, in form acceptable to EOHLC, in its discretion), which shall require that such Property shall be used only for the purposes of preserving or providing affordable housing thereon, which housing shall remain affordable for a period of not less than fifty (50) years.
- Term of Restrictions; Covenants to Run with Land. The term of this Restriction shall be the sum of the Affordability Term plus the Option Term. The "Affordability Term" shall be 51 years and 9 months from the date hereof, provided that if the Project is not completed within 21 months after the date of this Restriction for any reason, any Holder shall have the right to extend the Affordability Term by recording in the Registry of Deeds a certificate of extension certifying the length of the delay in completing the Project, whereupon the Affordability Term shall automatically be extended by an amount of time equal to the length of such delay and provided further that the term hereof shall automatically be extended for the period of the extension of any of the Loans to which this Restriction relates. The "Option Term" shall be the period from the expiration of the Affordability TermThe term of this Restriction shall be perpetual. The "Option Term" shall be the period from the fiftieth anniversary of the date hereof through the Option Exercise Deadline (as defined in Section 8 above) plus any additional period necessary for the consummation of a purchase of the Property under either the Purchase Option or the First Refusal Right described above, if applicable. Notwithstanding any provision to the contrary herein or in any of the other Loan Documents, this Restriction shall remain in full force for the full term set forth herein including any extension, notwithstanding any prepayment of the Loan. The restrictions contained herein shall run with the land, shall bind the successors and assigns of the Grantor, and shall inure to the benefit of the Holders and their successors and assigns as permitted herein. Notwithstanding the foregoing, at the end of the term of affordability for a particular program, as set forth on Exhibit C, as it may have been extended, provided that all obligations under the loan provided by such Program have been satisfied in full at that time, as determined by the appropriate Holder, the Grantor may request that the Holders modify this Restriction to eliminate the requirements imposed by or otherwise relating to such Program set forth in this Restriction. The parties shall cooperate to prepare an appropriate amendment to this Restriction, which amendment shall be duly recorded with the Registry of Deeds by the Grantor at its cost and expense. Nothing herein shall affect the provisions of Section 19.D. with respect to the CPA Units.



- 11. Subsequent Conveyances. Each and every contract, deed or other instrument hereafter executed conveying the Property or portion thereof shall expressly provide that such conveyance is subject to this Restriction, provided, however, that the covenants contained herein shall survive and be effective regardless of whether such contract, deed or other instrument hereafter executed conveying the Property or portion thereof provides that such conveyance is subject to this Restriction.
- **12. Income Verification.** The Grantor represents, warrants and covenants that the determination of whether a Family occupying a Restricted Unit meets the income requirements set forth herein shall be made by the Grantor at the time of leasing of a Restricted Unit and thereafter at least annually on the basis of the current income of such Family. In initially verifying a Family's income, the Grantor shall examine the source documents evidencing annual income (e.g., wage statements, interest statements, unemployment compensation statements) for the Family.

13. Reporting Requirements.

- A. EOHLC Web-Based Report. Annually, no later than September 30, Grantor shall submit to EOHLC, via the web-based annual reporting system located at https://hedhsgdevannualreport.azurewebsites.net, or as otherwise instructed, an annual report consisting of all data required by EOHLC regulations at 760 CMR 61.00 promulgated pursuant to Chapter 334 of the Acts of 2006 and all applicable EOHLC directives, guidelines and forms as may be amended from time to time. The Grantor shall collect said data for the express purpose of reporting to EOHLC, and the collection and reporting of said data shall comply with said regulations, directives, guidelines and forms.
- B. <u>Annual Report.</u> Annually, no later than September 30, Grantor shall submit to each Holder an annual report consisting of the following:
 - (i) Annual adjusted income of each Family occupying a Restricted Unit.
 - (ii) Monthly gross rents (rents plus utility allowances, if applicable) for all Restricted Units, such rents to be consistent with the schedule of maximum rents published annually by EOHLC. The rent schedule shall include the maximum rents applicable to Restricted Units under Section 3 as well as the actual rents to be charged to over-income Families under Section 3.
 - (iii) The Grantor's certification, made to the best knowledge and belief of the officer or individual signing such certification, that:
 - (a) The Property continues to be used for the Permitted Uses.
 - (b) The Property continues to contain the required number of Low Income Units and Extremely Low Income Units and to comply with the rent and other restrictions applicable to such Restricted Units.
 - (c) Grantor has not transferred, pledged or encumbered any interest in the Property, except as specifically provided in, and in accordance and compliance with the terms of, this Restriction.



- (d) Grantor has caused the Property to be maintained in a manner consistent with the Statutes, Regulations and Guidelines and no children under six years old reside in or occupy the Property within the meaning of the Lead Paint Law or, if such children do reside in or occupy the Property, that the Property is in compliance with the Lead Paint Law.
- (e) The information submitted pursuant to this Paragraph B is true and accurate.
- Confidentiality. The Holders and the Grantor shall treat as confidential any of the foregoing information relating to a specific Resident or Unit in compliance with all applicable state and federal statutes and regulations, including M.G.L. c. 66A, and shall implement adequate systems and procedures for maintaining the confidentiality of such information (but the Holders and the Grantor may release general statistical and other information about the Property, so long as the privacy rights and interests of the individual Residents are protected). The Holders and the Grantor shall not use any of the foregoing information in Paragraph A.(iii) for any purpose described in Section 603(d)(1) of the federal Fair Credit Reporting Act (15 U.S.C. § 1681a(d)(1)) or in any manner that would cause a Holder or Grantor to be considered a "consumer reporting agency" under Section 603(f) of the federal Fair Credit Reporting Act (15 U.S.C. § 1681a(f)).
- D. <u>Additional Reports.</u> Grantor shall prepare and submit to the Holders such additional reports as any Holder may deem necessary to ensure compliance with the requirements of this Restriction and of the Programs.
- E. <u>Records.</u> The Grantor shall maintain as part of its records (i) copies of all leases of Restricted Units; (ii) all initial and annual income certifications by Residents of Restricted Units and (iii) such additional records as any Holder may deem necessary to ensure compliance with the requirements of this Restriction and of the Programs.
- F. <u>Additional Reporting Requirements.</u> Additional reporting requirements are stipulated in the Loan Agreement.
- **14. No Demolition.** The Grantor shall not demolish any part of the Improvements or substantially subtract from any real or personal property included within the Property except in conjunction with renovation or rehabilitation of the Units or construction of a new project on the Property, in either case subject to the prior written consent of all Holders, which consent may be granted or withheld in a Holder's sole judgment.
- **15. Casualty.** The Grantor represents, warrants and agrees that if the Property, or any part thereof, shall be damaged or destroyed, the Grantor (subject to the approval of the lender(s) providing financing) will use its best efforts to repair and restore the Units to substantially the same condition as existed prior to the event causing such damage or destruction, and the Grantor represents, warrants and agrees that the Units shall thereafter continue to operate in accordance with the terms of this Restriction.
- **16. Inspection.** The Grantor hereby grants to each Holder and its duly authorized representatives the right to enter the Property (a) at reasonable times and in a reasonable manner for the purpose of inspecting the Property to determine compliance with this Restriction or any other agreement between the Grantor and such Holder and (b) after thirty (30) days' prior written notice,



to take any reasonable and appropriate action under the circumstances to cure any violation of the provisions of this Restriction. The notice referred to in clause (b) shall include a clear description of the course and approximate cost of the proposed cure.

- Enforcement. Upon violation by the Grantor of any of the provisions of this Restriction that remains uncured for more than thirty (30) days after notice thereof from any Holder (or for such longer period not to exceed thirty (30) days as shall be reasonably required under the circumstances to cure such violation, provided that the Grantor has commenced the cure of such violation within the initial thirty (30) day period and is thereafter diligently pursuing the cure to completion), any Holder, at its option (without liability to any party for failure to do so), may apply to any court, state or federal, for specific performance of this Restriction or an injunction against any violation of this Restriction, or for such other relief as may be appropriate, since the injury arising from the default under any of the terms of this Restriction would be irreparable and the amount of damage would be difficult to ascertain and may not be compensable by money alone. In each such default notice, the Holder giving such notice shall specify the violation in question and the actions such Holder believes are necessary and feasible to remedy such violation. No waiver by a Holder of any breach of this Restriction shall be deemed a waiver of such breach by any other Holder or a waiver of any other or subsequent breach. No act or omission by any Holder, other than a writing signed by it waiving a breach by the Grantor in accordance with the next Section hereof, shall constitute a waiver thereof. Any Holder shall be entitled to recover from the Grantor all of such Holder's reasonable costs of an action for enforcement of this Restriction, including reasonable attorneys' fees (including the time of any in-house counsel of a Holder charged at the same rate as comparable outside attorneys). By its acceptance of this Restriction, no Holder undertakes any liability or obligation relating to the condition of the Property. Without limiting any other rights or remedies available to a Holder, any transfer of all or any other portion of the Property in violation of the provisions hereof, in the absence of a certification from all Holders approving, or waiving any restrictions with respect to, the same, all as set forth above, shall, to the maximum extent permitted by law, be voidable by any Holder, by suit in equity to enforce the restrictions hereof.
- **18. Compliance Certification.** Upon written request therefor, a Holder shall provide a statement in form acceptable for recording certifying that the Grantor is in full compliance with the provisions hereof as relate to that Holder, provided such Holder believes that the Grantor is so in compliance. Upon receipt of a written request therefor, if a Holder shall believe that the Grantor is not so in compliance, such Holder shall provide such a recordable certification specifying in detail the section or sections hereof with which such Holder believes the Grantor not to be in compliance. Any third party dealing with the Grantor may rely for all purposes on the truth and completeness of such a certification of a Holder.

19. Senior Lender Foreclosure.

A. Notwithstanding anything herein to the contrary, but subject to the provisions of this Section, including, without limitation, the provisions of Section 19.D., if the holder of record of a first mortgage granted to a state or national bank, state or federal savings and loan association, cooperative bank, mortgage company, trust company, insurance company or other institutional or governmental lender shall acquire the Property by reason of foreclosure or similar remedial action under the provisions of such mortgage or upon conveyance of the



Property in lieu of foreclosure, and provided that the holder of such mortgage has given the Holders not less than sixty (60) days' prior written notice of its intention to foreclose upon its mortgage or to accept a conveyance of the Property in lieu of foreclosure to attempt to structure a workout or other arrangement to avoid such foreclosure, conveyance in lieu of foreclosure, or similar remedial action, then except as provided below, the rights and restrictions herein contained shall not apply to such mortgage holder upon such acquisition of the Property or to any purchaser of the Property from such mortgage holder, and such Property shall, subject to Paragraph B. below, thereafter be free from all such rights and restrictions. Notwithstanding the foregoing, the rights and restrictions contained herein shall terminate only to the extent it is financially infeasible to maintain the level of affordability required by this Restriction or some lesser level of affordability (i.e., fewer Restricted Units or Restricted Units affordable to Families with higher Household Incomes than those required by this Restriction). "Financially infeasible" shall mean (i) with respect to the operation of the Property, that the rent and other income from the Property is, or is reasonably projected to be, less than the reasonable expenses required (or reasonably projected to be required) to maintain and operate the Property and (ii) with respect to a sale of the Property, that the restrictions would prevent (or be reasonably projected to prevent) the senior mortgage holder from recovering all amounts due and owing with respect to its financing of the Property, including without limitation, principal, interest, charges, costs, expenses, late fees and prepayment premiums. Financial infeasibility shall be determined by the senior mortgage holder in its sole discretion after consultation with the Holders. The senior mortgage holder shall notify the Holders of the extent to which the rights and restrictions contained herein shall be terminated and the Grantor agrees to execute any documents required to modify this Restriction to conform to the senior mortgage holder's determination. The Grantor hereby irrevocably appoints any senior mortgage holder and each of the Holders, its true and lawful attorney-in-fact, with full power of substitution, to execute, acknowledge and deliver any such documents on behalf of the Grantor should the Grantor fail or refuse to do so.

- **B.** The rights and restrictions contained herein shall not lapse if the Property is acquired through foreclosure or deed in lieu of foreclosure by (i) the Grantor, (ii) any person with a direct or indirect financial interest in the Grantor, (iii) any person related to a person described in clause (ii) by blood, adoption or marriage, (iv) any person who is or at any time was a business associate of a person described in clause (ii), and (v) any entity in which any of the foregoing have a direct or indirect financial interest (each a "Related Party"). Furthermore, if the Property is subsequently acquired by a Related Party during the period in which this Restriction would have remained in effect but for the provisions of this Section, this Restriction shall be revived and shall apply to the Property as though it had never lapsed.
- C. In the event such mortgage holder conducts a foreclosure or other proceeding enforcing its rights under such mortgage and the Property is sold for a price in excess of the sum of the outstanding principal balances of all notes secured by mortgages of the Property plus all future advances, accrued interest and all reasonable costs and expenses which the holders thereof are entitled to recover pursuant to the terms of such mortgages, such excess shall



be paid to the Holders in consideration of the loss of the value and benefit of the rights and restrictions herein contained and released by the Holders pursuant to this Section in connection with such proceeding, provided that in the event that such excess shall be so paid to the Holders by such mortgage holder, the Holders shall thereafter indemnify such mortgage holder against loss or damage to such mortgage holder resulting from any claim made by the mortgagor of such mortgage to the extent that such claim is based upon payment of such excess by such mortgage holder to the Holders in accordance herewith, provided that such mortgage holder shall give the prompt notice of any such claim and shall not object to intervention by the Holders in any proceeding relating thereto. The Holders shall share any such excess pro rata in proportion to the respective amounts of principal and interest (if any) then outstanding on their portions of the Loan and the liability of a Holder under the foregoing indemnity shall be limited to the amount of such excess received by it. To the extent the Grantor possesses any interest in any amount which would otherwise be payable to the Holders under this Paragraph, to the full extent permissible by law, the Grantor hereby assigns its interest in such amount to said mortgage holder for payment to the Holders.

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- D. It is hereby agreed, notwithstanding the provisions of Section 19.A, or any other provision in this Restriction to the contrary, (i) the rights and affordability restrictions affecting the four (4). Units restricted in connection with the Town's grant of funds under the CPA Program as set forth on Exhibits C and C-1 (the "CPA Units"), shall not lapse with respect to the CPA Units if the Grantor's interest in the Property is acquired through foreclosure or similar remedial action under the provisions of any mortgage or upon the conveyance of the Grantor interest in lieu of foreclosure, without regard to whether it is Financially infeasible to maintain the level of affordability required by the CPA Units, and (ii) that this Restriction, with respect to the CPA Units, shall remain in effect for the benefit of and be enforceable by the Town in perpetuity and shall apply to any mortgage holder or purchaser of Borrower's interest in the Property.
- P-E. This Restriction is senior to the MHP first mortgage loan, as the same may be amended, modified or restated. MHP may terminate, modify or subordinate this Restriction in accordance with and subject to the requirements set forth in Paragraphs A. through C. above. The Grantor agrees to execute any documents required so to terminate, modify or subordinate this Restriction. The Grantor understands and agrees that, in the event of foreclosure of the MHP first mortgage loan and the exercise by MHP of the Power of Sale therein, the Property will be sold subject to the restrictions imposed hereby, unless MHP exercises its rights to terminate, modify or subordinate this Restriction prior to such sale. The Grantor hereby irrevocably appoints MHP, or any agent designated by MHP, its true and lawful attorney-infact, with full power of substitution, to execute, acknowledge and deliver any such documents on behalf of the Grantor should the Grantor fail or refuse to do so.
- **20. Notices.** Except for any notice required under applicable law to be given in a different manner, any notice, request or other communication which any party hereto may be required or may desire to give hereunder shall be made in writing, and shall be deemed to have been properly given if hand delivered, if sent by recognized overnight courier, receipt confirmed, or if mailed by United States registered or certified mail, postage prepaid, return receipt requested, addressed to the parties at their



respective addresses first set forth above, or to such other address as the party to be served with notice may have furnished in writing to the party seeking or desiring to serve notice as a place for the service of notice. A notice sent by any of the foregoing methods shall be deemed given upon documented receipt or refusal. The Holders shall use reasonable efforts to send courtesy copies of all notices sent to the Grantor to the Grantor's investor at the address set forth below, provided that any failure to send such a courtesy copy shall not affect the validity of any notice: MCI Cloverleaf, LLC, 410 Monon Boulevard, 4th Floor, Carmel, Massachusetts 46032.

- 21. Successors and Assigns; No Third-Party Beneficiaries. This Restriction shall be binding upon the Grantor and its successors and assigns, and shall burden the Property as specified herein. This Restriction shall also be binding upon the Holders, and shall inure to the benefit of their successors and assigns, provided that a Holder shall not voluntarily assign its rights hereunder unless (a) such Holder believes in good faith that it is no longer reasonably capable of performing its duties hereunder, and (b) such assignment shall be to a governmental body or an entity of a similar character and purposes to such Holder which is reasonably capable of performing such duties hereunder (except that EOHLC's rights with respect to the Purchase Option and First Refusal Right are assignable, as set forth herein).
- **22. Severability; Construction.** All rights, powers and remedies provided herein may be exercised only to the extent that exercise thereof does not violate any applicable law, and are intended to be limited to the extent necessary so that they will not render this Restriction invalid, unenforceable or not entitled to be recorded, registered or filed under applicable law. If any provision or part hereof shall be affected by such holding, the validity of other provisions of this Restriction and of the balance of any provision held to be invalid, illegal or unenforceable, in part only, shall in no way be affected thereby, and this Restriction shall be construed as if such invalid, illegal, or unenforceable provision or part hereof had not been contained herein. In the event of any actual or potential inconsistency between the terms of this Restriction and any of the Statutes and/or the Regulations, such terms shall be interpreted, to the extent reasonably possible, so as to reconcile any such inconsistencies. If such provisions cannot reasonably be reconciled, the provisions of the Statutes, the Regulations and this Restriction, in the foregoing order of priority, shall control.
- **23. Governing Law.** This Restriction shall be governed by the laws of The Commonwealth of Massachusetts. Inasmuch as the restrictions contained herein have been imposed upon the Property in part to satisfy requirements of various governmental bodies referred to herein, including, without limitation, EOHLC, the restrictions contained herein are intended to be construed as a restriction held by a governmental body with the benefit of Section 26 of Chapter 184 of the Massachusetts General Laws as existing as of the date hereof, such that the restrictions contained herein shall not be limited in duration by any rule or operation of law, but rather shall run for the full term thereof.
- **24. Recording.** The Grantor, at its cost and expense, shall cause this Restriction and any amendment hereto to be duly recorded with the Registry of Deeds (and if necessary or appropriate, re-recorded), shall pay or cause to be paid all recording, filing, or other taxes, fees and charges and shall comply with all such statutes and regulations as may be required by law in order to establish, preserve and protect the ability of the Holders and their successors and assigns to enforce this Restriction.

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- **25. Further Assurances.** Each Holder is authorized to record or file any notices or instruments appropriate to assuring the enforceability of this Restriction; and the Grantor on behalf of itself and its successors and assigns appoints each Holder its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor and its successors and assigns agrees to execute any such instruments upon request. The benefits of this Restriction shall be in gross and shall be assignable by any Holder. The Grantor and the Holders intend that the restrictions arising hereunder take effect upon the date hereof, and to the extent enforceability by any person ever depends upon the approval of governmental officials, such approval when given shall relate back to the date hereof regardless of the date of actual approval or the date of filing or recording of any instrument evidencing such approval.
- **26. Counterparts.** This Restriction may be executed in several counterparts, each of which when executed and delivered shall be an original, but all of which together shall constitute one instrument. In making proof of this Restriction, it shall not be necessary to produce or account for more than one such counterpart executed by the party against whom enforcement of this Restriction is sought.
- **27. MHP Assignment to EOHLC**. If Massachusetts Housing Partnership Fund Board, as agent for HSITF, assigns to EOHLC its rights under that certain Mortgage, Security Agreement and Conditional Assignment of Leases and Rents dated of even date herewith by Grantor in favor of the Holders, then upon the recordation of such assignment, all rights hereunder with respect to the HSF Program shall automatically vest in EOHLC and the Massachusetts Housing Partnership shall no longer act as agent for HSITE hereunder.
- **28. Incorporation of Exhibits and Riders.** Any and all exhibits and riders attached hereto or otherwise referenced herein are hereby incorporated by reference, the same as if each were fully set forth herein.
- 29. Amendment; Waiver; Consents. This Restriction may not be amended, nor may any obligation hereunder be waived or released, without first obtaining the written signature of Massachusetts Housing Partnership Fund Board, as agent for The Commonwealth of Massachusetts, acting by and through the Executive Office of Housing and Livable Communities under the Housing Stabilization and Investment Trust Fund Statute, M.G.L. c. 121F as agent for all Holders. 121F as agent for all Holders provided, however, that no amendments affecting the CPA Units and/or the provisions of Section 19.D. shall take effect without the prior written consent and signature of the Town, and in no event shall the expiration or earlier termination of this Agreement affect Grantor's obligations to the Town under Section 19.D with respect to the CPA Units. Any consent or approval by the Holders of this Restriction shall be communicated by Massachusetts Housing Partnership Fund Board, as agent for The Commonwealth of Massachusetts, acting by and through the Executive Office of Housing and Livable Communities under the Housing Stabilization and Investment Trust Fund Statute, M.G.L. c. 121F as agent for all Holders.
- **30. Risk-Sharing.** Rider A attached hereto constitutes a part of this Restriction and the agreements contained therein shall be in addition to and not in derogation of any other terms and conditions contained herein and shall continue in full force and effort during the term of this

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Restriction and the term of the Leasehold Mortgage, Security Agreement and Assignment of Leases and Rents which secures the MHP First Mortgage Loan (the "Insured Mortgage").

No documentary stamps are required as this Restriction is not being purchased by the Holders.

[SIGANTURE [SIGNATURE (S) APPEAR ON THE FOLLOWING PAGE(S)]



Executed under seal as of the date set forth above.

CLOVERLEAF TRURO LLC, a Massachusetts limited liability company

liability company			
		-	CLOVERLEAF TRURO MM LLC, its Managing Member
			By: Name: Its: Authorized Agent
COMMONWE	ALTH OF MASSACHUSETTS		
	County, ss.		
appeared identification, knowledge of to or attached do Agent of Clov	, pr which was (a current driver' the identity of the principal), to ocument, and acknowledged to	oved to solicens be the period of the the grant of the gr	e, the undersigned notary public, personally o me through satisfactory evidence of se) (a current U.S. passport) (my personal person whose name is signed on the preceding at he/she signed it voluntarily, as Authorized ember of Cloverleaf Truro LLC, for its stated
Notary Public			
My commissio	n expires:		
RIDER A EXHIBIT A EXHIBIT B EXHIBIT B-1 EXHIBIT C EXHIBIT C-1 EXHIBIT D	Projected Initial Rent Schedule Initial Affordability Matrix		its Other Than Home Assisted Units ome Assisted Units



RIDER A



EXHIBIT A : PROPERTY DESCRIPTION



EXHIBIT B : PROJECTED INITIAL RENT SCHEDULE FOR UNITS OTHER THAN HOME ASSISTED UNITS

(Rents assume that the Grantor pays all utilities. An allowance for any utilities paid by tenants must be deducted from these rents. Utility allowances are to be established by the Holders using the HUD guidance pursuant to 24 CFR 92.252 (d).)

INCOME LEVEL

UNIT TYPE	EXTREMELY LOW INCOME	VERY LOW INCOME	LOW INCOME	MODERATE INCOME	HIGH MODERATE INCOME
SRO	\$665.00	\$1,107.00	\$1,329.00	\$1,712.00	\$2,436.00
STUDI OS	\$665.00	\$1,107.00	\$1,329.00	\$1,712.00	\$2,436.00
1-BR	\$712.00	\$1,186.00	\$1,424.00	\$1,834.00	\$2,611.00
2-BR	\$855.00	\$1,423.00	\$1,708.00	\$2,201.00	\$3,132.00
3-BR	\$988.00	\$1,646.00	\$1,975.00	\$2,543.00	\$3,621.00
4-BR	\$1,102.00	\$1,836.00	\$2,203.00	\$2,836.00	\$4,039.00



EXHIBIT B-1: PROJECTED INITIAL RENT SCHEDULE FOR HOME ASSISTED UNITS

(Rents assume that the Grantor pays all utilities. An allowance for any utilities paid by tenants must be deducted from these rents. Utility allowances are available from the local housing authority.) For Studios without both a kitchen and bathroom (i.e. an SRO), the rent will be 75% of the Fair Market Rent for a Studio.

INCOME LEVEL

UNIT TYPE	VERY LOW INCOME	LOW INCOME
STUDIOS	\$1,007.00	\$1,290.00
1-BR	\$1,079.00	\$1,383.00
2-BR	\$1,295.00	\$1,662.00
3-BR	\$1,496.00	\$1,911.00
4-BR	\$1,670.00	\$2,113.00



EXHIBIT C: INITIAL AFFORDABILITY MATRIX -- NOTE THAT IN ORDER TO SATISFY THE AFFORDABILITY REQUIREMENTS OF THE MHP FIRST MORTGAGE LOAN AT LEAST EIGHTEEN OF THE TOTAL UNITS SHALL BE LOW INCOME UNITS.

		INCOME CATEGORY				
NUMBER/SIZE OF UNITS REQUIRED BY	TERM	HIGH MODERATE INCOME (110 100% AMI)	MODERATE INCOME (80% AMI)	LOW INCOME (60% AMI)	VERY LOW INCOME (50% AMI)	EXTREMELY LOW INCOME (30% AMI)
АНТ	40 years	SRO Studio 1-BR 3 2-BR 1 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 19 1-BR 10 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 3 1-BR 2 2-BR 1 3-BR 4-BR
HSF	50 years	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 19 1-BR 10 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 3 1-BR 2 2-BR 1 3-BR 4-BR
MHFA ARPA	[50 years]	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 19 1-BR 10 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 3 1-BR 2 2-BR 1 3-BR 4-BR
BARNSTABLE COUNTY HOME	40 99 years	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 2 1-BR 3 2-BR 3-BR 4-BR	SRO Studio 3 1-BR 2 2-BR 1 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR
BARNSTABLE COUNTY ARPA	20 years	SRO 	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 19 1-BR 10 2-BR 3-BR 4-BR	SRO 	SRO Studio 3 1-BR 2 2-BR 1 3-BR 4-BR
<u>NFIT</u>	40 years	SRO Studio	SRO Studio	SRO Studio	SRO Studio	<u>SRO</u> Studio

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[Exhibit C]



BARNSTABLE COUNTY ARPAMHP WORKFORCE HOUSING	40 years[]	1-BR 2-BR 3-BR 4-BR SRO Studio 1-BR -3 2-BR1 3-BR 4-BR	1-BR 2-BR 3-BR 4-BR SRO Studio 1-BR 2-BR 2-BR 4-BR	13 1-BR 10 2-BR 3-BR 4-BR SRO Studio 19 1-BR 10 2-BR 3-BR 4-BR	1-BR 2-BR 3-BR 4-BR SRO Studio 1-BR 2-BR 2-BR 4-BR 4-BR	3 1-BR 2 2-BR 1 3-BR 4-BR SRO Studio 3 1-BR 2 2-BR 1-3-BR 1-3-BR	 Formatted: Not All caps
LOCAL AHT	<u>Perpetual</u>	SRO Studio — 1-BR 3 2-BR 1 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 19 1-BR 10 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 3 1-BR 2 2-BR 1 3-BR 4-BR	
NFITTRURO CPA	40 years Perpe tual	SRO Studio 1-BR 3-2-BR 1 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 121-BR 12-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR- 3-BR 4-BR	SRO Studio 31-BR 2-BR 13-BR 4-BR	 Formatted: A-MD-bold-text, Not All caps Formatted: All caps
COMPOSITE		SRO STUDIO 1-BR _23_2-BR 4-BR	SRO STUDIO 1-BR 2-BR 3-BR 4-BR	SRO STUDIO 19 1-BR #110 2-BR 3-BR 4-BR	SRO STUDIO 1-BR 2-BR 3-BR 4-BR	SRO STUDIO 3 1-BR 2 2-BR 1 3-BR 4-BR	Formatted: All caps Formatted: All caps

NOTE: As set forth in Section 2, the Property must include at least four (4) Units accessible to individuals with mobility impairments (consisting of 3 one-bedroom Units and 1 two-bedroom Unit) and at least one (1) additional Units accessible to individuals with sensory impairments (consisting of 1 one-bedroom Unit).

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[Exhibit C]



<u>Exhibit C-1</u>: **POST-HAP AFFORDABILITY MATRIX** -- NOTE THAT IN ORDER TO SATISFY THE AFFORDABILITY REQUIREMENTS OF THE MHP FIRST MORTGAGE LOAN AT LEAST EIGHTEEN OF THE TOTAL UNITS SHALL BE LOW INCOME UNITS.

		INCOME CATEGORY				
NUMBER/SIZE OF UNITS REQUIRED BY	TERM	HIGH MODERATE INCOME (110 100% AMI)	MODERATE INCOME (80% AMI)	LOW INCOME (60% AMI)	VERY LOW INCOME (50% AMI)	EXTREMELY LOW INCOME (30% AMI)
АНТ	40 years	SRO Studio 1-BR 3 2-BR 1 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 19 1-BR 10 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 3 1-BR 2 2-BR 1 3-BR 4-BR
HSF	50 years	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 19 1-BR 10 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 3 1-BR 2 2-BR 1 3-BR 4-BR
MHFA ARPA	[50 years]	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 19 1-BR 10 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 3 1-BR 2 2-BR 1 3-BR 4-BR
BARNSTABLE COUNTY HOME	4 <u>099</u> years	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 4 <u>14</u> <u>1</u> - BR 4 <u>24 </u>	SRO Studio ++1 1 -BR -2-22 -BR 3 -BR 4 -BR	SRO Studio 1-BR 2-BR 3-BR 4-BR
BARNSTABLE COUNTY ARPA	4 <u>020</u> years	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 19 1-BR 10 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 3 1-BR 2 2-BR 1 3-BR 4-BR
NFIT	40 years	SRO Studio	SRO Studio	SRO Studio	SRO Studio	SRO Studio

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[Exhibit C-1]



		1-BR 2-BR 3-BR 4-BR	1-BR 2-BR 3-BR 4-BR	1213 1-BR 1110 2-BR 1110 3-BR 14-BR	1-BR 2-BR 3-BR 4-BR	3 1-BR 2 2-BR 1 3-BR 4-BR
MHP WORKFORCE HOUSING	[]	SRO Studio 1-BR 3_2-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO_ Studio 1-BR 2-BR 3-BR 4-BR
LOCAL AHT	<u>Perpetual</u>	SRO 1-BR 	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 19 1-BR 10 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 3 1-BR 2 2-BR 1 3-BR 4-BR
TRURO CPA	<u>Perpetual</u>	SRO Studio 1-BR 3 2-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR
COMPOSITE		SRO STUDIO 1-BR 23 2-BR 1 3-BR 4-BR	SRO STUDIO 1-BR 2-BR 3-BR 4-BR	SRO STUDIO 19 1-BR 1+10 2-BR 3-BR 4-BR	SRO STUDIO 1-BR 2-BR 3-BR 4-BR	SRO STUDIO 3 1-BR 2 2-BR 1 3-BR 4-BR

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[Exhibit C-1]



EXHIBIT D: ADDITIONAL DEFINITIONS

Following are additional definitions used in this Affordable Housing Restriction:

<u>Administrator</u>: shall mean Massachusetts Housing Finance Agency, a body politic and corporate and a public instrumentality of The Commonwealth of Massachusetts, or its successors and assigns as applicable.

"AHT Guidelines" shall mean the guidelines issued by EOHLC regarding the AHT Program, as the same may be amended, supplemented, replaced or otherwise modified from time to time.

"AHT Program" shall mean the Affordable Housing Trust Fund loan program established under the AHT Statute under which AHT makes loans available to sponsors of affordable housing for Low Income and Extremely Low Income Families.

"AHT Statute" shall mean the Massachusetts Affordable Trust Fund Statute, M.G.L. c.121D.

"Area" shall mean Barnstable, MA MSA.

"ARPA Program" shall mean American Recovery Plan Act loan program, under which (i) EOHLC contracts to make funds available through MHFA and other financial intermediaries, for such financial intermediaries to loan to sponsors of certain types of affordable housing, subject to and in accordance with the provisions of the ARPA Statute, and (ii) the Barnstable County ARPA Lender makes loans to sponsors of certain types of affordable housing, subject to and in accordance with the provisions of the ARPA Statute.

"ARPA Regulations" shall mean the regulations relating to the ARPA Program issued by the United States Department of the Treasury at 31 CFR Part 35 in effect as of January 27, 2022, as the same may be amended, supplemented, replaced or otherwise modified from time to time.

"ARPA Statute" shall mean Sections 602 and 603 of the Social Security Act as added by Section 9901 of the American Rescue Plan Act of 2021, as allocated in the Commonwealth of Massachusetts by Section 2A of Chapter 102 of the Acts of 2021 (line item 1599-2022), as each may be amended, supplemented, replaced or otherwise modified from time to time.

"Bedroom Adjusted AMI" applicable to a Unit shall mean the median income for the Area, with adjustments for the number of bedrooms in such Unit, as determined from time to time by HUD pursuant to Section 8 of the United States Housing Act of 1937, as amended. For purposes of adjustments for the number of bedrooms in a Unit, a Unit that does not have a separate bedroom is assumed to be occupied by one individual and a Unit with one or more separate bedrooms is deemed assumed to be occupied by 1.5 individuals for each bedroom (with the total number of individuals rounded up).

"CPA Guidelines" shall mean the bylaw of the Truro accepting the provisions of Sections 3 through 7 of the CPA Statute, together with any guidelines issued by the Town and the Truro Community Preservation Committee regarding the CPA Program, as the same may be amended, supplemented, replaced or otherwise modified from time to time.



"CPA Program" shall mean the Community Preservation Fund loan program established by the Town under the CPA Statute under which the Town makes loans available to sponsors of certain types of affordable housing and for other purposes authorized by the CPA Statute.

"CPA Statute" shall mean Chapter 44B of the Massachusetts General Laws, as the same may be amended, supplemented, replaced or otherwise modified from time to time.

"CPA Regulations" shall mean the informational Guidance Release 01-207 (September 2001), Informational Guidance Release 00-209 (December 2000) and any other bulletins, opinions, guidance or regulations relating to the CPA Statute issued or promulgated by the Commissioner of Revenue of The Commonwealth of Massachusetts, as the same may be amended, supplemented, replaced or otherwise modified from time to time.

"Extremely Low Income Family" shall mean a Family whose Household Income is less than or equal to thirty percent (30%) of the Family-size Adjusted AMI.

"<u>Fair Market Rent</u>" shall mean the fair market rent in the Area for a comparably-sized dwelling as established by HUD under regulations promulgated at 24 C.F.R. §888.11 (or successor regulations), minus a monthly allowance established by the Holders for any utilities and services (excluding telephone) to be paid by the occupying Family.

"Family" shall have the meaning set forth in 24 C.F.R. §5.403 (or any successor regulation). Notwithstanding the foregoing, a household comprised of a full-time student or students shall not qualify as a Family except as permitted under the federal low-income housing tax credit program pursuant to Section 42(i)(3)(D) of the Internal Revenue Code of 1986, as amended.

"<u>Family-size Adjusted AMI</u>" shall mean the median income for the Area, adjusted for family size, as determined from time to time by HUD pursuant to Section 8 of the United States Housing Act of 1937, as amended.

"<u>Grantor</u>" shall mean the Grantor named on the first page hereof or any successor or assign thereof permitted under Section 8 of this Restriction, including any party holding ownership interests in or with respect to the Property.

"<u>Guidelines</u>" shall mean the AHT Guidelines, the HOME Guidelines, the HSF Guidelines, and the NFIT Guidelines, the Local AHT Guidelines, and the CPA Guidelines.

"<u>High Moderate Income Family</u>" shall mean a Family whose Household Income is less than or equal to one-hundred-ten percent (110%) of the Family-size Adjusted AMI.

"<u>Holder</u>" shall mean each of EOHLC, MHP, AHT, HSITF, the Barnstable County ARPA Lender, the Barnstable County HOME Lender, and MHFA ARPA Lender, and the <u>Town</u>, or, as applicable, each successor or assign of the foregoing and "Holders" shall mean all of the foregoing parties, collectively.

"HOME Guidelines" shall mean the guidelines issued by EOHLC and the Barnstable County HOME Lender regarding the HOME Program, as the same may be amended, supplemented, replaced or otherwise modified from time to time.



"HOME Program" shall mean the federal HOME Investment Partnerships Program under which the Barnstable County HOME Lender makes loans available to sponsors of certain types of affordable housing.

"HOME Regulations" shall mean 24 C.F.R. Part 92.

"<u>Household Income</u>" shall mean a Family's adjusted annual income determined in the manner set forth in 24 C.F.R. §5.609 (or any successor regulations).

"<u>HSF Guidelines</u>" shall mean the guidelines issued by EOHLC regarding the HSF Program, as the same may be amended, supplemented, replaced, or otherwise modified from time to time.

"<u>HSF Program</u>" shall mean Housing Stabilization Fund loan program, established for the purpose of facilitating the creation and preservation of affordable housing, under which EOHLC contracts to make funds available through MHP and other financial intermediaries, for such financial intermediaries to loan to sponsors of affordable housing for Low Income and Extremely Low Income Families, subject to and in accordance with the provisions of the HSF Statute.

"<u>HSF Regulations</u>" shall mean the regulations relating to the HSF Program promulgated by EOHLC at 760 Code of Massachusetts Regulations, Section 24.00 et. seq., as the same may be amended, supplemented, replaced or otherwise modified from time to time.

"HSF Statute" shall mean the Massachusetts Housing Stabilization and Investment Trust Fund Statute, M.G.L. c. 121F, as affected by and by Section 2 of Chapter 99 of the Acts of 2018 (budget line item 7004 0053), as the same may be amended, supplemented, replaced or otherwise modified from time to time.

 $\ensuremath{^{"}\underline{HUD}}\ensuremath{^{"}}$ shall mean the United States Department of Housing and Urban Development.

"Improvements" shall mean the building or buildings on the Property presently containing, or after completion of the planned construction to contain, the number of Units indicated on the first page hereof, and all other authorized buildings, structures and improvements located on the Property from time to time, all equipment and fixtures therein, and any authorized repair, improvement, reconstruction, restoration, renovation, or replacement of a capital nature thereto or otherwise on the Property.

"<u>Loan</u>" shall mean collectively, the loans for the Project being provided to the Grantor under the Programs.

"Loan Documents" shall mean collectively, the documents evidencing and securing the Loan.

"Local AHT Guidelines" shall mean the guidelines issued by the Town regarding the Local AHT Program, as the same may be amended, supplemented, replaced or otherwise modified from time to time.

"Local AHT Program" shall mean the Affordable Housing Trust Fund loan program established by the Town of Truro under the Local AHT Statute under which the Town makes loans available to sponsors of certain types of affordable housing.

"Local AHT Statute" shall mean the [name of AHT ordinance], as the same may be amended, supplemented, replaced or otherwise modified from time to time.



"Local AHT Regulations" shall mean the regulations relating to the Local AHT Program promulgated by the Town, as the same may be amended, supplemented, replaced or otherwise modified from time to time.

"Low Income Family" shall mean a Family whose Household Income is less than or equal to sixty percent (60%) of the Family-size Adjusted AMI.

"Moderate Income Family" shall mean a Family whose Household Income is less than or equal to eighty percent (80%) of the Family-size Adjusted AMI.

"NFIT Guidelines" shall mean any guidelines issued by EOHLC with respect to the NFIT Program.

"NFIT Program" shall mean the Non-Federal Investment Trust Fund under which EOHLC makes loans available to sponsors of certain types of affordable housing.

"Over-income Rent" shall mean, for a particular over-income Family, a monthly rent equal to the lesser of (x) the maximum amount payable by the Family under the laws of the municipality in which the Property is located or of The Commonwealth of Massachusetts, (y) one-twelfth of thirty percent (30%) of the Family's Household Income as recertified annually or (z) the comparable market rent for the Family's Unit, but in no event lower than the rent such Family was paying prior to becoming an over-income Family.

"<u>Permitted Encumbrances</u>" shall mean those encumbrances on the Property identified in the mortgage granted to the Holders of even or near date herewith.

"<u>Permitted Uses</u>" shall mean use of the Improvements for the number of rental Units indicated on the first page hereof, including the number of Restricted Units indicated on the first page hereof. Such Permitted Uses shall include activities and/or services of a nature to benefit the Residents of the Restricted Units.

"<u>Programs</u>" shall mean the AHT Program, the HSF Program, the ARPA Program, the HOME Program, and the NFIT Program, the Local AHT Program, the CPA Program [and the Workforce Housing Program].

"<u>Property</u>" shall mean that certain parcel or parcels of land located at the Property Address indicated on the first page hereof and more particularly described in <u>Exhibit A</u> attached hereto, together with all Improvements thereon.

"Registry of Deeds" shall mean the Barnstable County Registry of Deeds.

"Regulations" shall mean the HSF Regulations, the ARPA Regulations, and the HOME Regulations. the Local AHT Regulations and the CPA Regulations.

"Residents" shall mean the lawful occupants of the Units.

"Restricted Unit" shall mean a Unit required by the terms hereof to be rented to a High Moderate Income Family, a Low Income Family or an Extremely Low Income Family.

"SRO Unit" shall mean a single-room (zero bedroom) Unit intended for occupancy by a single eligible Resident and that may contain partial food preparation and/or sanitary facilities.



"<u>Statutes</u>" shall mean the AHT Statute, the HSF Statute, and the ARPA <u>Statute-the ARPA Statute</u>, the Local AHT <u>Statute</u>, the CPA <u>Statute [and the Workforce Housing Statute]</u>.

"<u>Studio Unit</u>" shall mean a single-room (zero bedroom) Unit that contains a complete kitchen and bathroom.

"Unit" shall mean any residential unit located on the Property.

"<u>Very Low Income Family</u>" shall mean a Family whose Household Income is less than or equal to fifty percent (50%) of the Family-size Adjusted AMI.

["Workforce Housing Program" shall mean workforce housing loan program, under which MHP makes loans to sponsors of certain types of affordable housing, subject to and in accordance with the provisions of the Workforce Housing Statute.]

["Workforce Housing Statute" shall mean the [Sections 602 and 603 of the Social Security Act as added by Section 9901 of the American Rescue Plan Act of 2021] and Item 1599-6084 of Chapter 268 of the Massachusetts Act of 2022, as each may be amended, supplemented, replaced or otherwise modified from time to time.]



AFFORDABLE HOUSING RESTRICTION

DATE: As of [December ____], 2024

GRANTOR:		Cloverleaf Truro LLC			
PROPERTY NAME:	Cloverleaf				
TOTAL NUMBER OF UNITS:		43			
TOTAL NUMBER OF RESTRICT	TED UNITS:1	39			
NUMBER OF HIGH MODERATE	INCOME UNITS (100% AMI):2	4			
NUMBER OF MODERATE INCO	DME UNITS (80% AMI):	0			
NUMBER OF LOW INCOME UNITS (60% AMI):					
NUMBER OF VERY LOW INCOME UNITS (50% AMI):					
NUMBER OF EXTREMELY LOW INCOME UNITS (30% AMI):					
NUMBER OF HOME ASSISTED UNITS:					
PROPERTY ADDRESS:	Before completion of construction: 22 Highlan	d Road, Truro,			
	Massachusetts; after completion of construction	on: 1-22 Cloverleaf			
	Trail, Truro, Massachusetts				

This Affordable Housing Restriction (this "Restriction") is granted by the undersigned Grantor, a Massachusetts limited liability company having a mailing address of c/o Community Housing Resources, Inc., 36 Conwell Street, Provincetown, Massachusetts 02657, for the benefit of The Commonwealth of Massachusetts acting by and through the Executive Office of Housing and Livable Communities having a mailing address of 100 Cambridge Street, Suite 300, Boston, Massachusetts 02114-2524 ("EOHLC"); The Commonwealth of Massachusetts, acting by and through the Executive

Perpetual

AFFORDABILITY TERM:

 $^{^{1}}$ In order to satisfy the affordability requirements of the MHP first mortgage loan at least eighteen of the total Units shall be Low Income Units.

²Numbers in parentheses are the percentage of median income for the Area (AMI, as defined below), adjusted for family size, as determined from time to time by HUD (as defined below) pursuant to Section 8 of the United States Housing Act, as amended.



Office of Housing and Livable Communities under the Affordable Housing Trust Fund Statute, M.G.L. c. 121D, by the Massachusetts Housing Finance Agency ("MHFA"), as Administrator, having an address at One Beacon Street, Boston, Massachusetts 02108 ("AHT"); Massachusetts Housing Partnership Fund Board, having a mailing address of 160 Federal Street, Boston, Massachusetts 02110 ("MHP"), as agent for The Commonwealth of Massachusetts, acting by and through the Executive Office of Housing and Livable Communities under the Housing Stabilization and Investment Trust Fund Statute, M.G.L. c. 121F ("HSITF"); Barnstable County, a body politic of the Commonwealth of Massachusetts, as recipient and sub-grantor of State and Local Fiscal Recovery Funds through the American Rescue Plan Act (ARPA), acting by and through its County Commissioners, having an address at 3195 Main Street, P.O. Box 427, Barnstable, Massachusetts 02630 ("Barnstable County ARPA Lender"); Barnstable County, a body politic of the Commonwealth of Massachusetts, as lead entity for the Barnstable County HOME Consortium, acting by and through its County Commissioners, having an address at 3195 Main Street, P.O. Box 427, Barnstable, Massachusetts 02630 ("Barnstable County HOME Lender"); Massachusetts Housing Finance Agency, having a mailing address of One Beacon Street, Boston, Massachusetts 02108, as agent for The Commonwealth of Massachusetts, acting by and through the Executive Office of Housing and Livable Communities (the "MHFA ARPA Lender"); and the Town of Truro, Massachusetts, [acting by and through its Select Board], having an address at 24 Town Hall Road, Truro, Massachusetts 02666 (the "Town").

As of the date hereof, Massachusetts Housing Partnership Fund Board, a Massachusetts public instrumentality and body politic and corporate, with an office at 160 Federal Street, 2nd Floor, Boston, Massachusetts 02110 ("MHP"), is making a loan to the Grantor under the Massachusetts workforce housing program funded under the American Rescue Plan Act of 2021 and set forth in Item 1599-6084 of Chapter 268 of the Massachusetts Act of 2022 (the "Workforce Housing Fund Loan"), and accordingly, MHP, together with its successors and assigns, in its capacity as workforce housing fund lender (the "Workforce Housing Fund Lender"), shall be deemed a Holder of this Restriction.

In addition, MHP is, or is anticipated to be, the first mortgage lender for the Project (as defined below). Upon the closing of the MHP first mortgage loan for the Project, MHP, together with its successors and assigns, in its capacity as first mortgage lender, shall be deemed a Holder of this Restriction. The Grantor acknowledges that, notwithstanding the order of recording, this Restriction is senior to the MHP first mortgage loan, subject to the provisions of Section 19 below.

BACKGROUND

- A. The Grantor holds or will acquire a leasehold interest in the Property from the Town and intends to construct a 43-unit rental housing development, consisting of ten residential buildings, at the Property (the "Project").
- B. As a condition of (i) the Loan, (ii) the Workforce Housing Loan, and (iii) the Town's grant to Sponsor under the Local AHT Program and the CPA Program, the proceeds of which the Sponsor will loan to the Grantor, the Grantor has agreed that this Restriction be imposed upon the Property as a covenant running with the land and binding upon any successor to the Grantor, as owner thereof.



RESTRICTIONS

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor hereby covenants as follows:

- 1. **Definitions.** Capitalized terms used herein are defined herein and in $\underline{\text{Exhibit D}}$ attached hereto.
- 2. Use Restrictions. The Property shall be reserved and used for the Permitted Uses and for no other purpose. The Restricted Units shall include at least 22 one-bedroom Units, 15 twobedroom Units and 2 three-bedroom Units. Eleven of the Restricted Units shall be deemed to be assisted under the HOME Program ("HOME Assisted Units") provided that certain of the provisions of the HOME Program may cease to be effective 20 years after the completion of the Project (the "HOME Term") as more fully set forth in Section 5.2 of the Loan Agreement between Grantor as Borrower and Massachusetts Housing Partnership Fund Board, as agent for The Commonwealth of Massachusetts, acting by and through the Executive Office of Housing and Livable Communities under the Housing Stabilization and Investment Trust Fund Statute, M.G.L. c. 121F for itself and as agent for certain other lenders. Such HOME Assisted Units may also constitute Restricted Units with respect to other programs hereunder. As of the date hereof, the Property has or is expected to have the benefit of a contract for 8 project-based vouchers under Section 8 of the United States Housing Act of 1937, as amended (the "Section 8 Contract"), 8 project-based vouchers under the Massachusetts Rental Voucher Program (the "MRVP Contract") and 3 [project-based vouchers under the Massachusetts Alternative Housing Voucher Program] (the "AHVP Program" and, collectively with the Section 8 Contract and the MRVP Contract, the "Rental Subsidy Contracts"). If during the HOME Term any of the Rental Subsidy Contracts is not renewed at the end of its term or is terminated or otherwise is no longer in full force and effect, the number of HOME Assisted Units required to be Very Low Income Units (as set forth on Exhibit C) shall be reduced to 3 Units of the types shown on Exhibit C-1 and the number of HOME Assisted Units required to be Low Income Units (as set forth on Exhibit C) shall be increased to 8 Units of the types shown on Exhibit C-1. In such event, references in this Restriction to Exhibit C shall thereafter be deemed to refer to Exhibit C-1. Furthermore, if during the Term any of the Rental Subsidy Contracts is not renewed at the end of its term or is terminated or otherwise is no longer in full force and effect, the Holders will consider a request by the Grantor to modify the mix of Restricted Units by converting Extremely Low Income Units to Very Low Income Units or Low Income Units. A decision by the Holders on such a request shall take into consideration the financial viability of the Property and shall be made in the sole reasonable discretion of the Participating Lenders who have required such Extremely Low Income Units, as shown on Exhibit C. The Property also shall include at least four (4) Units accessible to individuals with mobility impairments (consisting of 3 one-bedroom Units and 1 two-bedroom Unit) and at least one (1) additional Units accessible to individuals with sensory impairments (consisting of 1 one-bedroom Unit). Each Unit shall contain complete facilities for living, sleeping, eating, cooking and sanitation that are to be used on other than a transient basis. Each Unit shall meet the housing quality standards set forth in the regulations of HUD at 24 C.F.R. §982.401 or any successor thereto, the accessibility requirements at 24 C.F.R.



Part 8 or any successor thereto (which implement Section 504 of the Rehabilitation Act of 1973), and, if applicable, the design and construction requirements of 24 C.F.R. §100.205 or any successor thereto (which implement the Fair Housing Act). The Restricted Units shall be of comparable quality to the other Units at the Property. The Restricted Units shall be dispersed evenly throughout the buildings comprising the Improvements. Throughout the term hereof, the Grantor shall maintain the Property and the Improvements in good, safe and habitable condition in all respects and in full compliance with all applicable laws, by-laws, rules and regulations of any governmental (or quasi-governmental) body with jurisdiction over matters concerning the condition of the Property.

- **3. Occupancy Restrictions.** The following restrictions shall apply during the period commencing with the first date on which any Units are occupied and continuing for the balance of the Affordability Term, subject always to any applicable rent restrictions of the federal low-income housing tax credit program under Section 42 of the Internal Revenue Code of 1986, as amended, and any provision herein that conflicts with the requirements of the federal low-income housing tax credit program shall be suspended so long as the restrictions under the federal low income housing tax credit program are in effect.
 - A. High Moderate Income Units. At least 4 of the Units of the types shown on Exhibit C attached hereto shall be leased exclusively to High Moderate Income Families ("High Moderate Income Units"). The monthly rent charged to a Family occupying a High Moderate Income Unit shall be one-twelfth of thirty percent (30%) of one-hundred percent (100%) of the Bedroom Adjusted AMI, minus, if applicable, an allowance established by the Holders for any utilities and services (excluding telephone) to be paid by the occupying Family A Family who resides in a Restricted Unit, who qualified as a High Moderate Income Family at the time of such Family's initial occupancy at the Property and whose Household Income exceeds one-hundred percent (100%) of the Family-size Adjusted AMI, shall, from and after the expiration of the then-current term of such Family's lease, no longer be treated as an income-qualified Family and (i) until such time as the Property again has the required number of income-qualified Families at all income levels hereunder, must pay as monthly rent the Over-income Rent and (ii) once the Property again has the required number of income-qualified Families at all income levels hereunder, such Family's Unit shall, from and after the expiration of the then-current term of such Family's lease, no longer be deemed a Restricted Unit hereunder.
 - **B. Low Income Units.** At least 29 of the Units of the types shown on Exhibit C attached hereto shall be leased exclusively to Low Income Families ("Low Income Units"). With respect to each Low Income Unit designated as a HOME Assisted Unit, the monthly rent charged to a Family occupying such HOME Assisted Unit shall not exceed the lesser of Fair Market Rent or an amount equal to (x) one-twelfth of thirty percent (30%) of sixty-five percent (65%) of the Bedroom Adjusted AMI, minus (y) if applicable, an allowance established by the Holders for any utilities and services (excluding telephone) to be paid by the occupying Family or (z) the comparable market rent for the Family's Unit. With respect to each Low Income Unit that is not a HOME Assisted Unit, the monthly rent charged to a Family occupying a Low Income Unit shall be one-twelfth of thirty percent (30%) of sixty percent (60%) of the Bedroom Adjusted



AMI, minus (y) if applicable, an allowance established by the Holders for any utilities and services (excluding telephone) to be paid by the occupying Family. A Family who resides in a Restricted Unit, who qualified as a Low Income Family at the time of such Family's initial occupancy at the Property and whose Household Income exceeds sixty percent (60%), but does not exceed eighty percent (80%) of the Family-size Adjusted AMI, shall continue to be treated as a Low Income Family and the foregoing maximum rent shall continue to apply to such Family. A Family who resides in a Restricted Unit, who qualified as a Low Income Family at the time of such Family's initial occupancy at the Property and whose Household Income exceeds eighty percent (80%) of the Family-size Adjusted AMI, shall, from and after the expiration of the then-current term of such Family's lease, no longer be treated as an incomequalified Family and (i) until such time as the Property again has the required number of income-qualified Families at all income levels hereunder must pay as monthly rent the Over-income Rent and (ii) once the Property again has the required number of incomequalified Families at all income levels hereunder, such Family's Unit shall, from and after the expiration of the then-current term of such Family's lease, no longer be deemed a Restricted Unit hereunder.

C. Extremely Low Income Units. At least 6 of the Units of the types shown on Exhibit C attached hereto shall be leased exclusively to Extremely Low Income Families ("Extremely Low Income Units"). The monthly rent charged to a Family occupying an Extremely Low Income Unit shall be one-twelfth of thirty percent (30%) of thirty percent (30%) of the Bedroom Adjusted AMI, minus, if applicable, an allowance established by the Holders for any utilities and services (excluding telephone) to be paid by the occupying Family. A Family who resides in a Restricted Unit, who qualified as an Extremely Low Income Family at the time of such Family's initial occupancy at the Property and whose Household Income exceeds thirty percent (30%), but does not exceed fifty percent (50%) of the Family-size Adjusted AMI, shall continue to be treated as an Extremely Low Income Family but, from and after the expiration of the then-current term of such Family's lease, must pay as monthly rent the Over-income Rent. A Family who resides in a Restricted Unit, who qualified as an Extremely Low Income Family at the time of such Family's initial occupancy at the Property and whose Household Income exceeds fifty percent (50%), but does not exceed eighty percent (80%), of the Family-size Adjusted AMI, shall, from and after the expiration of the then-current term of such Family's lease, be treated as a Low Income Family and must pay as monthly rent the lesser of (x) the maximum amount payable by the Family under the laws of the municipality in which the Property is located or of The Commonwealth of Massachusetts, (y) one-twelfth of thirty percent (30%) of sixty percent (60%) of the Bedroom Adjusted AMI (minus, if applicable, an allowance established by the Holders for any utilities and services [excluding telephone] to be paid by the occupying Family) A Family who resides in a Restricted Unit, who qualified as an Extremely Low Income Family at the time of such Family's initial occupancy at the Property and whose Household Income exceeds eighty percent (80%) of the Family-size Adjusted AMI, shall, from and after the expiration of the then-current term of such Family's lease, no longer be treated as an income-qualified Family and (i) until such time as the Property again has the required number of income-qualified Families at all income levels hereunder must pay as



monthly rent the Over-income Rent and (ii) once the Property again has the required number of income-qualified Families at all income levels hereunder, such Family's Unit shall, from and after the expiration of the then-current term of such Family's lease, no longer be deemed a Restricted Unit hereunder.

- **D. HERA Rent.** Notwithstanding the foregoing, the Borrower shall be permitted to increase the rents to those permitted under Section 3009(a)(E)(i) of the Housing and Economic Recovery Act of 2008 (Public Law 110-289) ("HERA"), even if such rents would be above those that would otherwise be permitted under the above provisions.
- **E. MHP First Mortgage Affordability Requirements.** In order to satisfy the affordability requirements of the MHP first mortgage loan at least eighteen of the total Units shall be Low Income Units.
- F. Applicable Lease Term, Change of Status. References in the foregoing provisions of the "then-current term of such Family's lease" shall refer to the term of the lease or occupancy agreement in effect on the date of the required delivery of the income certification that reflects (or that, if duly delivered, would have reflected) the applicable increase in such Family's income or, as applicable, the term of the lease or occupancy agreement in effect at the time the Property regains the required number of incomequalified Families. If, with the Holders' consent, the Grantor does not require that a lease be signed for a Restricted Unit (e.g., a property providing short-term transitional housing), the provisions set forth above shall apply, except that the applicable date on which a Family's income-qualified status and/or applicable rent restriction is modified shall be the first day of the month that is at least thirty (30) days following the date of the required delivery of the income certification that reflects (or that, if duly delivered, would have reflected) the applicable increase in such Family's income and the applicable date on which a Restricted Unit's status is modified shall be the first day of the month that is at least thirty (30) days following the date on which the Property regains the required number of income-qualified Families.
- **G. Federal or State Rental Subsidy.** Except with respect to HOME Assisted Units, if a Restricted Unit or the Family occupying such Unit receives federal or state rental subsidy, then the Family's contribution towards rent shall be the contribution allowable under the federal or state rental subsidy program and the maximum rent (i.e., tenant contribution plus rental subsidy) shall be the rent allowable under the federal or state rental subsidy program. In the case of HOME Assisted Units, if a Restricted Unit receives federal or state project-based rental subsidy and the occupying Family qualifies as a Very Low Income Family and pays as a contribution towards rent not more than thirty percent (30%) of one-twelfth of the Family's Household Income, then the maximum rent (i.e., tenant contribution plus rental subsidy) shall be the rent allowable under the federal or state rental subsidy program.
- **H. Next Available Unit Rule.** If at any time fewer than the required number of Units are leased, rented or occupied by Extremely Low Income Families, the next available Units shall all be leased, rented or otherwise made available to Extremely Low Income Families



until the required number of Units occupied by Extremely Low Income Families is again obtained. Subject to the foregoing, if at any time fewer than the required number of Units are leased, rented or occupied by Low Income Families, the next available Units shall all be leased, rented or otherwise made available to Low Income Families until the required number of Units occupied by Low Income Families is again obtained. Subject to the foregoing, if at any time fewer than the required number of Units are leased, rented or occupied by High Moderate Income Families, the next available Units shall all be leased, rented or otherwise made available to High Moderate Income Families until the required number of Units occupied by High Moderate Income Families is again obtained. The foregoing provisions shall be applied so as to maintain a mix of Restricted Units that is comparable in size, features and number of bedrooms to the originally designated Restricted Units (i.e., a Unit will not be considered an available Unit for purposes of this Paragraph if classification of such Unit as a Restricted Unit would cause the then current mix of Restricted Units to no longer be comparable to the original mix of Restricted Units described in Section 2 above and as shown on Exhibit C).

4. Rent Schedule. Except as is set forth in Sections 3.B., 3.C., 3.D. and 3.G, projected initial monthly maximum rents including utilities for all Restricted Units shall be as set forth in Exhibit B and Exhibit B-1 attached hereto. If permitted maximum rents and utility allowances as reflected in the annual schedule of rents and utility allowances issued by EOHLC increase prior to initial occupancy of the Project, the initial monthly maximum rents and utility allowances shall be as set forth in the latest schedule issued by EOHLC. Notwithstanding the rent restrictions set forth in Section 3 above, the maximum monthly rent permitted to be charged for a Restricted Unit at any particular income level is not required to be lower than the maximum rent applicable at such income level pursuant to Exhibit B and Exhibit B-1 or such higher initial maximum rent applicable at such income level pursuant to the immediately preceding sentence, regardless of changes in fair market rents or in median income over time (subject only to the restrictions applicable in the event of any federal or state subsidy, as set forth in Section 3 above). Rents for Restricted Units shall not be increased above applicable maximums without all Holders' prior written approval of a specific request by the Grantor for a rent increase, except for increases implemented in accordance with an annual schedule of maximum rents and allowances issued by EOHLC. Notwithstanding the foregoing, rent increases shall be subject to the provisions of outstanding leases and shall not be implemented without at least thirty (30) days' prior written notice by the Grantor to all affected Residents and notwithstanding any provision in a lease or occupancy agreement to the contrary, in the event of any increase in the rent payable by such Residents in connection with an increase in the income of such Residents, consistent with the terms hereof, the Residents shall have the right to terminate their lease or occupancy agreement by written notice to the Grantor delivered within such thirty-day period.

5. Resident Selection.

A. Nondiscrimination. The Grantor shall not discriminate on the basis of race, religious creed, color, sex, age, marital status, sexual orientation (which shall not include persons whose sexual orientation involves minor children as the sex object), gender identity, genetic information, veteran status, membership in the armed forces, ancestry, national origin,



handicap, blindness, hearing impairment, or because a person possesses a trained guide dog as a consequence of blindness, hearing impairment or other handicap of such person or any other basis prohibited by law in the lease, use and occupancy of the Units or in connection with the employment or application for employment of persons for the operation and management of the Units. The Grantor shall not discriminate against, or refuse to lease, rent or otherwise make available the Units to, a holder of a certificate or voucher under the Federal Rental Certificate Program or the Federal Rental Voucher Program or a holder of a comparable document evidencing participation in a HOME Program tenant-based assistance program because of the status of the prospective tenant as a holder of such certificate, voucher or comparable HOME Program tenant-based assistance document.

- **B. Selection Policies.** The Grantor shall adopt and submit to the Holders for approval resident selection policies and criteria for the Restricted Units that:
 - (i) Are consistent with the purpose of providing housing for a High Moderate Income Family, a Low Income Family or an Extremely Low Income Family, as defined below and required herein;
 - (ii) Are reasonably related to eligibility of prospective tenants under the Programs and to the prospective tenants' ability to perform the obligations of the Grantor's form lease; and
 - (iii) Provide for (x) the selection of Residents from a written waiting list in the chronological order of their application, insofar as practicable, and (y) the prompt written notification to any rejected applicant of the grounds for any rejection.

The Grantor shall also provide the Holders with an affirmative marketing plan acceptable to all Holders. The affirmative marketing plan must comply with all applicable statutes, regulations and executive orders, with all Holders' affirmative marketing requirements and with EOHLC's directives reflecting the agreement between EOHLC and HUD in the case of NAACP, Boston Chapter v. Kemp. The approved marketing plan and the approved resident selection policies and criteria shall be adhered to in every respect and any changes thereto shall be subject to the prior written approval of the Holders. The affirmative fair housing marketing plan shall require the Grantor to create a listing for all Restricted Units with the Housing Navigator (www.housingnavigatorma.org), which listing shall be updated and confirmed prior to holding a tenant-selection lottery for the Restricted Units and shall thereafter be updated at least annually or more frequently if appropriate in EOHLC's opinion (e.g. in connection with the reopening of any waiting list for Restricted Units). The affirmative fair housing marketing plan shall also require the Grantor to notify the Housing Navigator when waiting lists for Restricted Units open and close and whenever there is a Restricted Unit available on a first come, first served basis. The Grantor shall list vacancies in Restricted Units in the MassAccess Housing Registry at http://www.massaccesshousingregistry.org and on the Housing Navigator at http://housingnavigatorma.org.

6. Lease Form. The Grantor shall not include in any lease for a Restricted Unit any of the following provisions:



- **A.** Agreement by the tenant to be sued, to admit guilt or to a judgment in favor of the Grantor in a lawsuit brought in connection with the lease.
- **B.** Agreement by the tenant that the Grantor may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the Unit after the tenant has moved out of the Unit. The Grantor may dispose of such personal property in accordance with state law.
- **C.** Agreement by the tenant not to hold the Grantor or the Grantor's agents legally responsible for any action or failure to act, whether intentional or negligent.
- **D.** Agreement of the tenant that the Grantor may institute a lawsuit without notice to the tenant.
- **E.** Agreement by the tenant that the Grantor may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties.
- **F.** Agreement by the tenant to waive any right to a trial by jury.
- **G.** Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease.
- **H.** Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the Grantor against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

All leases for Restricted Units shall be consistent with the requirements set forth herein, shall be on a form reasonably approved by the Holders, shall be for terms of not less than one (1) year (unless a shorter term is specified by mutual agreement between the Resident and the Grantor, subject to the Holders' program requirements) and shall require tenants to provide information required for the Grantor to meet its reporting requirements hereunder. The Grantor may not terminate the tenancy or refuse to renew the lease of an occupant of a Restricted Unit except (i) for serious or repeated violation of the terms and conditions of the lease; (ii) for violations of applicable federal, state or local law; (iii) for completion of the tenancy period for transitional housing; or (iv) for other good cause. Any termination or refusal to renew must be preceded by not less than thirty (30) days by the Grantor's service on the tenant of a written notice specifying the grounds for the action.

7. Transfer Restrictions. The Grantor shall not sell, transfer, convey, rent (except for leases or occupancy agreements made in connection with the Permitted Uses that are substantially in the form approved by the Holders), encumber as security for financing, or in any other way exchange all or any portion of the Property nor shall the Grantor permit the sale, transfer or pledge of any direct or indirect interests in the Grantor, without the express written permission of the Holders. For purposes of the foregoing sentence, a withdrawal by the investor member of Grantor shall be deemed to be a transfer of an interest in the Grantor. Without limiting the generality of the foregoing, the Permitted Encumbrances are hereby approved by the



Holders. Any sale, transfer or other disposition (each, a "transfer") of all or any part of the Property shall further be subject to the Purchase Option and the First Refusal Right described below, and to such further terms and conditions with respect thereto as may be set forth in the HSF Statute, the HSF Regulations, and the HSF Guidelines. Upon request by the Grantor, EOHLC shall sign a certificate, in form and substance reasonably acceptable to EOHLC, stating whether, as of a specified date, any Purchase Option or First Refusal Right in favor of EOHLC remains in effect, or has been exercised, terminated, waived or assigned, and otherwise conforming with the certification requirements described below. No transfer of all or any part of the Property to any party other than EOHLC or its assignee shall be consummated unless and until (i) the period for the exercise of all Purchase Options and/or First Refusal Rights, as applicable, shall have expired without EOHLC's exercise of rights thereunder or (ii) EOHLC shall have unconditionally waived its rights thereunder in writing. Notwithstanding the foregoing: (i) the investor member interest of Grantor held by MCI Cloverleaf, LLC (the "Investor") may be transferred to an entity in which the Investor or an affiliate of the Investor is the general partner or managing member, provided that the Holders receive notice of such transfer and (ii) the Grantor's investor member may remove and replace the manager of the Grantor in accordance with the provisions of the Grantor's operating agreement upon the consent of the Holders, which consent will not be unreasonably withheld, conditioned or delayed. In connection with any transfer requiring the consent of the Holders, the Grantor shall provide such information to the Holders as the Holders may reasonably request, shall pay a fee to EOHLC pursuant to EOHLC's then-current fee schedule and shall pay all legal fees incurred by the Holders in connection with such transfer request.

8. HSF Purchase Option.

- A. After the fiftieth anniversary of the date hereof, EOHLC shall have the right to purchase the Grantor's interest in the Property from the Grantor, at a price equal to the then-current appraised value of the Property, less the total outstanding balance, at the time of such purchase, of all principal, interest and any other charges payable under the HSF Loan, and any and all other outstanding obligations of the Grantor with respect thereto (the "HSF Purchase Option"), by delivering written notice to the Grantor of its election to exercise the HSF Purchase Option by or before the date that is one hundred twenty (120) days after the expiration of the fiftieth anniversary of the date hereof (the "Option Exercise Deadline"). If EOHLC shall have failed to deliver such written notice of its election to exercise the HSF Purchase Option to the Grantor by the Option Exercise Deadline, EOHLC shall be deemed to have unconditionally waived the HSF Purchase Option, and the HSF Purchase Option shall automatically terminate, and shall have no further force or effect.
- **B.** EOHLC shall have the right at any time to assign its rights under this Purchase Option to a qualified developer selected by EOHLC in accordance with the HSF Statute and HSF Regulations, and effective as of any such assignment, all rights and obligations of EOHLC with respect to such Purchase Option shall automatically be deemed to apply to such assignee, and all references to "EOHLC" in this Section shall automatically be deemed to refer to such assignee (except to the extent a provision explicitly provides otherwise).
- **C.** Promptly upon request by EOHLC at any time or from time to time, either before the Option Exercise Deadline or after EOHLC's exercise of the HSF Purchase Option, the



Grantor shall provide EOHLC with a copy of, or otherwise make available for EOHLC's review at a mutually convenient time and location, any and all material owned by or readily available to the Grantor that an unrelated third-party potential buyer would reasonably request in connection with its due diligence for the acquisition of the Property, including, by way of example but not of limitation, deeds, title insurance policies, appraisals, studies, reports, and other materials relating to the Property and/or any encumbrance(s) subject to which the Property is to be conveyed, or otherwise reasonably necessary or appropriate for EOHLC to review in connection with its exercise of the HSF Purchase Option.

- **D.** The appraised value of the Property shall be determined at EOHLC's request by the method specified in the HSF Statute (as may be more fully described in the HSF Regulations) and in accordance with EOHLC policies, and the costs of the appraisers shall be shared equally by EOHLC and the Grantor (unless the HSF Regulations provide otherwise). Notwithstanding anything to the contrary contained in this Restriction, the Grantor shall not be required to use its own funds to repay any debt secured by the Property in the event the appraised value of the Property is less than the aggregate of all permitted debt secured by the Property.
- **E.** The closing for the sale of the Property to EOHLC shall take place in accordance with applicable provisions of the HSF Regulations, by or before the date that is one hundred twenty (120) days after the Option Exercise Deadline (i.e., on or before the date that is two hundred forty (240) days after the fiftieth anniversary of the date hereof), by the close of the business day, at the Registry of Deeds; provided, however, that if EOHLC reasonably determines additional time is necessary to effect the closing due to delays of the Grantor in providing EOHLC with the due diligence material described above or any other failure by the Grantor fully to cooperate with preparations for the sale, the closing date may be extended to a date reasonably determined by EOHLC as necessary to redress the delays caused by the Grantor, which shall be specified in a written notice from EOHLC setting forth the reasons for such extension, delivered to the Grantor by or before the date originally scheduled for the closing. The parties may also mutually agree to extend the date of the closing by written instrument.
- F. The transfer to EOHLC pursuant to the HSF Purchase Option shall be subject to such other requirements as may be more fully described in the HSF Regulations consistent with the HSF Statute. Adjustments in the purchase price for recording fees, deed stamps and other charges shall be made, and any other issues associated with the transfer shall be resolved, in accordance with standard conveyancing practice in The Commonwealth of Massachusetts. If either party so desires, the parties shall enter into a purchase and sale agreement memorializing the terms of the sale, consistent with the terms hereof and of the HSF Statute; provided, however, that the HSF Purchase Option shall be binding regardless of whether the parties execute a purchase and sale agreement. Notwithstanding any other provision hereof to the contrary, if, after delivering notice of its intention to exercise the HSF Purchase Option, EOHLC determines, in its sole discretion, that it is not in the best interests of EOHLC to effect the purchase, EOHLC may terminate



the HSF Purchase Option at any time, upon written notice to the Grantor recorded with the Registry of Deeds; provided, however, that such termination right shall apply to EOHLC only and not to any assignee.

G. Concurrently with its acquisition of the Property, EOHLC shall cause to be recorded with the Registry of Deeds an affordable housing restriction, in compliance with the HSF Statute and any other applicable statutory requirements for the same (and, in the case of an assignee, in form acceptable to EOHLC, in its discretion), which shall require that the Property shall be used only for the purposes of preserving or providing affordable housing thereon, which housing shall remain affordable for a period of not less than fifty (50) years.

9. HSF First Refusal Right.

- A. If the Grantor intends at any time or from time to time, to transfer all or any part of its interest in the Property, and the Grantor receives a bona fide offer for such transfer that the Grantor desires to accept (each, an "Offer"), the Grantor shall promptly deliver to EOHLC written notice of the same (which shall not be deemed to have been duly delivered to EOHLC unless it contains a copy of clause C. below), together with a copy of such Offer (the "Offer Notice"). The Grantor shall provide EOHLC with such reasonable evidence as EOHLC may require to satisfy EOHLC as to the bona fide nature of the Offer. A transfer of a member interest in the Grantor shall be considered an Offer that triggers the EOHLC First Refusal Right if (x) such member interest is all or substantially all of the non-managing member interests in the Grantor (except for transfers to affiliates of the member) and (y) such transfer takes place within one year of a transfer of a managing member interest in the Grantor or of a controlling interest in a managing member of the Grantor to the transferee of the member interest or an affiliate of such transferee, provided that a removal of a managing member by a member pursuant to a removal provision in the operating agreement of the Grantor and the substitution of a new managing member that is an affiliate of such member shall not constitute a transfer of a managing member interest for purposes of this clause.
- **B.** EOHLC shall have the right to purchase the Grantor's interest in the Property (or the portion(s) thereof to which the Offer relates), at the same price and on the same terms set forth in such Offer (the "HSF First Refusal Right"), by delivering to the Grantor and recording with the Registry of Deeds written notice of its election to exercise such First Refusal Right, in accordance with the terms set forth below (the "Exercise Notice"), by or before the date that is one hundred twenty (120) days after EOHLC's receipt of such Offer Notice (such 120-day period, the "HSF First Refusal Period"). If EOHLC does not intend to exercise the HSF First Refusal Right, EOHLC may, but shall have no obligation to, notify the Grantor in writing that the HSF First Refusal Right will not be exercised (a "Waiver Notice").
- **C.** If, by the expiration of the HSF First Refusal Period with respect to an Offer, EOHLC shall have failed to deliver to the Grantor an Exercise Notice or a Waiver Notice, EOHLC shall be deemed to have waived its First Refusal Right with respect to such Offer, subject to any revived First Refusal Right with respect to a modified Offer, as described below. However,



EOHLC shall retain a First Refusal Right for subsequent Offers, notwithstanding any prior actual or deemed waiver of the HSF First Refusal Right, or any intervening transfer of the Property or any portion(s) thereof.

- D. If any of the terms of an Offer shall be revised from the terms reflected in the Offer Notice in such a manner as to be materially more favorable to the buyer or if a closing pursuant to the Offer has not occurred on or before the date six months after the date of the Offer Notice but the Grantor desires to continue pursuing a sale pursuant to such Offer, the Grantor shall promptly deliver to EOHLC an Offer Notice with respect to such revised or continued Offer (which shall not be deemed to have been duly delivered to EOHLC unless it contains a copy of clause C. above), and EOHLC shall have a new First Refusal Right with respect to such modified or continued Offer. The HSF First Refusal Period for such new First Refusal Right shall run for a period of one hundred twenty (120) days from the date of EOHLC's receipt of the Offer Notice with respect to such revised or continued Offer.
- **E.** EOHLC shall have the right at any time to assign its rights under the HSF First Refusal Right to a qualified developer selected by EOHLC in accordance with the HSF Statute and the HSF Regulations and, effective as of any such assignment, the rights and obligations of EOHLC with respect to such First Refusal Right shall automatically be deemed to apply to such assignee, and all references to "EOHLC" in this Section shall automatically be deemed to refer to such assignee (except to the extent a provision explicitly provides otherwise). EOHLC shall provide written notice of any such assignment to the Grantor.
- **F.** In accordance with the provisions of the HSF Statute:
 - (i) An Offer Notice containing the required language as described above shall be deemed to have been duly delivered if sent by regular and certified mail, return receipt requested (or by such other method as may be authorized under the HSF Statute and the HSF Regulations), addressed to EOHLC (or to any assignee of EOHLC, if EOHLC has previously given the Grantor notice of such assignment, including the name and notice address of such assignee, in accordance with the notice provisions set forth herein) in the care of the keeper of records for EOHLC, which for purposes hereof shall be deemed to be the General or Chief Counsel of EOHLC (or in care of the keeper of records for such assignee of EOHLC, as applicable).
 - (ii) The Exercise Notice or Waiver Notice shall be duly signed by a designated representative of EOHLC or of the assignee of EOHLC, as the case may be, and (x) mailed to the Grantor by certified mail (or such other method as may be authorized under the HSF Statute) at the notice address set forth in the Offer Notice and (y) recorded with the Registry of Deeds by the expiration of the HSF First Refusal Period. If EOHLC shall have assigned the HSF First Refusal Right to a qualified developer prior to delivery of the Exercise Notice, the Exercise Notice shall include the name and address of such assignee and the terms and conditions of such assignment.
 - (iii) An affidavit acknowledged by a notary public that EOHLC or its designated representative has mailed an Exercise Notice or a Waiver Notice (the "Affidavit") shall conclusively establish the manner and time of the giving of such notice. Any Affidavit



- may be recorded with the Registry of Deeds by either party. Each Affidavit shall have attached to it a copy of the Offer Notice to which it relates.
- (iv) Each Offer Notice, Exercise Notice and Waiver Notice shall contain the name of the record owner of the Property and a description of the premises to be transferred, in form adequate to identify the same. Each Affidavit shall have attached to it a copy of the Offer Notice to which it relates.
- **G.** The closing for the sale of the Property (or, if applicable, the part thereof that is the subject of the Offer) to EOHLC shall take place in accordance with applicable provisions of the HSF Regulations, by or before the date that is one hundred twenty (120) days after the expiration of the HSF First Refusal Period (i.e., on or before the date that is two hundred forty (240) days after EOHLC's receipt of the relevant Offer Notice), by the close of the business day, at the Registry of Deeds (such date, the "Closing Deadline"); provided, however, that if EOHLC reasonably determines additional time is necessary to effect the closing, due to delays of the Grantor in providing EOHLC with the due diligence material described below or any other failure by the Grantor fully to cooperate with preparations for the sale, the Closing Deadline may be extended to a date reasonably determined by EOHLC as necessary to redress the delays caused by the Grantor, which shall be specified in a written notice from EOHLC setting forth the reasons for such extension, delivered to the Grantor and recorded with the Registry of Deeds, by or before the date originally scheduled for the closing. The parties may also mutually agree to extend the Closing Deadline, by written instrument; provided, however, that in such event, the parties shall execute an instrument reflecting such extension, which shall be recorded with the Registry of Deeds by or before the date originally scheduled for the closing.
- H. Concurrently with the delivery of the Offer Notice, the Grantor shall provide EOHLC with a copy of, or otherwise make available for EOHLC's review at a mutually convenient time and location, all material relating to the Property (or the part thereof that is the subject of the Offer) and/or the proposed sale, transfer, or other disposition thereof that has been made available to the party making the Offer, and shall thereafter promptly make available to EOHLC any additional material made available to such party. Promptly upon any request therefor by EOHLC, the Grantor shall provide EOHLC with a copy of, or otherwise make available for EOHLC's review at a mutually convenient time and location, any and all other material owned by or readily available to the Grantor that an unrelated third-party buyer would reasonably request in connection with its due diligence for an acquisition of such Property, including, by way of example but not of limitation, deeds, title insurance policies, appraisals, studies, reports, or other materials relating to such Property and/or any encumbrance(s) subject to which the Property is to be conveyed, or otherwise reasonably necessary or appropriate for EOHLC to review in connection with its exercise of the HSF First Refusal Right.
- I. The transfer to EOHLC pursuant to the HSF First Refusal Right shall be subject to such other requirements as may be more fully described in the HSF Regulations consistent with the HSF Statute. Adjustments in the purchase price for recording fees, deed excise stamp



taxes and other charges shall be made, and any other issues associated with the transfer shall be resolved, in accordance with standard conveyancing practice in The Commonwealth of Massachusetts. If either party so desires, the parties shall enter into a purchase and sale agreement memorializing the terms of the sale, consistent with the terms hereof and of the HSF Statute; provided, however, that the HSF First Refusal Right shall be binding regardless of whether the parties execute a purchase and sale agreement. Notwithstanding any other provision hereof to the contrary, if, after delivering notice of its intention to exercise the HSF First Refusal Right, EOHLC determines, in its sole discretion, that it is not in the best interests of EOHLC to effect the purchase, EOHLC may terminate the HSF First Refusal Right at any time, upon written notice delivered to the Grantor and recorded with the Registry of Deeds; provided, however, that such termination right shall apply to EOHLC only, and not to any assignee. If EOHLC exercises such termination right or if either EOHLC or its assignee fails to perform hereunder on or before the Closing Deadline through no fault of the Grantor, then the HSF First Refusal Right shall lapse and be of no further force or effect.

- J. Concurrently with its acquisition of the Property, EOHLC shall cause to be recorded with the Registry of Deeds an affordable housing restriction, in compliance with the HSF Statute and any other applicable statutory requirements for the same (and, in the case of an assignee, in form acceptable to EOHLC, in its discretion), which shall require that such Property shall be used only for the purposes of preserving or providing affordable housing thereon, which housing shall remain affordable for a period of not less than fifty (50) years.
- 10. Term of Restrictions; Covenants to Run with Land. The term of this Restriction shall be perpetual. The "Option Term" shall be the period from the fiftieth anniversary of the date hereof through the Option Exercise Deadline (as defined in Section 8 above) plus any additional period necessary for the consummation of a purchase of the Property under either the Purchase Option or the First Refusal Right described above, if applicable. Notwithstanding any provision to the contrary herein or in any of the other Loan Documents, this Restriction shall remain in full force for the full term set forth herein including any extension, notwithstanding any prepayment of the Loan. The restrictions contained herein shall run with the land, shall bind the successors and assigns of the Grantor, and shall inure to the benefit of the Holders and their successors and assigns as permitted herein. Notwithstanding the foregoing, at the end of the term of affordability for a particular program, as set forth on Exhibit C, as it may have been extended, provided that all obligations under the loan provided by such Program have been satisfied in full at that time, as determined by the appropriate Holder, the Grantor may request that the Holders modify this Restriction to eliminate the requirements imposed by or otherwise relating to such Program set forth in this Restriction. The parties shall cooperate to prepare an appropriate amendment to this Restriction, which amendment shall be duly recorded with the Registry of Deeds by the Grantor at its cost and expense. Nothing herein shall affect the provisions of Section 19.D. with respect to the CPA Units.
- **11. Subsequent Conveyances.** Each and every contract, deed or other instrument hereafter executed conveying the Property or portion thereof shall expressly provide that such conveyance



is subject to this Restriction, provided, however, that the covenants contained herein shall survive and be effective regardless of whether such contract, deed or other instrument hereafter executed conveying the Property or portion thereof provides that such conveyance is subject to this Restriction.

12. Income Verification. The Grantor represents, warrants and covenants that the determination of whether a Family occupying a Restricted Unit meets the income requirements set forth herein shall be made by the Grantor at the time of leasing of a Restricted Unit and thereafter at least annually on the basis of the current income of such Family. In initially verifying a Family's income, the Grantor shall examine the source documents evidencing annual income (e.g., wage statements, interest statements, unemployment compensation statements) for the Family.

13. Reporting Requirements.

- **A.** <u>EOHLC Web-Based Report.</u> Annually, no later than September 30, Grantor shall submit to EOHLC, via the web-based annual reporting system located at https://hedhsgdevannualreport.azurewebsites.net, or as otherwise instructed, an annual report consisting of all data required by EOHLC regulations at 760 CMR 61.00 promulgated pursuant to Chapter 334 of the Acts of 2006 and all applicable EOHLC directives, guidelines and forms as may be amended from time to time. The Grantor shall collect said data for the express purpose of reporting to EOHLC, and the collection and reporting of said data shall comply with said regulations, directives, guidelines and forms.
- **B.** Annual Report. Annually, no later than September 30, Grantor shall submit to each Holder an annual report consisting of the following:
 - (i) Annual adjusted income of each Family occupying a Restricted Unit.
 - (ii) Monthly gross rents (rents plus utility allowances, if applicable) for all Restricted Units, such rents to be consistent with the schedule of maximum rents published annually by EOHLC. The rent schedule shall include the maximum rents applicable to Restricted Units under Section 3 as well as the actual rents to be charged to over-income Families under Section 3.
 - (iii) The Grantor's certification, made to the best knowledge and belief of the officer or individual signing such certification, that:
 - (a) The Property continues to be used for the Permitted Uses.
 - (b) The Property continues to contain the required number of Low Income Units and Extremely Low Income Units and to comply with the rent and other restrictions applicable to such Restricted Units.
 - (c) Grantor has not transferred, pledged or encumbered any interest in the Property, except as specifically provided in, and in accordance and compliance with the terms of, this Restriction.
 - (d) Grantor has caused the Property to be maintained in a manner consistent with the Statutes, Regulations and Guidelines and no children under six years old reside in or occupy the Property within the meaning of the Lead Paint Law or, if such



children do reside in or occupy the Property, that the Property is in compliance with the Lead Paint Law.

- (e) The information submitted pursuant to this Paragraph B is true and accurate.
- C. Confidentiality. The Holders and the Grantor shall treat as confidential any of the foregoing information relating to a specific Resident or Unit in compliance with all applicable state and federal statutes and regulations, including M.G.L. c. 66A, and shall implement adequate systems and procedures for maintaining the confidentiality of such information (but the Holders and the Grantor may release general statistical and other information about the Property, so long as the privacy rights and interests of the individual Residents are protected). The Holders and the Grantor shall not use any of the foregoing information in Paragraph A.(iii) for any purpose described in Section 603(d)(1) of the federal Fair Credit Reporting Act (15 U.S.C. § 1681a(d)(1)) or in any manner that would cause a Holder or Grantor to be considered a "consumer reporting agency" under Section 603(f) of the federal Fair Credit Reporting Act (15 U.S.C. § 1681a(f)).
- **D.** <u>Additional Reports.</u> Grantor shall prepare and submit to the Holders such additional reports as any Holder may deem necessary to ensure compliance with the requirements of this Restriction and of the Programs.
- **E. Records.** The Grantor shall maintain as part of its records (i) copies of all leases of Restricted Units; (ii) all initial and annual income certifications by Residents of Restricted Units and (iii) such additional records as any Holder may deem necessary to ensure compliance with the requirements of this Restriction and of the Programs.
- **F.** Additional Reporting Requirements. Additional reporting requirements are stipulated in the Loan Agreement.
- **14. No Demolition.** The Grantor shall not demolish any part of the Improvements or substantially subtract from any real or personal property included within the Property except in conjunction with renovation or rehabilitation of the Units or construction of a new project on the Property, in either case subject to the prior written consent of all Holders, which consent may be granted or withheld in a Holder's sole judgment.
- 15. Casualty. The Grantor represents, warrants and agrees that if the Property, or any part thereof, shall be damaged or destroyed, the Grantor (subject to the approval of the lender(s) providing financing) will use its best efforts to repair and restore the Units to substantially the same condition as existed prior to the event causing such damage or destruction, and the Grantor represents, warrants and agrees that the Units shall thereafter continue to operate in accordance with the terms of this Restriction.
- **16. Inspection.** The Grantor hereby grants to each Holder and its duly authorized representatives the right to enter the Property (a) at reasonable times and in a reasonable manner for the purpose of inspecting the Property to determine compliance with this Restriction or any other agreement between the Grantor and such Holder and (b) after thirty (30) days' prior written notice, to take any reasonable and appropriate action under the circumstances to cure any



violation of the provisions of this Restriction. The notice referred to in clause (b) shall include a clear description of the course and approximate cost of the proposed cure.

- Enforcement. Upon violation by the Grantor of any of the provisions of this Restriction that remains uncured for more than thirty (30) days after notice thereof from any Holder (or for such longer period not to exceed thirty (30) days as shall be reasonably required under the circumstances to cure such violation, provided that the Grantor has commenced the cure of such violation within the initial thirty (30) day period and is thereafter diligently pursuing the cure to completion), any Holder, at its option (without liability to any party for failure to do so), may apply to any court, state or federal, for specific performance of this Restriction or an injunction against any violation of this Restriction, or for such other relief as may be appropriate, since the injury arising from the default under any of the terms of this Restriction would be irreparable and the amount of damage would be difficult to ascertain and may not be compensable by money alone. In each such default notice, the Holder giving such notice shall specify the violation in question and the actions such Holder believes are necessary and feasible to remedy such violation. No waiver by a Holder of any breach of this Restriction shall be deemed a waiver of such breach by any other Holder or a waiver of any other or subsequent breach. No act or omission by any Holder, other than a writing signed by it waiving a breach by the Grantor in accordance with the next Section hereof, shall constitute a waiver thereof. Any Holder shall be entitled to recover from the Grantor all of such Holder's reasonable costs of an action for enforcement of this Restriction, including reasonable attorneys' fees (including the time of any inhouse counsel of a Holder charged at the same rate as comparable outside attorneys). By its acceptance of this Restriction, no Holder undertakes any liability or obligation relating to the condition of the Property. Without limiting any other rights or remedies available to a Holder, any transfer of all or any other portion of the Property in violation of the provisions hereof, in the absence of a certification from all Holders approving, or waiving any restrictions with respect to, the same, all as set forth above, shall, to the maximum extent permitted by law, be voidable by any Holder, by suit in equity to enforce the restrictions hereof.
- **18. Compliance Certification.** Upon written request therefor, a Holder shall provide a statement in form acceptable for recording certifying that the Grantor is in full compliance with the provisions hereof as relate to that Holder, provided such Holder believes that the Grantor is so in compliance. Upon receipt of a written request therefor, if a Holder shall believe that the Grantor is not so in compliance, such Holder shall provide such a recordable certification specifying in detail the section or sections hereof with which such Holder believes the Grantor not to be in compliance. Any third party dealing with the Grantor may rely for all purposes on the truth and completeness of such a certification of a Holder.

19. Senior Lender Foreclosure.

A. Notwithstanding anything herein to the contrary, but subject to the provisions of this Section, including, without limitation, the provisions of Section 19.D., if the holder of record of a first mortgage granted to a state or national bank, state or federal savings and loan association, cooperative bank, mortgage company, trust company, insurance company or other institutional or governmental lender shall acquire the Property by reason of foreclosure or similar remedial action under the provisions of such mortgage or upon



conveyance of the Property in lieu of foreclosure, and provided that the holder of such mortgage has given the Holders not less than sixty (60) days' prior written notice of its intention to foreclose upon its mortgage or to accept a conveyance of the Property in lieu of foreclosure to attempt to structure a workout or other arrangement to avoid such foreclosure, conveyance in lieu of foreclosure, or similar remedial action, then except as provided below, the rights and restrictions herein contained shall not apply to such mortgage holder upon such acquisition of the Property or to any purchaser of the Property from such mortgage holder, and such Property shall, subject to Paragraph B. below, thereafter be free from all such rights and restrictions. Notwithstanding the foregoing, the rights and restrictions contained herein shall terminate only to the extent it is financially infeasible to maintain the level of affordability required by this Restriction or some lesser level of affordability (i.e., fewer Restricted Units or Restricted Units affordable to Families with higher Household Incomes than those required by this Restriction). infeasible" shall mean (i) with respect to the operation of the Property, that the rent and other income from the Property is, or is reasonably projected to be, less than the reasonable expenses required (or reasonably projected to be required) to maintain and operate the Property and (ii) with respect to a sale of the Property, that the restrictions would prevent (or be reasonably projected to prevent) the senior mortgage holder from recovering all amounts due and owing with respect to its financing of the Property, including without limitation, principal, interest, charges, costs, expenses, late fees and prepayment premiums. Financial infeasibility shall be determined by the senior mortgage holder in its sole discretion after consultation with the Holders. The senior mortgage holder shall notify the Holders of the extent to which the rights and restrictions contained herein shall be terminated and the Grantor agrees to execute any documents required to modify this Restriction to conform to the senior mortgage holder's determination. The Grantor hereby irrevocably appoints any senior mortgage holder and each of the Holders, its true and lawful attorney-in-fact, with full power of substitution, to execute, acknowledge and deliver any such documents on behalf of the Grantor should the Grantor fail or refuse to do so.

- **B.** The rights and restrictions contained herein shall not lapse if the Property is acquired through foreclosure or deed in lieu of foreclosure by (i) the Grantor, (ii) any person with a direct or indirect financial interest in the Grantor, (iii) any person related to a person described in clause (ii) by blood, adoption or marriage, (iv) any person who is or at any time was a business associate of a person described in clause (ii), and (v) any entity in which any of the foregoing have a direct or indirect financial interest (each a "Related Party"). Furthermore, if the Property is subsequently acquired by a Related Party during the period in which this Restriction would have remained in effect but for the provisions of this Section, this Restriction shall be revived and shall apply to the Property as though it had never lapsed.
- **C.** In the event such mortgage holder conducts a foreclosure or other proceeding enforcing its rights under such mortgage and the Property is sold for a price in excess of the sum of the outstanding principal balances of all notes secured by mortgages of the Property plus all future advances, accrued interest and all reasonable costs and expenses which the



holders thereof are entitled to recover pursuant to the terms of such mortgages, such excess shall be paid to the Holders in consideration of the loss of the value and benefit of the rights and restrictions herein contained and released by the Holders pursuant to this Section in connection with such proceeding, provided that in the event that such excess shall be so paid to the Holders by such mortgage holder, the Holders shall thereafter indemnify such mortgage holder against loss or damage to such mortgage holder resulting from any claim made by the mortgagor of such mortgage to the extent that such claim is based upon payment of such excess by such mortgage holder to the Holders in accordance herewith, provided that such mortgage holder shall give the prompt notice of any such claim and shall not object to intervention by the Holders in any proceeding relating thereto. The Holders shall share any such excess pro rata in proportion to the respective amounts of principal and interest (if any) then outstanding on their portions of the Loan and the liability of a Holder under the foregoing indemnity shall be limited to the amount of such excess received by it. To the extent the Grantor possesses any interest in any amount which would otherwise be payable to the Holders under this Paragraph, to the full extent permissible by law, the Grantor hereby assigns its interest in such amount to said mortgage holder for payment to the Holders.

- D. It is hereby agreed, notwithstanding the provisions of Section 19.A, or any other provision in this Restriction to the contrary, (i) the rights and affordability restrictions affecting the four (4) Units restricted in connection with the Town's grant of funds under the CPA Program as set forth on Exhibits C and C-1 (the "CPA Units"), shall not lapse with respect to the CPA Units if the Grantor's interest in the Property is acquired through foreclosure or similar remedial action under the provisions of any mortgage or upon the conveyance of the Grantor interest in lieu of foreclosure, without regard to whether it is Financially infeasible to maintain the level of affordability required by the CPA Units, and (ii) that this Restriction, with respect to the CPA Units, shall remain in effect for the benefit of and be enforceable by the Town in perpetuity and shall apply to any mortgage holder or purchaser of Borrower's interest in the Property.
- **E.** This Restriction is senior to the MHP first mortgage loan, as the same may be amended, modified or restated. MHP may terminate, modify or subordinate this Restriction in accordance with and subject to the requirements set forth in Paragraphs A. through C. above. The Grantor agrees to execute any documents required so to terminate, modify or subordinate this Restriction. The Grantor understands and agrees that, in the event of foreclosure of the MHP first mortgage loan and the exercise by MHP of the Power of Sale therein, the Property will be sold subject to the restrictions imposed hereby, unless MHP exercises its rights to terminate, modify or subordinate this Restriction prior to such sale. The Grantor hereby irrevocably appoints MHP, or any agent designated by MHP, its true and lawful attorney-in-fact, with full power of substitution, to execute, acknowledge and deliver any such documents on behalf of the Grantor should the Grantor fail or refuse to do so.
- **20. Notices.** Except for any notice required under applicable law to be given in a different manner, any notice, request or other communication which any party hereto may be required or



may desire to give hereunder shall be made in writing, and shall be deemed to have been properly given if hand delivered, if sent by recognized overnight courier, receipt confirmed, or if mailed by United States registered or certified mail, postage prepaid, return receipt requested, addressed to the parties at their respective addresses first set forth above, or to such other address as the party to be served with notice may have furnished in writing to the party seeking or desiring to serve notice as a place for the service of notice. A notice sent by any of the foregoing methods shall be deemed given upon documented receipt or refusal. The Holders shall use reasonable efforts to send courtesy copies of all notices sent to the Grantor to the Grantor's investor at the address set forth below, provided that any failure to send such a courtesy copy shall not affect the validity of any notice: MCI Cloverleaf, LLC, 410 Monon Boulevard, 4th Floor, Carmel, Massachusetts 46032.

- 21. Successors and Assigns; No Third-Party Beneficiaries. This Restriction shall be binding upon the Grantor and its successors and assigns, and shall burden the Property as specified herein. This Restriction shall also be binding upon the Holders, and shall inure to the benefit of their successors and assigns, provided that a Holder shall not voluntarily assign its rights hereunder unless (a) such Holder believes in good faith that it is no longer reasonably capable of performing its duties hereunder, and (b) such assignment shall be to a governmental body or an entity of a similar character and purposes to such Holder which is reasonably capable of performing such duties hereunder (except that EOHLC's rights with respect to the Purchase Option and First Refusal Right are assignable, as set forth herein).
- **22. Severability; Construction.** All rights, powers and remedies provided herein may be exercised only to the extent that exercise thereof does not violate any applicable law, and are intended to be limited to the extent necessary so that they will not render this Restriction invalid, unenforceable or not entitled to be recorded, registered or filed under applicable law. If any provision or part hereof shall be affected by such holding, the validity of other provisions of this Restriction and of the balance of any provision held to be invalid, illegal or unenforceable, in part only, shall in no way be affected thereby, and this Restriction shall be construed as if such invalid, illegal, or unenforceable provision or part hereof had not been contained herein. In the event of any actual or potential inconsistency between the terms of this Restriction and any of the Statutes and/or the Regulations, such terms shall be interpreted, to the extent reasonably possible, so as to reconcile any such inconsistencies. If such provisions cannot reasonably be reconciled, the provisions of the Statutes, the Regulations and this Restriction, in the foregoing order of priority, shall control.
- **23. Governing Law.** This Restriction shall be governed by the laws of The Commonwealth of Massachusetts. Inasmuch as the restrictions contained herein have been imposed upon the Property in part to satisfy requirements of various governmental bodies referred to herein, including, without limitation, EOHLC, the restrictions contained herein are intended to be construed as a restriction held by a governmental body with the benefit of Section 26 of Chapter 184 of the Massachusetts General Laws as existing as of the date hereof, such that the restrictions contained herein shall not be limited in duration by any rule or operation of law, but rather shall run for the full term thereof.
- **24. Recording.** The Grantor, at its cost and expense, shall cause this Restriction and any amendment hereto to be duly recorded with the Registry of Deeds (and if necessary or



appropriate, re-recorded), shall pay or cause to be paid all recording, filing, or other taxes, fees and charges and shall comply with all such statutes and regulations as may be required by law in order to establish, preserve and protect the ability of the Holders and their successors and assigns to enforce this Restriction.

- 25. Further Assurances. Each Holder is authorized to record or file any notices or instruments appropriate to assuring the enforceability of this Restriction; and the Grantor on behalf of itself and its successors and assigns appoints each Holder its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor and its successors and assigns agrees to execute any such instruments upon request. The benefits of this Restriction shall be in gross and shall be assignable by any Holder. The Grantor and the Holders intend that the restrictions arising hereunder take effect upon the date hereof, and to the extent enforceability by any person ever depends upon the approval of governmental officials, such approval when given shall relate back to the date hereof regardless of the date of actual approval or the date of filing or recording of any instrument evidencing such approval.
- **26. Counterparts.** This Restriction may be executed in several counterparts, each of which when executed and delivered shall be an original, but all of which together shall constitute one instrument. In making proof of this Restriction, it shall not be necessary to produce or account for more than one such counterpart executed by the party against whom enforcement of this Restriction is sought.
- **27. MHP Assignment to EOHLC**. If Massachusetts Housing Partnership Fund Board, as agent for HSITF, assigns to EOHLC its rights under that certain Mortgage, Security Agreement and Conditional Assignment of Leases and Rents dated of even date herewith by Grantor in favor of the Holders, then upon the recordation of such assignment, all rights hereunder with respect to the HSF Program shall automatically vest in EOHLC and the Massachusetts Housing Partnership shall no longer act as agent for HSITF hereunder.
- **28. Incorporation of Exhibits and Riders.** Any and all exhibits and riders attached hereto or otherwise referenced herein are hereby incorporated by reference, the same as if each were fully set forth herein.
- 29. Amendment; Waiver; Consents. This Restriction may not be amended, nor may any obligation hereunder be waived or released, without first obtaining the written signature of Massachusetts Housing Partnership Fund Board, as agent for The Commonwealth of Massachusetts, acting by and through the Executive Office of Housing and Livable Communities under the Housing Stabilization and Investment Trust Fund Statute, M.G.L. c. 121F as agent for all Holders provided, however, that no amendments affecting the CPA Units and/or the provisions of Section 19.D. shall take effect without the prior written consent and signature of the Town, and in no event shall the expiration or earlier termination of this Agreement affect Grantor's obligations to the Town under Section 19.D with respect to the CPA Units. Any consent or approval by the Holders of this Restriction shall be communicated by Massachusetts Housing Partnership Fund Board, as agent for The Commonwealth of Massachusetts, acting by and through



the Executive Office of Housing and Livable Communities under the Housing Stabilization and Investment Trust Fund Statute, M.G.L. c. 121F as agent for all Holders.

30. Risk-Sharing. Rider A attached hereto constitutes a part of this Restriction and the agreements contained therein shall be in addition to and not in derogation of any other terms and conditions contained herein and shall continue in full force and effort during the term of this Restriction and the term of the Leasehold Mortgage, Security Agreement and Assignment of Leases and Rents which secures the MHP First Mortgage Loan (the "Insured Mortgage").

No documentary stamps are required as this Restriction is not being purchased by the Holders.

[SIGNATURE(S) APPEAR ON THE FOLLOWING PAGE(S)]



Executed under seal as of the date set forth above.

CLOVERLEAF TRURO LLC, a Massachusetts limited liability company

		nabii	icy company
		Ву:	CLOVERLEAF TRURO MM LLC, its Managing Member
			By:
			Name: Its: Authorized Agent
COMMONWE	EALTH OF MASSACHUSET	TS	
	County, ss.		
appeared _ identification knowledge o preceding or Authorized A	, which was (a current of f the identity of the prin attached document, and	_, proved driver's lice icipal), to lacknowledg	me, the undersigned notary public, personally to me through satisfactory evidence of nse) (a current U.S. passport) (my personal per the person whose name is signed on the ed to me that he/she signed it voluntarily, as Managing Member of Cloverleaf Truro LLC, for f Truro LLC.
Notary Public			
My commission	on expires:		
RIDER A			
EXHIBIT A	Property Description		
EXHIBIT B	Projected Initial Rent Scl	hedule for L	Inits Other Than Home Assisted Units
EXHIBIT B-1	Projected Initial Rent Scl	hedule for \	Home Assisted Units
EXHIBIT C	Initial Affordability Matri	x	
EXHIBIT C-1	Post-HAP Affordability M	atrix	
EXHIBIT D	Additional Definitions		



RIDER A



EXHIBIT A : PROPERTY DESCRIPTION



EXHIBIT B : PROJECTED INITIAL RENT SCHEDULE FOR UNITS OTHER THAN HOME ASSISTED UNITS

(Rents assume that the Grantor pays all utilities. An allowance for any utilities paid by tenants must be deducted from these rents. Utility allowances are to be established by the Holders using the HUD guidance pursuant to 24 CFR 92.252 (d).)

INCOME LEVEL

UNIT TYPE	EXTREMELY LOW INCOME	VERY LOW INCOME	LOW INCOME	MODERATE INCOME	HIGH MODERATE INCOME
SRO	\$665.00	\$1,107.00	\$1,329.00	\$1,712.00	\$2,436.00
STUDI OS	\$665.00	\$1,107.00	\$1,329.00	\$1,712.00	\$2,436.00
1-BR	\$712.00	\$1,186.00	\$1,424.00	\$1,834.00	\$2,611.00
2-BR	\$855.00	\$1,423.00	\$1,708.00	\$2,201.00	\$3,132.00
3-BR	\$988.00	\$1,646.00	\$1,975.00	\$2,543.00	\$3,621.00
4-BR	\$1,102.00	\$1,836.00	\$2,203.00	\$2,836.00	\$4,039.00



EXHIBIT B-1: PROJECTED INITIAL RENT SCHEDULE FOR HOME ASSISTED UNITS

(Rents assume that the Grantor pays all utilities. An allowance for any utilities paid by tenants must be deducted from these rents. Utility allowances are available from the local housing authority.) For Studios without both a kitchen and bathroom (i.e. an SRO), the rent will be 75% of the Fair Market Rent for a Studio.

INCOME LEVEL

	VERY	
UNIT TYPE	LOW INCOME	LOW INCOME
STUDIOS	\$1,007.00	\$1,290.00
1-BR	\$1,079.00	\$1,383.00
2-BR	\$1,295.00	\$1,662.00
3-BR	\$1,496.00	\$1,911.00
4-BR	\$1,670.00	\$2,113.00



EXHIBIT C: INITIAL AFFORDABILITY MATRIX -- NOTE THAT IN ORDER TO SATISFY THE AFFORDABILITY REQUIREMENTS OF THE MHP FIRST MORTGAGE LOAN AT LEAST EIGHTEEN OF THE TOTAL UNITS SHALL BE LOW INCOME UNITS.

		INCOME CATEGORY							
NUMBER/SIZE OF UNITS REQUIRED BY	TERM	HIGH MODERATE INCOME (100% AMI)	MODERATE INCOME (80% AMI)	LOW INCOME (60% AMI)	VERY LOW INCOME (50% AMI)	EXTREMELY LOW INCOME (30% AMI)			
АНТ	40 years	SRO Studio 1-BR 3 2-BR 1 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 19 1-BR 10 2-BR 3-BR 4-BR	SRO 1-BR 2-BR 3-BR 4-BR	SRO Studio 3 1-BR 2 2-BR 1 3-BR 4-BR			
HSF	50 years	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 19 1-BR 10 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 3 1-BR 2 2-BR 1 3-BR 4-BR			
MHFA ARPA	[50 years]	SRO 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 19 1-BR 10 2-BR 3-BR 4-BR	SRO 1-BR 2-BR 3-BR 4-BR	SRO Studio 3 1-BR 2 2-BR 1 3-BR 4-BR			
BARNSTABLE COUNTY HOME	99 years	SRO 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 2 1-BR 3 2-BR 3-BR 4-BR	SRO Studio 3 1-BR 2 2-BR 1 3-BR 4-BR	SRO 1-BR 2-BR 3-BR 4-BR			
BARNSTABLE COUNTY ARPA	20 years	SRO 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 19 1-BR 10 2-BR 3-BR 4-BR	SRO 1-BR 2-BR 3-BR 4-BR	SRO Studio 3 1-BR 2 2-BR 1 3-BR 4-BR			
NFIT	40 years	SRO Studio	SRO Studio	SRO Studio	SRO Studio	SRO Studio			



		1-BR 2-BR 3-BR 4-BR	1-BR 2-BR 3-BR 4-BR	13 1-BR 10 2-BR 3-BR 4-BR	1-BR 2-BR 3-BR 4-BR	3 1-BR 2 2-BR 1 3-BR 4-BR
MHP WORKFORCE HOUSING	[]	SRO Studio 1-BR 3 2-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR
LOCAL AHT	Perpetual	SRO 1-BR 1-BR 1-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 19 1-BR 10 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 3 1-BR 2 2-BR 1 3-BR 4-BR
TRURO CPA	Perpetual	SRO 1-BR 1-BR 1-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR
COMPOSITE		SRO STUDIO 1-BR 3 2-BR 1 3-BR 4-BR	SRO STUDIO 1-BR 2-BR 3-BR 4-BR	SRO STUDIO 19 1-BR 10 2-BR 3-BR 4-BR	SRO STUDIO 1-BR 2-BR 3-BR 4-BR	SRO STUDIO 3 1-BR 2 2-BR 1 3-BR 4-BR

NOTE: As set forth in Section 2, the Property must include at least four (4) Units accessible to individuals with mobility impairments (consisting of 3 one-bedroom Units and 1 two-bedroom Unit) and at least one (1) additional Units accessible to individuals with sensory impairments (consisting of 1 one-bedroom Unit).



<u>Exhibit C-1</u>: POST-HAP AFFORDABILITY MATRIX -- NOTE THAT IN ORDER TO SATISFY THE AFFORDABILITY REQUIREMENTS OF THE MHP FIRST MORTGAGE LOAN AT LEAST EIGHTEEN OF THE TOTAL UNITS SHALL BE LOW INCOME UNITS.

		INCOME CATEGORY							
NUMBER/SIZE OF UNITS REQUIRED BY	TERM	HIGH MODERATE INCOME (100% AMI)	MODERATE INCOME (80% AMI)	LOW INCOME (60% AMI)	VERY LOW INCOME (50% AMI)	EXTREMELY LOW INCOME (30% AMI)			
АНТ	40 years	SRO 1-BR 3 2-BR 1 3-BR 4-BR	SRO 1-BR 2-BR 3-BR 4-BR	SRO Studio 19 1-BR 10 2-BR 3-BR 4-BR	SRO 1-BR 2-BR 3-BR 4-BR	SRO Studio 3 1-BR 2 2-BR 1 3-BR 4-BR			
HSF	50 years	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 19 1-BR 10 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 3 1-BR 2 2-BR 1 3-BR 4-BR			
MHFA ARPA	[50 years]	SRO 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 19 1-BR 10 2-BR 3-BR 4-BR	SRO 1-BR 2-BR 3-BR 4-BR	SRO Studio 3 1-BR 2 2-BR 1 3-BR 4-BR			
BARNSTABLE COUNTY HOME	99 years	SRO 1-BR 2-BR 3-BR 4-BR	SRO 1-BR 2-BR 3-BR 4-BR	SRO Studio 4 1-BR 4 2-BR 3-BR 4-BR	SRO Studio 1 1-BR 2 2-BR 3-BR 4-BR	SRO 1-BR 2-BR 3-BR 4-BR			
BARNSTABLE COUNTY ARPA	20 years	SRO 1-BR 2-BR 3-BR 4-BR	SRO 1-BR 2-BR 3-BR 4-BR	SRO Studio 19 1-BR 10 2-BR 3-BR 4-BR	SRO 1-BR 2-BR 3-BR 4-BR	SRO Studio 3 1-BR 2 2-BR 1 3-BR 4-BR			
NFIT	40 years	SRO Studio	SRO Studio	SRO Studio	SRO Studio	SRO Studio			



		1-BR 2-BR 3-BR 4-BR	1-BR 2-BR 3-BR 4-BR	13 1-BR 10 2-BR 3-BR 4-BR	1-BR 2-BR 3-BR 4-BR	3 1-BR 2 2-BR 1 3-BR 4-BR
MHP WORKFORCE HOUSING	[]	SRO 5tudio 1-BR 3 2-BR 1 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR
LOCAL AHT	Perpetual	SRO Studio 1-BR 3 2-BR 1 3-BR 4-BR	SRO 1-BR 2-BR 3-BR 4-BR	SRO Studio 19 1-BR 10 2-BR 3-BR 4-BR	SRO 1-BR 2-BR 3-BR 4-BR	SRO Studio 3 1-BR 2 2-BR 1 3-BR 4-BR
TRURO CPA	Perpetual	SRO Studio 1-BR 3 2-BR 1 3-BR 4-BR	SRO 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR	SRO Studio 1-BR 2-BR 3-BR 4-BR
COMPOSITE		SRO STUDIO 1-BR 3 2-BR 1 3-BR 4-BR	SRO STUDIO 1-BR 2-BR 3-BR 4-BR	SRO STUDIO 19 1-BR 10 2-BR 3-BR 4-BR	SRO STUDIO 1-BR 2-BR 3-BR 4-BR	SRO STUDIO 3 1-BR 2 2-BR 1 3-BR 4-BR



EXHIBIT D: ADDITIONAL DEFINITIONS

Following are additional definitions used in this Affordable Housing Restriction:

<u>Administrator</u>: shall mean Massachusetts Housing Finance Agency, a body politic and corporate and a public instrumentality of The Commonwealth of Massachusetts, or its successors and assigns as applicable.

"AHT Guidelines" shall mean the guidelines issued by EOHLC regarding the AHT Program, as the same may be amended, supplemented, replaced or otherwise modified from time to time.

"AHT Program" shall mean the Affordable Housing Trust Fund loan program established under the AHT Statute under which AHT makes loans available to sponsors of affordable housing for Low Income and Extremely Low Income Families.

"AHT Statute" shall mean the Massachusetts Affordable Trust Fund Statute, M.G.L. c.121D.

"Area" shall mean Barnstable, MA MSA.

"ARPA Program" shall mean American Recovery Plan Act loan program, under which (i) EOHLC contracts to make funds available through MHFA and other financial intermediaries, for such financial intermediaries to loan to sponsors of certain types of affordable housing, subject to and in accordance with the provisions of the ARPA Statute, and (ii) the Barnstable County ARPA Lender makes loans to sponsors of certain types of affordable housing, subject to and in accordance with the provisions of the ARPA Statute.

"ARPA Regulations" shall mean the regulations relating to the ARPA Program issued by the United States Department of the Treasury at 31 CFR Part 35 in effect as of January 27, 2022, as the same may be amended, supplemented, replaced or otherwise modified from time to time.

"ARPA Statute" shall mean Sections 602 and 603 of the Social Security Act as added by Section 9901 of the American Rescue Plan Act of 2021, as allocated in the Commonwealth of Massachusetts by Section 2A of Chapter 102 of the Acts of 2021 (line item 1599-2022), as each may be amended, supplemented, replaced or otherwise modified from time to time.

"Bedroom Adjusted AMI" applicable to a Unit shall mean the median income for the Area, with adjustments for the number of bedrooms in such Unit, as determined from time to time by HUD pursuant to Section 8 of the United States Housing Act of 1937, as amended. For purposes of adjustments for the number of bedrooms in a Unit, a Unit that does not have a separate bedroom is assumed to be occupied by one individual and a Unit with one or more separate bedrooms is deemed assumed to be occupied by 1.5 individuals for each bedroom (with the total number of individuals rounded up).

"<u>CPA Guidelines</u>" shall mean the bylaw of the Truro accepting the provisions of Sections 3 through 7 of the CPA Statute, together with any guidelines issued by the Town and the Truro Community Preservation Committee regarding the CPA Program, as the same may be amended, supplemented, replaced or otherwise modified from time to time.



"<u>CPA Program</u>" shall mean the Community Preservation Fund loan program established by the Town under the CPA Statute under which the Town makes loans available to sponsors of certain types of affordable housing and for other purposes authorized by the CPA Statute.

"<u>CPA Statute</u>" shall mean Chapter 44B of the Massachusetts General Laws, as the same may be amended, supplemented, replaced or otherwise modified from time to time.

"<u>CPA Regulations</u>" shall mean the informational Guidance Release 01-207 (September 2001), Informational Guidance Release 00-209 (December 2000) and any other bulletins, opinions, guidance or regulations relating to the CPA Statute issued or promulgated by the Commissioner of Revenue of The Commonwealth of Massachusetts, as the same may be amended, supplemented, replaced or otherwise modified from time to time.

"Extremely Low Income Family" shall mean a Family whose Household Income is less than or equal to thirty percent (30%) of the Family-size Adjusted AMI.

"<u>Fair Market Rent</u>" shall mean the fair market rent in the Area for a comparably-sized dwelling as established by HUD under regulations promulgated at 24 C.F.R. §888.11 (or successor regulations), minus a monthly allowance established by the Holders for any utilities and services (excluding telephone) to be paid by the occupying Family.

"Family" shall have the meaning set forth in 24 C.F.R. §5.403 (or any successor regulation). Notwithstanding the foregoing, a household comprised of a full-time student or students shall not qualify as a Family except as permitted under the federal low-income housing tax credit program pursuant to Section 42(i)(3)(D) of the Internal Revenue Code of 1986, as amended.

"<u>Family-size Adjusted AMI</u>" shall mean the median income for the Area, adjusted for family size, as determined from time to time by HUD pursuant to Section 8 of the United States Housing Act of 1937, as amended.

"<u>Grantor</u>" shall mean the Grantor named on the first page hereof or any successor or assign thereof permitted under Section 8 of this Restriction, including any party holding ownership interests in or with respect to the Property.

"<u>Guidelines</u>" shall mean the AHT Guidelines, the HOME Guidelines, the HSF Guidelines, the NFIT Guidelines, the Local AHT Guidelines, and the CPA Guidelines.

"<u>High Moderate Income Family</u>" shall mean a Family whose Household Income is less than or equal to one-hundred-ten percent (110%) of the Family-size Adjusted AMI.

"<u>Holder</u>" shall mean each of EOHLC, MHP, AHT, HSITF, the Barnstable County ARPA Lender, the Barnstable County HOME Lender, MHFA ARPA Lender, and the Town, or, as applicable, each successor or assign of the foregoing and "Holders" shall mean all of the foregoing parties, collectively.

"<u>HOME Guidelines</u>" shall mean the guidelines issued by EOHLC and the Barnstable County HOME Lender regarding the HOME Program, as the same may be amended, supplemented, replaced or otherwise modified from time to time.



"<u>HOME Program</u>" shall mean the federal HOME Investment Partnerships Program under which the Barnstable County HOME Lender makes loans available to sponsors of certain types of affordable housing.

"HOME Regulations" shall mean 24 C.F.R. Part 92.

"Household Income" shall mean a Family's adjusted annual income determined in the manner set forth in 24 C.F.R. §5.609 (or any successor regulations).

"<u>HSF Guidelines</u>" shall mean the guidelines issued by EOHLC regarding the HSF Program, as the same may be amended, supplemented, replaced, or otherwise modified from time to time.

"<u>HSF Program</u>" shall mean Housing Stabilization Fund loan program, established for the purpose of facilitating the creation and preservation of affordable housing, under which EOHLC contracts to make funds available through MHP and other financial intermediaries, for such financial intermediaries to loan to sponsors of affordable housing for Low Income and Extremely Low Income Families, subject to and in accordance with the provisions of the HSF Statute.

"<u>HSF Regulations</u>" shall mean the regulations relating to the HSF Program promulgated by EOHLC at 760 Code of Massachusetts Regulations, Section 24.00 et. seq., as the same may be amended, supplemented, replaced or otherwise modified from time to time.

"<u>HSF Statute</u>" shall mean the Massachusetts Housing Stabilization and Investment Trust Fund Statute, M.G.L. c. 121F, as affected by and by Section 2 of Chapter 99 of the Acts of 2018 (budget line item 7004 0053), as the same may be amended, supplemented, replaced or otherwise modified from time to time.

"HUD" shall mean the United States Department of Housing and Urban Development.

"Improvements" shall mean the building or buildings on the Property presently containing, or after completion of the planned construction to contain, the number of Units indicated on the first page hereof, and all other authorized buildings, structures and improvements located on the Property from time to time, all equipment and fixtures therein, and any authorized repair, improvement, reconstruction, restoration, renovation, or replacement of a capital nature thereto or otherwise on the Property.

"Loan" shall mean collectively, the loans for the Project being provided to the Grantor under the Programs.

"Loan Documents" shall mean collectively, the documents evidencing and securing the Loan.

"<u>Local AHT Guidelines</u>" shall mean the guidelines issued by the Town regarding the Local AHT Program, as the same may be amended, supplemented, replaced or otherwise modified from time to time.

"<u>Local AHT Program</u>" shall mean the Affordable Housing Trust Fund loan program established by the Town of Truro under the Local AHT Statute under which the Town makes loans available to sponsors of certain types of affordable housing.

"Local AHT Statute" shall mean the **[name of AHT ordinance]**, as the same may be amended, supplemented, replaced or otherwise modified from time to time.



"<u>Local AHT Regulations</u>" shall mean the regulations relating to the Local AHT Program promulgated by the Town, as the same may be amended, supplemented, replaced or otherwise modified from time to time.

"Low Income Family" shall mean a Family whose Household Income is less than or equal to sixty percent (60%) of the Family-size Adjusted AMI.

"Moderate Income Family" shall mean a Family whose Household Income is less than or equal to eighty percent (80%) of the Family-size Adjusted AMI.

"NFIT Guidelines" shall mean any quidelines issued by EOHLC with respect to the NFIT Program.

"NFIT Program" shall mean the Non-Federal Investment Trust Fund under which EOHLC makes loans available to sponsors of certain types of affordable housing.

"Over-income Rent" shall mean, for a particular over-income Family, a monthly rent equal to the lesser of (x) the maximum amount payable by the Family under the laws of the municipality in which the Property is located or of The Commonwealth of Massachusetts, (y) one-twelfth of thirty percent (30%) of the Family's Household Income as recertified annually or (z) the comparable market rent for the Family's Unit, but in no event lower than the rent such Family was paying prior to becoming an over-income Family.

"<u>Permitted Encumbrances</u>" shall mean those encumbrances on the Property identified in the mortgage granted to the Holders of even or near date herewith.

"<u>Permitted Uses</u>" shall mean use of the Improvements for the number of rental Units indicated on the first page hereof, including the number of Restricted Units indicated on the first page hereof. Such Permitted Uses shall include activities and/or services of a nature to benefit the Residents of the Restricted Units.

"<u>Programs</u>" shall mean the AHT Program, the HSF Program, the ARPA Program, the HOME Program, the NFIT Program, the Local AHT Program, the CPA Program [and the Workforce Housing Program].

"<u>Property</u>" shall mean that certain parcel or parcels of land located at the Property Address indicated on the first page hereof and more particularly described in <u>Exhibit A</u> attached hereto, together with all Improvements thereon.

"Registry of Deeds" shall mean the Barnstable County Registry of Deeds.

"Regulations" shall mean the HSF Regulations, the ARPA Regulations, the HOME Regulations, the Local AHT Regulations and the CPA Regulations.

"Residents" shall mean the lawful occupants of the Units.

"Restricted Unit" shall mean a Unit required by the terms hereof to be rented to a High Moderate Income Family, a Low Income Family or an Extremely Low Income Family.

"SRO Unit" shall mean a single-room (zero bedroom) Unit intended for occupancy by a single eligible Resident and that may contain partial food preparation and/or sanitary facilities.



"<u>Statutes</u>" shall mean the AHT Statute, the HSF Statute, the ARPA Statute, the Local AHT Statute, the CPA Statute [and the Workforce Housing Statute].

"Studio Unit" shall mean a single-room (zero bedroom) Unit that contains a complete kitchen and bathroom.

"Unit" shall mean any residential unit located on the Property.

"Very Low Income Family" shall mean a Family whose Household Income is less than or equal to fifty percent (50%) of the Family-size Adjusted AMI.

["Workforce Housing Program" shall mean workforce housing loan program, under which MHP makes loans to sponsors of certain types of affordable housing, subject to and in accordance with the provisions of the Workforce Housing Statute.]

["Workforce Housing Statute" shall mean the [Sections 602 and 603 of the Social Security Act as added by Section 9901 of the American Rescue Plan Act of 2021] and Item 1599-6084 of Chapter 268 of the Massachusetts Act of 2022, as each may be amended, supplemented, replaced or otherwise modified from time to time.]



GROUND LANDLORD ESTOPPEL AND AGREEMENT

This Ground Landlord Estoppel and Agreement (this "Estoppel and Agreement") is made as of [December ___], 2024, by Town of Truro, Massachusetts (together with its successors and assigns, the "Landlord").

BACKGROUND

The Landlord has entered into that certain [Ground Lease], dated as of [______] (the "Lease"), between the Landlord, as landlord, and The Community Builder's, Inc., as tenant ("TCB"), as assigned by TCB to Cloverleaf Truro LLC (the "Tenant") by that certain [Ground Lease Assignment Document] by and among Landlord, TCB and Tenant dated as of the date hereof, as to which a Notice of Lease is recorded with the Barnstable Registry of Deeds in [Book _________, Page ________]. The Lease relates to property located in Truro, Massachusetts, as more particularly described in the Lease (the "Premises").

The Tenant, in order to provide financing for the development of the Premises as an affordable housing project (the "Project"), is obtaining financing from Merchants Bank of Indiana (the "Senior Construction Lender"), Massachusetts Housing Partnership Fund Board (in its capacity as senior permanent lender, the "Senior Permanent Lender" and in its capacity as workforce housing lender, the "Workforce Housing Lender") and from Massachusetts Housing Partnership Fund Board, as agent for The Commonwealth of Massachusetts, acting by and through the Executive Office of Housing and Livable Communities under the Housing Stabilization and Investment Trust Fund Statute, M.G.L. c. 121F ("Agent"), acting on its own behalf and as agent for the following lenders, each of which is a "Participating Lender" hereunder: The Commonwealth of Massachusetts acting by and through the Executive Office of Housing and Livable Communities, The Commonwealth of Massachusetts acting by and through the Executive Office of Housing and Livable Communities under the Affordable Housing Trust Fund Statute, M.G.L. c. 121D, by its administrator Massachusetts Housing Finance Agency, Barnstable County, a body politic of the Commonwealth of Massachusetts, as lead entity for the Barnstable County HOME Consortium, acting by and through its County Commissioners, Barnstable County, a body politic of the Commonwealth of Massachusetts, as recipient and sub-grantor of State and Local Fiscal Recovery Funds through the American Rescue Plan Act (ARPA), acting by and through its County Commissioners, and Massachusetts Housing Finance Agency, as agent for The Commonwealth of Massachusetts, acting by and through the Executive Office of Housing and Livable Communities. As a condition to the loan made by the Agent and the Participating Lenders, the Tenant is also granting to the Agent and the Participating Lenders an Affordable Housing Restriction, to be recorded with the Barnstable County Registry of Deeds, with respect to the Project (the "Affordable Housing Restriction"). For purposes of this Estoppel and Agreement, the Senior Construction Lender, Senior Permanent Lender, Workforce Housing Lender, Agent and the



Participating Lenders are sometimes referred to as the "Lenders," or each individually as a "Lender." The Lenders have requested the execution and delivery of this Estoppel and Agreement as a further condition to the making of their respective Loans.

ESTOPPEL AND AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Landlord agrees and certifies as follows:

- 1. The Landlord is the present fee owner of the Premises and the legal and equitable owner of the entire Landlord's interest under the Lease.
- 2. A true, complete and accurate copy of the Lease is attached hereto as <u>Exhibit A</u>. The Lease is in full force and effect and there are no amendments, modifications or supplements thereto except as set forth in Exhibit A.
- 3. Notwithstanding anything contained in the Lease to the contrary, the Tenant may assign and mortgage its interest in the Lease to the Lenders pursuant to the mortgages granted to the Lenders (each, a "Mortgage" and collectively, the "Mortgages"), and may grant the Affordable Housing Restriction affecting the Premises for the benefit of the Agent and the Participating Lenders.
- 4. The Landlord acknowledges that it has received notice under the Lease of the each of the Mortgages, and that each of the Lenders has all rights of a leasehold mortgagee under the Lease, including without limitation the rights set forth respectively in Section ___ and Section ___ thereof. The Landlord agrees to give all notices to the Lenders at their respective addresses set forth in Exhibit B hereto (subject to any subsequent written notice of change of address).
- 5. The Landlord hereby warrants and represents as follows: (i) all rent, additional rent, taxes, and other charges payable under the Lease have been paid to the extent they are payable to the date hereof; (ii) the Tenant enjoys the quiet and peaceful possession of the Premises; (iii) neither the Landlord nor the Tenant is in default under any of the terms of the Lease and, to the best of the Landlord's knowledge, there are no circumstances which, with the passage of time or the giving of notice or both, would constitute an event of default thereunder, (iv) the Landlord has delivered, and the Tenant has accepted, the Premises in accordance with the terms of the Lease, and (v) the Landlord has not approved, and to the best of the Landlord's knowledge the Tenant has not entered into, any assignment of the Lease or sublease of any portion of the Premises.

	6.	The	Term	of	the	Lease	commenc	ed on	[_]	(the
"Con	nmencer	nent Da	ite"), ar	ıd ex	pires	on [],	and the	e Tenan	t has no	righ	nt to
exter	nd the L	ease.											
	7.	The	annual	Base	Rent	due und	ler the Lea	se is \$[]	from	the
Comi	mencem	ent Da	te throu	ıgh [.————].	The Bas	e Rent	has be	en paid	thro	ough
г .			7										



- 8. All work performed on the Premises to date complies with the terms of the Lease and, if required, has been approved by the Landlord, and, if required, the Plans and Specifications for the Project have been approved by the Landlord.
- 9. The Landlord acknowledges that the Landlord has received evidence of compliance with all of the insurance requirements set forth in the Lease, including without limitation Article [_____] thereof.
- 10. The Landlord acknowledges and agrees that it shall not encumber the Premises by mortgage or otherwise, without the consent of the Senior Lender and the Agent, acting for itself and on behalf of all Participating Lenders.
- 11. The Lease and this Landlord's Estoppel and Agreement have been duly authorized by all requisite actions of the [______] of the Landlord, which actions remain in full force and effect without modification as of the date hereof.
- 12. The Landlord acknowledges and agrees that the Senior Lender, and the Agent and all Participating Lenders are each materially relying upon this Estoppel and Agreement in providing financing to the Tenant in connection with the construction and use of the Project at the Premises.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE(S)]

IN WITNESS WHEREOF, the Landlord has caused this Estoppel and Agreement to be executed under seal by its duly authorized officers as of the date first above written.

	TOWN OF TRURO, MASSACHUSETTS
	By:
	Name:
	Title:
COMMONWEALTH OF MASSACHUSETTS	5
County, ss.	
appearedidentification, which was (a current drivent knowledge of the identity of the principal preceding or attached document, and according to the principal preceding or attached document, and according to the principal preceding or attached document, and according to the principal preceding to the principal	, before me, the undersigned notary public, personally, proved to me through satisfactory evidence of ver's license) (a current U.S. passport) (my personal pal), to be the person whose name is signed on the knowledged to me that he/she signed it voluntarily, as reits stated purpose as the voluntary act of the Town of
Truro.	
Notary Public	
My commission expires:	

The foregoing Landlord's Estoppel and Agreement is hereby acknowledged and consented to by the Tenant as of the date first set forth above, and the Tenant hereby confirms that all of the facts set forth therein are true and complete.

CLOVERLEAF TRURO LLC, a Massachusetts limited liability company

Ву:	CLOVERLEAF TRURO MM LLC, its Managing Member
	By:
	Name:
	Its: Authorized Agent

EXHIBIT A: LEASE

EXHIBIT B: LENDER NOTICE ADDRESSES

Massachusetts Housing Partnership Fund Board, a Massachusetts public instrumentality and body politic and corporate, with an office at 160 Federal Street, 2nd Floor, Boston, Massachusetts 02110.

Massachusetts Housing Partnership Fund Board, as agent for The Commonwealth of Massachusetts, acting by and through the Executive Office of Housing and Livable Communities under the Housing Stabilization and Investment Trust Fund Statute, M.G.L. c. 121F, with an office at 160 Federal Street, Boston, Massachusetts 02110

The Commonwealth of Massachusetts acting by and through the Executive Office of Housing and Livable Communities, with an office at 100 Cambridge Street, Suite 300, Boston, Massachusetts 02114

The Commonwealth of Massachusetts, acting by and through the Executive Office of Housing and Livable Communities under the Affordable Housing Trust Fund Statute, M.G.L. c. 121D, by the Massachusetts Housing Finance Agency, as Administrator, with an office at One Beacon Street, Boston, Massachusetts 02108

Barnstable County, a body politic of the Commonwealth of Massachusetts, as lead entity for the Barnstable County HOME Consortium, acting by and through its County Commissioners, with an office at 3195 Main Street, P.O. Box 427, Barnstable, Massachusetts 02630

Barnstable County, a body politic of the Commonwealth of Massachusetts, as recipient and subgrantor of State and Local Fiscal Recovery Funds through the American Rescue Plan Act (ARPA), acting by and through its County Commissioners, with an office at 3195 Main Street, P.O. Box 427, Barnstable, Massachusetts 02630

Massachusetts Housing Finance Agency, as agent for The Commonwealth of Massachusetts, acting by and through the Executive Office of Housing and Livable Communities, with an office at One Beacon Street, Boston, Massachusetts 02108

Agenda Item: 7B



TOWN OF TRUROSelect Board Agenda Item

DEPARTMENT: Administration

REQUESTOR: Noelle Scoullar, Executive Assistant, on Behalf of Cassie Boyd Marsh, Bailey Boyd

Associates, Inc.

REQUESTED MEETING DATE: December 17, 2024

ITEM: Review and Approval of FY2024 Community Development Block Grant Housing Rehabilitation Subgrantee Contract

EXPLANATION: The Town of Truro was awarded a FY24 Community Development Block Grant with funds available for Housing Rehabilitation Services & Childcare Subsidies. A Request for Proposals was advertised, and bids were received for a bid opening on December 4, 2024, at Bailey Boyd Associates. The Resource, Inc. was deemed the favorable respondent, and the agreement herewith is attached for review by the Select Board.

FINANCIAL SOURCE (IF APPLICABLE): N/A

IMPACT IF NOT APPROVED: The Review and Approval of FY2024 Community Development Block Grant Housing Rehabilitation Subgrantee Contract

SUGGESTED ACTION: Motion to approve the CDBG Housing Rehabilitation subgrantee agreement between the Town of Truro and The Resource, Inc and to authorize the Town Manager to sign.

ATTACHMENTS:

- 1. Bailey Boyd Associates, Inc. memo
- 2. Sub Grantee Bid Comparison Sheet
- 3. Agreement

Agenda Item: 7B1



TO:

Truro Select Board

Darrin Tangeman, Town Administrator

FROM:

Cassie Boyd Marsh, Bailey Boyd Associates, Inc.

DATE:

December 5, 2024

RE:

FY24 Truro CDBG Housing Rehab Subgrantee Procurement

As you know, the Town of Truro was recently awarded an FY24 Community Development Block Grant with funds available for Housing Rehabilitation Services & Childcare Subsidies. As part of the start-up of this grant, the RFP for a Housing Rehabilitation Subgrantee was advertised and bids were received at the Bailey Boyd Associates office for a bid opening on December 4, 2024.

This year we received two proposals for this role, from The Resource Inc.(TRI) and Leonardi Aray Architects (LAA). As Grant Administrator, I have reviewed both submissions for compliance and scored them according to the metrics provided in the RFP.

The bid submitted by TRI was compliant and scored as 'Highly Advantageous'. The response submitted by LAA was not compliant. I have attached the bid comparison sheet detailing these findings.

With only one bid demonstrating compliance with the RFP, I have prepared a contract for The Resource, Inc. TRI has a long & successful history operating the CDBG Housing Rehab program in Truro and across the region, and I am confident that they will complete the FY24 program successfully.

The contract value includes \$910,000 in Housing Rehab loans and \$190,000 in Program Delivery.

I am requesting that this contract be added to the next Select Board meeting agenda for review and, if appropriate, approval. The FY24 program is ready to begin once this contract is executed. Please don't hesitate to contact me with questions or for additional information.

FY24 CDBG Truro Housing Rehab Subgrantee RFP Responses

Million C. L. N. C. Y.	TRI	LAA
Minimum Evaluation Criteria		
Has the proposer conformed in all material respects to the submission requirements as set forth in the RFP?	Yes	No, the proposer did not provide adequate response including certification of ability to adhere to drawdown requirements, providing FTEs for staff, or mention of ability to meet with Town Representatives
Does the proposer have a minimum of two years' experience with CDBG housing rehabilitation grants?	Yes, lists more than 22 years direct CDBG HR experience with list	No, the proposor is 'familiar' with CDBG and has 2+ years of HR experience, but not CDBG HR experience
Does the proposer have a minimum of three references for confirmation of quality performance standards?	Yes, many references from contractors, participating towns and past participants, including letters of support & program evaluations	Yes, lists references from 8 different projects that LAA has worked on
Comparative Evaluation Criteria	Rating	Rating
	Highly Advantagous	Not Advantageous
Evaluation of Scope of Services	riiginy Advantagous	Not Advantageous
Experience of Firm and Management	Highly Advantagous	Unacceptable
Availability to meet with Town Representatives	Highly Advantagous	Not Advantageous
CDBG Housing Rehab Program Clients	Highly Advantagous	Unacceptable
Comments:	Detailed scope of services provided, demonstrating significant program knowledge. Staff detail, FTEs and resumes provide evidence of qualifications. Ability to meet with staff more than adequate. Evidence of satisfied past clients evident from Towns to participating homeowners. Bid responds precisely to requirements outlined in RFP. Details on experienced staff, systems in place and references from past recipients supports bid claims	Scope of services is vague and does not adequately outline tasks involved in operating the program. No certification ability to adhere of drawdown requirements was provided. No experience in CDBG grant program implentation, though have operated non-CDBG Housing Rehab programs in other communities. Refers to subcontractors, like MCO, but does not include their resumes. FTEs are not provided for participating staff. Does not provide any reference to availability of firm to meet with Town Representatives. 3 or more clients HR clients are listed, though none are CDBG. Response does not provide evidence that past clients found work satisfactory.
Bid Results: Price Proposal (only list opened PP)	Bid scored: Highly Advantageous. Based on the experience of the firm, both in depth of knowledge & specific to CDBG, as well as overall responsiveness to the requirements of the RFP, I recommend that the contract be awarded to TRI. \$190,000 Program Delivery, \$910,000 in HR Loans	Bid Response Not Compliant

Completed by:Cassie Boyd Marsh, Grant Administrator

Carrie Bopal March Date: December 4, 2024

Agenda Item: 7B3

AGREEMENT

BY AND BETWEEN

TOWN OF TRURO AND

THE RESOURCE, INC.

THIS AGREEMENT, was made as of the 5th day of December, 2024 by and between the Town of Truro, Massachusetts (hereinafter referred as the MUNICIPALITY) and The Resource, Inc., hereinafter referred to as the CONSULTANT). WITNESSETH THAT:

WHEREAS, the MUNICIPALITY of Truro, Massachusetts has entered into an agreement with the Commonwealth of Massachusetts' (hereinafter "Commonwealth") Executive Office of Housing & Livable Communities (hereinafter "EOHLC"), Massachusetts Community Development Block Grant Program (hereinafter "Mass. CDBG") to undertake a community development program of housing rehabilitation (hereinafter "Program") pursuant to the Housing and Community Development Act of 1974 (hereinafter "Act"), as amended, and regulations thereunder, and

WHEREAS, professional services relating to the implementation and administration of the Program are sought to assist the MUNICIPALITY in the timely achievement of its Mass. CDBG Housing Rehabilitation Grant Program objectives.

NOW, THEREFORE, THE PARTIES HERETO DO AGREE AS FOLLOWS:

- 1. ENGAGEMENT OF CONSULTANT: The MUNICIPALITY hereby engages the CONSULTANT to perform the services set forth herein and the CONSULTANT hereby accepts the engagement.
- 2. SCOPE OF SERVICES: The CONSULTANT shall perform the necessary services as described in the approved proposal to the MUNICIPALITY of Truro, which is incorporated by reference herein as Attachment A.
- 3. RESPONSIBILITY OF THE MUNICIPALITY: The MUNICIPALITY shall assume responsibility for assisting the CONSULTANT insofar as possible for the purpose of efficiency and furnishing the CONSULTANT with information needed to satisfactorily complete the services.
- 3.1 The MUNICIPALITY shall designate a project representative authorized to work with the CONSULTANT with respect to the project. The MUNICIPALITY'S representative is Cassie Boyd Marsh. TELEPHONE 508 430-4499 x1.
- 4.1 REPORTING: The CONSULTANT will submit written reports to the MUNICIPALITY on the status of the professional services, according to the schedule and dates specified below, or at other times as required by an information request or reporting requirement of Mass. CDBG.

REPORT: CDBG Quarterly Report

DATE DUE: 15th day of each new quarter through grant closeout

5. SUBCONTRACTS: No subcontracts may be awarded by the CONSULTANT the purpose of which is to fulfill in whole or in part the services required of the CONSULTANT, without prior written approval of the MUNICIPALITY and EOHLC.

The CONSULTANT shall use its best efforts to ensure that it will not knowingly use funds under this contract to purchase, or enter into contracts to purchase, any equipment, services, or systems that use

telecommunications equipment or services as a substantial or essential component of a system that is subject to 2 CFR § 200.216. In the event the CONSULTANT identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system that is subject to 2 CFR § 200.216, during Contract performance, the CONSULTANT shall alert the MUNICIPALITY as soon as possible and shall provide information on any measures taken to prevent recurrence.

- 6. TIME OF PERFORMANCE: The services of the CONSULTANT are to commence on or about December 5, 2024, and shall be undertaken and completed in sequence as to assure their expeditious completion.
- 6.1 All services required hereunder shall be completed by December 31, 2025.
- 6.2 No additional funds will be provided if an extension is required to complete contractual obligations.
- 7. COMPENSATION: The MUNICIPALITY will pay the CONSULTANT a total fee in amount not to exceed One-Hundred Eighty Thousand Dollars (\$190,000) for program management and \$910,000 for housing rehab loans, with no reimbursements for out-of-pocket expenses, based on invoices submitted in a form approved by the Municipality and according to the "Method and Schedule of Compensation," found as Attachment B. Payment of invoices will be tied to progress towards meeting the grant milestones and to CONSULTANT's satisfactory compliance with the terms of this Contract, as determined by the MUNICIPALITY, as CDBG is a performance-based program. By submission of an invoice, the CONSULTANT represents that in accordance with the Contract, services have been rendered, articles have been furnished, or obligations have been incurred by a person authorized to incur such obligations.

8. GENERAL PROVISIONS:

- 8.1 RETENTION OF RECORDS: The CONSULTANT shall maintain in accordance with 2 CFR Part 200.333, and any Mass. CDBG regulations, procedures or guidelines, those books, records, and other documents, including but not limited to payroll records, and purchase orders that are sufficient to document that activities carried out were in accordance with this Agreement, and the primary objectives of the Act, and any other applicable laws and regulations. Such records shall contain all information pertaining to grant awards, authorizations, obligations, unobligated balances, assets, liabilities, outlays and income. The CONSULTANT shall maintain such records for a period of seven (7) years from the date of expiration of this Agreement, or if such records become the subject of audit findings, they shall be retained until such findings have been resolved, whichever islater.
- 8.1.1 PROGRAM INCOME: If the CONSULTANT's services under this Agreement includes the tracking, reporting, or utilizing of funds considered to be program income, CONSULTANT will track, report and utilize any and all such program income generated through CDBG funded activities as required by Mass. CDBG.
- 8.1.1. PHOTOGRAPHIC DOCUMENTATION (for construction projects only): CONSULTANT shall submit photographs to the MUNICIPALITY of all construction projects assisted with CDBG funds, illustrating conditions prior to, during, and at completion of the project. Photographs are to be submitted at the time of grant closure.
- 8.2 ACCESS TO RECORDS: The CONSULTANT shall make all books, accounts, records, reports, files, and other papers, things or property, that relate to its activities under this Agreement, available at all reasonable times for inspection, review, and audit by EOHLC, their authorized representatives, authorized representatives of the U.S. Department of Housing and Urban Development (hereinafter "HUD"), the Inspector General of the United States, or of the Commonwealth, the Auditor of the Commonwealth, and the Attorney General of the United States, or of the Commonwealth reserves the right of the Governor or his designee, the Secretary of Administration and Finance, and

the State Auditor and his designee, at reasonable times and upon reasonable notice, to examine the books, records, and other compilative data of the CONSULTANT which pertain to the performance of the provisions and requirements of this Agreement, as provided by Executive Order 195.

- 8.3. TERMINATION: The MUNICIPALITY may terminate the contract, for cause, upon fifteen (15) days written notice to the CONSULTANT. In case of termination, all finished and unfinished documents and records of the CONSULTANT relating to the Program shall become the property of the MUNICIPALITY. This Section 8.3 of this Agreement shall be superseded by federal HUD regulations and directives which outline provisions for termination for convenience and for termination in whole or in part pursuant to 2 CFR § 200.340.
- 8.3.1 In the event of termination, the CONSULTANT will be compensated for services provided to the date of termination, according to the "Method and Schedule of Compensation," AttachmentB.
- 8.4 AMENDMENTS: This Agreement may be amended provided such amendment is in writing and executed by the parties to this AGREEMENT, and receives approval from EOHLC prior to its effective date.
- 8.5 NON-DISCRIMINATION: The CONSULTANT shall adhere to the requirements set forth in Title VI of the Civil Rights Act of 1964 (Public Law 88-352), and the regulations issued pursuant thereto by HUD; Title VIII of the Civil Rights Act of 1968 (Public Law 90-284), as amended; section 109 of the Housing and Community Development Act of 1974, and the HUD regulations issued pursuant thereto (24 CFR 570.601); Federal Executive Order 11063, as amended by Executive Order 12259 and the HUD regulations issued pursuant thereto (24 CFR 107); The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.); Section 402 of the Veterans of the Vietnam Era Act (for projects of \$10,000 or more); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); Massachusetts General Laws Chapter 151B Section 1 et seq.; State Executive Order 478; Mass. CDBG regulations, procedures or guidelines; and all other applicable federal and state laws, regulations, guidelines and executive orders.

The CONSULTANT shall not discriminate against any employee or applicant for employment because of race, color, religious creed, national origin, sex, gender identity, sexual orientation, genetic information, ancestry, status as a veteran or any other basis prohibited by law. The CONSULTANT shall take affirmative action to ensure that qualified applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religious creed, national origin, sex, gender identity, sexual orientation, genetic information, ancestry, status as a veteran or any other basis prohibited by law. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONSULTANT shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. The CONSULTANT shall state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, national origin, sex, gender identity, sexual orientation, genetic information, ancestry, status as a veteran or any other basis prohibited by law.

- 8.6 PROCUREMENT STANDARDS: The CONSULTANT shall adhere to the requirements set forth in and Mass. CDBG regulations and the Massachusetts CDBG Program Operations Manual, as applicable, as well as procedures and guidelines with respect to standards governing procurement, and any applicable provisions of Commonwealth laws and regulations relative thereto, including Chapter 30, section 39M; Chapter 149, section 44A through 44J; Chapter 484 of the Acts of 1984; and Chapter 30B. All procurement transactions without regard to dollar value shall be conducted in a manner that provides maximum free and open competition. It is national and state policy that the recipient take affirmative steps to award a fair share of contracts taken to assure that small and minority owned businesses are utilized when possible as sources of supplies, equipment, construction and services. The CONSULTANT shall maintain records sufficient to detail the process for procurement.
- 8.7 EQUAL EMPLOYMENT OPPORTUNITY. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment

- Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11478, "Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246 Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
- 8.8 EMPLOYMENT OPPORTUNITIES: Where applicable, the CONSULTANT shall comply with provisions of Section 3 of the Housing and Community Development Act of 1968 (12 U.S.C. 1701u) and the HUD regulations issued pursuant thereto (24 U.S.C. 135), which shall serve as guidance for the implementation of said section.
- 8.9 FAIR HOUSING: In addition to the laws and regulations set forth herein with respect to ensuring fair housing opportunities, the CONSULTANT shall adhere to the provisions of State Executive Orders 215 and 526.
- 8.10 LABOR STANDARDS: Where applicable, the CONSULTANT shall adhere to the provisions of Section 110 of the Act, and the Massachusetts General Laws Chapter 149 sections 26 to 27D inclusive (as amended by Chapter 484 of the Acts of 1984). In the case of the rehabilitation of commercial property, or rehabilitation of residential property designed for residential use of eight or more families, the CONSULTANT shall adhere to the Federal Labor Standards Provisions (HUD Handbook 1344.1), the requirements of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et. seq.) and the Copeland Anti-Kickback Act.
- 8.11 CONFLICT OF INTEREST: The CONSULTANT shall adhere to the mandates of the Massachusetts Conflict of Interest Statute, M.G.L. c.268A, the federal Conflict of Interest Provisions at 24 CFR 570.489 and the federal Hatch Act, 5 U.S.C. ss 1501 etseq.
- 8.12 DOMESTIC PREFERENCES FOR PROCUREMENTS: Pursuant to 2 CFR § 200.322, the CONSULTANT should, to the greatest extent practicable under this Agreement and as appropriate and to the extent consistent with law, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. The CONSULTANT shall include this requirement in agreements with subgrantees, including all contracts and purchase orders for work or products under this Agreement
- 8.13 COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS AND REGULATIONS, AND CDBG REGULATIONS, PROCEDURES, AND GUIDELINES: All activities authorized by this Agreement shall be subject to and performed in accordance with the provisions of the MUNICIPALITY's Grant Agreement with EOHLC and all its attachments (including, where relevant, Section 4.14, Flood Disaster Protection, 4.15, Historic Preservation, 4.16, Additional Environmental Requirements, 4.17, Lead Paint Hazards, and 4.18 Relocation Assistance), all applicable federal, state, and local laws and regulations, including but not limited to any applicable regulations issued by HUD published in 24 CFR Part 570, as may be amended from time to time. The CONSULTANT shall comply with the provisions of 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards," and all applicable State and local laws and regulations, including but not limited to those specifically stated herein, any additional regulations, procedures or guidelines as may be established or amended by EOHLC.
- 9. AVAILABILITY OF FUNDS: The compensation provided by this Agreement is subject to the continued availability of federal funds for Mass. CDBG, and to the continued eligibility of the Commonwealth and the MUNICIPALITY to receive such funds.
- 10. INDEMNIFICATION: The CONSULTANT shall indemnify, defend, and hold the MUNICIPALITY harmless from and against any and all claims, demand, liabilities, actions, causes of actions, cost and expenses caused by or arising out of the CONSULTANT's breach of this Agreement or the negligence or misconduct of the CONSULTANT, or the agents or employees.
- 11. LICENSES: The CONSULTANT shall procure and keep current any licenses, certifications, or permits required for any activity to be undertaken as part of the Scope of Services, Attachment A, as required by federal, state

or local laws or regulations, and shall comply with the provisions of 2 CFR Part 200.325 with respect to any bonding or other insurance requirements.

12. CONFIDENTIALITY: The CONSULTANT will protect the privacy of, and respect the confidentiality of information provided by, program participants, the MUNICIPALITY, and EOHLC, consistent with applicable federal and Commonwealth laws and regulations, including M.G.L., C. 66A, regarding access to public records, M.G.L. c. 93H, M.G.L. c. 66 sec. 17A and any applicable regulations, including without limitation, 801 CMR 3.00: Privacy and Confidentiality and 201 CMR 17.00: Standards for the Protection of Personal Information of Residents of the Commonwealth.

The CONSULTANT certifies that the CONSULTANT has reviewed and shall comply with all information security programs, plans, guidelines, standards and policies that apply to the work to be performed under this Agreement, that the CONSULTANT shall communicate these provisions to and enforce them against its subcontractors, and that the CONSULTANT shall implement and maintain any other reasonable and appropriate security procedures and practices necessary to protect personal information to which the CONSULTANT is given access as part of this Agreement, from unauthorized access, destruction use, modification, disclosure, or loss.

The CONSULTANT understands and agrees that only those individuals who must access personal data for the performance of their job duties under CDBG are authorized to access such personal data. These authorized individuals shall not use or disclose this data for purposes other than those required to fulfill their job duties under CDBG. Pursuant to the above, the CONSULTANT acts as a holder of personal data and the CONSULTANT certifies that it and its authorized employees shall comply with all Federal and State laws and regulations applicable to the data, including but not limited to M.G.L. c. 66A, M.G.L. c. 93H, and M.G.L. c. 66 sec. 17A. The MUNICIPALITY and the CONSULTANT shall not use any of the foregoing data for any purpose described in Section 603(d)(1) of the federal Fair Credit Reporting Act (15 U.S.C. § 1681a(d)(1)) or in any manner that would cause EOHLC, the MUNICIPALITY, or the CONSULTANT to be considered a "consumer reporting agency" under Section 603(f) of the federal Fair Credit Reporting Act (15 U.S.C. § 1681a(f)).

The CONSULTANT and its employees shall generally not conduct Massachusetts CDBG program business through or send confidential Massachusetts CDBG program business information to the employee's personal email account. In addition, the CONSULTANT will promptly notify EOHLC in the event of any security breach including the unauthorized access, disbursement, use or disposal of the Massachusetts CDBG program business records and information. In the event of a security breach, the CONSULTANT will cooperate with the MUNICIPALITY, EOHLC, and their authorized representatives and will provide access to any information necessary to respond to the security breach.

- 13. COPYRIGHT: No material prepared in whole or in part under this Agreement shall be subject to copyright in the United States of America or in any other country except with the prior written approval of Mass. CDBG.
- 14. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT: If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the MUNICIPALITY or the CONSULTANT wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the CONSULTANT will comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
- 15. CLEAN AIR ACT (42 U.S.C. 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. 1251-1387), AS AMENDED: If the amount of the contract or subgrant exceeds \$150,000, the CONSULTANT agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean

Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency.

- 16. ENERGY POLICY AND CONSERVATION ACT (42 U.S.C. 6201): Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan must be issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).
- DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689): A contract (see 2 CFR 180.220) must not be made with parties listed on the government-wide Excluded Parties List System in the System for Award Management (hereinafter "SAM"), in accordance with the United States Office of Management and Budget guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The MUNICIPALITY is not currently debarred or suspended by the federal or state government under any law or regulation. The CONSULTANT certifies that neither it nor any of its subcontractors are currently debarred or suspended by the federal or state government under any law or regulation.
- 18. BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352): Contractors, including both the MUNICIPALITY and the CONSULTANT, that request or receive an award of \$100,000 or more must file the required certification set out in Appendix A to 45 CFR Part 93. Each tier must certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. The CONSULTANT shall herewith provide the MUNICIPALITY the certification set out in Appendix A to 45 CFR Part 93.
- 19. CLOSEOUT: The CONSULTANT shall follow such policies and procedures with respect to close-out of any associated grant as may be required by Mass. CDBG.
- 20. CERTIFICATE OF TAX COMPLIANCE: The following Certificate of Tax Compliance must be completed and submitted as part of this Agreement:

Certificate of Tax Compliance

Pursusant to Massachusetts General Laws, Chapter 62C, Section 49A, I certify under the penalties of perjury that to the best of his/her knowledge and belief I am in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Contractor: By:

(signature of authorized representative & title)

(date)

21. SEVERABILITY: If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby, and all other parts of this Agreement shall nevertheless be in full force and effect.

IN WITNESS THEREOF, the MUNICIPALITY and the CONSULTANT have executed this AGREEMENT under seal in triplicate as of the date above written.

Approvals and Signatures

By: TOWN/CITY OF TRURO		By: THE RESOURCE, INC.	
Authorized Signatory	Date	name	Date
Certification as to Availability of Funds:		Approval of Contract as to Form:	
Town/City Accountant	Date	Town Counsel/City Solicitor	Date
Approval of Contract as to Appropriate Pro- Method	curement		
Town/City Procurement Officer	Date		

Attachment A: Scope of Services for Housing Rehab Program Delivery

The Sub-grantee shall perform the necessary project implementation services as presented in the Town's FY 24 CDBG Grant Application. These professional services will include:

- Oversight of all aspects of the housing rehabilitation program
- Preparation and on-time submission of all quarterly report documentation with photographs
- Preparation and submission of monthly draw down on the first day of each month based on invoices in hand
- Beneficiary qualification and full income documentation
- Individual environmental reviews of each property
- Procurement of federal lead paint risk assessor
- Procurement of licensed construction supervisor/rehabilitation specialist
- Qualifying and oversight of all contractors
- Completion of each project in a timely fashion
- Preparation of extensions to contracts when necessitated
- Contracting with homeowners
- Work write-ups, progress inspections, final inspections meeting EOHLC requirements
- Processing of payment requests to contractors
- Management of construction escrow account in accordance with EOHLC requirements
- Maintenance of all program files in accordance with EOHLC guidelines
- Participation in EOHLC program monitorings
- Coordination and monitoring with Grant Administrator
- Monthly reconciliation of housing rehab escrow account with Grant Administrator
- Consistent coordination with local Weatherization Assistance Program regarding cross-referral, cost sharing and joint scheduling of projects.
- Provide "before" and "after" photographs of each project.
- Timely completion of agency audit
- Participation in the "paperless" grant management process
- Weekly update of the program Matrix
- Maintain all program files on Dropbox with original signatures maintained in hard copy
- Creation and collection of windshield surveys, wait lists and application support materials
- All other responsibilities as itemized in the RFP and Bidder's Response

Attachment B: Schedule of Compensation

Grant Phases	<u>Tasks</u>	Estimated Cost
Program Start-Up	-Grant start-up including preparing full application, advertising to all pre- applicants, trainings with Grant Administrator, community outreach, engagement with local contractors, procurement of lead paint inspector, HR specialist and other program-wide contractors. Staff responsible: Housing Rehab Program Manager, HR Specialist & Bookkeeper/Clerk	Approximately \$12,500 based on salaries & reimbursable costs
Monthly Grant Administration	-Oversight of all aspects of HR Program -Preparation & on-time submission of monthly and quarterly reporting -Financial management of payments to contractors and submission of monthly drawdowns -Beneficiary qualification & full income documentation -Environmental Reviews for each property -Contracting with homeowners -Work Write-Ups, progress inspections & final inspections all meeting EOHLC standards -Managing files to EOHLC standards -Coordinating & monitoring with Grant Administrator -Coordination with local Weatherization Program and other regional partners for cost sharing opportunities -Maintain current files, matrix & photos for all projects Staff responsible: Housing Rehab Program Manager, HR Specialist & Bookkeeper/Clerk	\$11,000 per month for 15 months. Approximation based on salaries & reimbursable costs
Project Close-Out	-Final close-out of all projects, issuing of final payments & completion of all program files to EOHLC standardsParticipation in EOHLC monitorings Staff responsible: Housing Rehab Program Manager, HR Specialist & Bookkeeper/Clerk	Approximately \$12,500 based on salaries & reimbursable costs
Total		\$190,000

Compensation shall be provided on a cost reimbursement basis as stipulated by the line item in the approved grant agreement. Invoices must be sent with all backups to the Grant Administrator on the first day of each month. Compensation relies upon the receipt of drawdowns from the funding source and payment via the Town fiscal office.

Personnel:	Grant Administration	
HR Program Manager	\$55,0	
Housing Rehab Specialist	\$54,0	
Clerk/Bookkeeper	\$26,5	
Taxes & Fringe:		
HR Program Manager	\$18,7	
Housing Rehab Specialist		
Clerk/Bookkeeper	\$9,0	
Total Personnel	\$163,2	
Program Delivery:		
Memberships/Publications	\$2	
Training & Education	\$2	
Travel	\$2,5	
Accounting/disbursements		
Legal Services	\$1	
Advertising	\$4	
Printing	\$4	
Communications	\$2,0	
Supplies & Materials	\$3,8	
Maintenance & Repairs	\$5	
Audit	\$5,0	
Computer & related expenses	\$15	
Equipment		
Professional Services- Consulting Engineer	\$2,5	
Other- Rent, Utilities & Insurance	\$8,5	
Total Program Delivery	\$26,7	
TOTAL PRICE PROPOSAL	\$190,0	

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Agenda Item: 7C



TOWN OF TRUROSelect Board Agenda Item

DEPARTMENT: Department of Public Works

REQUESTOR: Jarrod J. Cabral, DPW Director

REQUESTED MEETING DATE: December 17, 2024

ITEM: Review and Possible Approval to Enter into a Contract Agreement for Selection and Design of the Preferred Replacement Hydraulic Structure for Truro Center Road and Route 6 (Pamet River) with Woods Hole Group

EXPLANATION: Previously, the Town, in an agreement with NRCS/USDA and CCCD, authorized Woods Hole Group to develop and evaluate replacement crossing alternative designs for Truro Center Rd and Route 6 in 2021 and 2024. The June 2021 Report built upon the prior model developed by the U.S. Army Corp of Engineers Pamet River Investigation (November 2019) to conduct performance modeling for a large range of alternatives to provide systemwide tidal restoration and stormwater drainage. The more recent 2024 study utilized a more advanced numerical model that evaluated how the alternatives restored salinity in addition to tides within the Pamet River system. The model results narrowed down the field of viable alternatives, but a preferred solution was not selected by the partners. This proposal is intended to finalize the H&H modeling to inform alternative selection and then support preliminary design of the preferred replacement hydraulic structure for the Truro Center Road crossing that will be ready for permitting by Fall 2025. Community meetings and outreach are included.

FINANCIAL SOURCE (IF APPLICABLE): This project will be funded through a combination of prior grant awards from the NRCS/USDA/CCCD (\$630,000), MA DER (\$400,000) and MA CZM (\$450,000) that have spending deadlines of June 30th and September 30th, 2025.

IMPACT IF NOT APPROVED: Project will not move forward and a long-term solution will not be identified or advanced for Truro Center Rd. Nearly \$1.5 million in allocated grant funding will be lost if it is not expended in 2025.

SUGGESTED ACTION: MOTION TO approve and authorize the Town Manager to sign the Wood Hole Group contract proposal for advancing the alternatives selection and preliminary design of the Truro Center Rd replacement stream crossing.

ATTACHMENTS:

1. Woods Hole Group contract proposal



WOODSHOLEGROUP.COM

December 13, 2024 Prop. No. 2018-0190

Sent by Electronic Mail

Mr. Jarrod Cabral, Director Department of Public Works Town of Truro P.O. Box 2030 Truro, MA 02666

Email: jcabral@truro-ma.gov

Tel: (774) 722-3747

RE: Preliminary Engineering Design Truro Center Road Crossing Pamet River

Dear Mr. Cabral,

Woods Hole Group has prepared the following scope of services proposal to advance the engineering design of the Truro Cetner Road crossing as part of the Pamet River restoration project in the Town of Truro (Town), Massachusetts. The Pamet River originates east of Route 6 near Ballston Beach flowing westward under Route 6 and Truro Center Road before draining into Pamet Harbor and subsequently Cape Cod Bay (Figure 3). A tide gate on the downstream (western) end of the Truro Center Road culvert provides the primary means of tidal control on the Pamet River, also causing the upper portion of Pamet River upstream of Truro Center Road (TCR) to be freshwater by restricting tidal flow from Pamet Harbor. This freshwater marsh system has been stressed by inadequate drainage of episodic saltwater storm overwash at Ballston Beach which also poses a risk to property and infrastructure. The overall restoration project includes design and replacement of both the Truro Center Road and Route 6 crossings, but this contract is focused on the Town-owned roadway.

Previously, the Town, in an agreement with NRCS, authorized Woods Hole Group to develop and evaluate replacement crossing alternatives in 2021 and 2024. The June 2021 Report built upon the prior HEC-RAS-1D model developed by the U.S. Army Corp of Engineers (USACE) Pamet River Investigation (November 2019) to conduct performance modeling for a large range of alternatives to provide systemwide tidal restoration. The more recent 2024 study utilized a more advanced numerical model that evaluated how the alternatives restored salinity in addition to tides within the Pamet River system. The model results narrowed down the field of viable alternatives, but a preferred solution was not selected by the partners. This proposal is intended to inform the selection and design of the preferred replacement hydraulic structure for Truro Center Road and is inclusive of Fuss & O'Neill sub-contract services.

QUALIFICATIONS

Woods Hole Group is nationally recognized as a leading consulting firm for coastal sciences and engineering, metocean data acquisition, computational modeling, environmental restoration, and climate change resilience planning. Scientists and engineers at Woods Hole Group work with clients to develop, design and implement



solutions to replace outdated infrastructure with improved solution(s) that benefit both communities by improving storm water conveyance and salt marsh habitat by restoring tidal flushing, tidal prism, and intertidal area. We have experience working with diverse stakeholder groups to better understand collective concerns and build the consensus necessary for developing innovative project solutions. Woods Hole Group also has extensive experience working in the Town of Truro and particularly with the Pamet River basin including Eagle Neck Creek and Mill Pond. We have assembled a team of coastal scientists and engineers to execute this Scope of Work, which includes project partner Fuss & O'Neill, Inc. as sub-contractor, who will support the civil engineering design work.

SCOPE OF WORK

The following section describes the task structure for proposed scope of work, which has been developed with the following assumptions and limitations.

The Scope of Work (SOW) detailed herein is intended to aid the Town and stakeholders in selecting a preferred design alternative for Truro Center Road and then advancing the engineering design to a pre-permitting level. This effort will be conducted in parallel to a similar design effort for the Route 6 crossing that is being contracted separately. The Woods Hole Group currently proposes the following five (5) primary tasks including:

- 1. Hydrodynamic Modeling to Inform Design Selection & Confirmation
- 2. Design of Resilience Improvements for Truro Center Road, Old Pamet Road, and South Pamet Road
- 3. Dredging Design Mid-Pamet River Channel Restoration
- 4. Engineering Design of the Truro Center Rd Crossing
- 5. Community Outreach Strategy

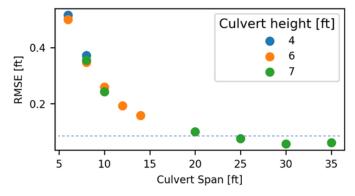
Task 1: Hydrodynamic Modeling to Inform Design Selection & Confirmation

Woods Hole Group previously developed a high-resolution numerical model using Environmental Fluid Dynamics Code (EFDC) to provide the technical basis for making decisions to improve the hydrodynamics and salinity regime within the upper reaches of the Pamet River and to allow for the evaluation of how conditions may be expected to evolve in the future. Design alternatives for both roadway crossings were evaluated for both normal tides based on measurements and extreme water levels for present and future horizons using the results of the Massachusetts Coast Flood Risk Model (MC-FRM). The model results were intended to inform stakeholders about the ability of alternatives to restore tides, salinity, and habitat, evaluate impacts to property and resources, provide guidance for design and permitting, and improve the long-term resiliency of the system against sea level rise; however, a preferred alternative was not identified by the Project Team. Task 1 intends to conduct additional simulations to inform selection of the preferred alternative followed by confirmatory modeling for the selected alternative to aid in design and permitting. The following subtasks are proposed:

1.1 EFDC Model Review & Alternative Selection – First, an in-depth technical review of the model will be completed by a Woods Hole Group technical review team who will QA/QC the model inputs and outputs and ensure concurrence with prior results and conclusions. This review will focus on understanding the results and then selecting additional culvert opening sizes/configurations to simulate to help fill data gaps and inform design selection. It is expected that the single 8x10 culvert alternative will be selected as well as other size openings that may be smaller, larger, or in between prior alternatives.



Second, an additional series of model runs will be simulated for the alternatives identified by the technical review team to fill data gaps and inform design selection. It is expected that the additional alternatives will be simulated for normal tides and sea level rise and the results will be combined with the prior results to develop a curve comparing the openning size versus expected restoration. The curve will be generated by statistically comparing the alternatives (root mean square error / RMSE) with existing conditions. An example plot from another project is shown below which demonstrated that for this particular project that a culvert span over 20-ft provided limited additional restoration benefit while having increasing permitting, engineering, and construction costs. This figure will help the project team visual and better understand the restoration potential which will aid in the final selection of a preferred alternative hydraulic design. The ultimate goal is for the Project Team to select the final design and be comfortable with that decision at the conclusion of the subtask.



<u>1.2 Additional Simulations for Selected Alternative</u> – Additional model simulations will be conducted for the selected alternative in Subtask 1.1 for the following scenarios to fully understand the benefits and impacts of implementation:

- ➤ Rainfall runoff / freshwater discharges Simluate a major rainfall event(s) to understand how introducing significant freshwater discharges to the system may impact the restored salinity regime. A rainfall event was developed for the prior phase of work but not fully evaluated.
- ➤ Phased construction Simulate how normal tides, extreme water levels and runoff events will impact the Pamet River system by replacing only the Truro Center Road crossing and leaving Route 6 as is. This is a necessary step to understand how a phased project may result in uneven restoration and impacts. While the goal is to advance the replacement of both crossings as one project, it is possible that it could be phased due to regulations, property ownership/abutters, and/or available funding.
- Optimized Dredging Simulate how dredging upsteram, downstream, and between the road crossings may improve restoration of tidel flow and salinity while improving low tide and storm drainage.
- ➤ Evaluate ponding/drainage relief Evaluate how modificiations to the marsh platform upstream of Route 6 may improve drainage to reduce the ponding that was demonstrated by the model in the prior phase of work. This may includes runneling, thin layer deposition, and others that along with the dredging developed with the project team.

<u>1.3 Confirmatory Modeling of Selected Alternative</u> – Once the alternatives have been narrowed and run for the additional simulations in Subtask 1.2, a preferred design alternative for Truro Center Road will be



identified and rerun for the same set of normal tide and storm scenarios on present and future time horizons that were previously run. This design will undergo structural design development in Task 4, which may result in further refinements such as modifications to inverts/obverts, opening size, gate configuration, etc. that will require confirmatory modeling to ensure that there are no significant changes to the modeling results. Additionally, the confirmatory modeling will incorporate any improvement dredging as well as the selected design for Route 6 which is being developed separately from this contract. This will ensure that that similarly the final design for the dredging and Route 6 crossing also will not significantly change the expected model results.

1.4 Data Interpretation & Reporting: The results of modeling will be post-processed to generate various Electronic Data Deliverables (EDDs) since EFDC does not have an interface that allows for the user to directly view the output data or create final data products. Python will be utilized to convert the raw EFDC output files to a format usable for the creation visualizations in SMS and ArcGIS to best represent and communicate the meaning of the model results. Direct model output can be provided in a variety of formats such as *.dat, *.txt, *.csv, netCDF, etc., and the exact formats will decided upon prior to the delivery of the final reports. Visualizations of the data will be provided both in their final graphical format (*.tiff, *.png, etc.) and digital format (*.shp, *.kmz, etc.) to allow for the client and stakeholders to view the data in more detail. The EDDs will be delivered using a either an ftp server or shareable folder to allow for the client and stakeholders to have easy access to the files.

The results of modeling will be provided in a narrative report documenting the findings that will update or append the prior report. Visualizations of the model analyses will best represent and communicate the meaning of the model results along with impacts of alternatives. Results of the existing and proposed simulations in present and future day will be discussed in terms of how the salt marsh may be expected to evolve in the future. Results of the existing conditions and alternatives will be presented both using time-series output at selected locations, as well as 2-dimensional maps representing extents of flooding at various datums. Methodologies and results of the modeling effort will be reported, as well as a discussion of how the proposed alternatives meet various ecological criteria. Recommendation(s) will be made for a preferred culvert replacement structure based on the modeling results.

Woods Hole Group will prepare a Draft version of the report that will be distributed among the Town and project team partners for review and comment. The Woods Hole Group project staff will then attend a meeting with the Town and project partners to discuss the Draft report and gather comments and feedback. A Final version of the report will be issued within 2 weeks after receiving and addressing comments and feedback from this meeting (assuming comments are not extensive). This Task includes time for project partner Fuss & O'Neill to provide review the report and offer insights regarding the implications for the phase of work that will include final engineering design and permitting.

Task 1 Deliverables: Draft & Final Report with Electronic Data Deliverables in various formats.

Task 2: Design of Resilience Improvements Truro Center Road, Old Pamet Road, and South Pamet Road

Truro Center Road, Old Pamet Road and South Pamet Road are low-lying roads that are vulnerable to flooding as they experienced coastal storm flooding of 1-2 feet during the March 2018 Nor'easters. Therefore, any culvert restoration effort may require resiliency improvements to these roadway segments to mitigate potential flooding impacts associated with restored tides, extreme water levels, and sea level rise. Task 2 intends to evaluate the



flood risk based on the model results and recommend design improvements to enhance coastal resiliency and mitigate potential restoration impacts on both present and future horizons.

<u>2.1 Subsurface Investigation at Old Pamet Road</u> — A subsurface investigation will be conducted for Old Pamet Road to provide needed information to support design of improvements. A drilling contractor will be solicited to perform two days of Standard Penetration Test (SPT) borings to a depth of 50-feet, the location of which will be determined by the project team prior to drilling. It is assumed that scheduling and traffic control measures (e.g., signs, cones) will be coordinated with the Town of Truro; it is assumed that the Town will provide a police detail for closure the road during the boring (the cost for this detail is not included in this field program's budget). A qualified engineer will oversee the boring and collect samples to be sent to a qualified laboratory for gradation analyses. A geotechnical report will be developed complete with laboratory results.

<u>2.2 Resiliency Improvements for Truro Center Road, Old Pamet Road, & South Pamet Road</u> – Utilize the model results to evaluate the need to improvements and/or adaptations for the three roadway segments abutting the Pamet River based on the anticipated extent and depth of flooding. Resiliency improvements may include raising the roadway elevations, making the roadways more adaptable to flooding, changing to the roadway layout/configurations, grades, paving, etc. The goal of this subtask is to understand the current and future risks associated with restoration and providing recommendations on coastal resiliency improvements for the roadway segments to mitigate these risks.

We assume that this task will consist of development of conceptual graphics depicting the horizontal layouts in plan, section and profile view of potential road elevations at each vulnerable roadway crossing, which will support development of concise narratives describing civil/geotechnical issues associated with each alternative elevation under Task 2.4 below. The narrative will include a qualitative assessment of respective impacts to wetland resource areas, encroachment onto private properties and construction costs.

2.3 Stormwater Improvements for Old Pamet Road & South Pamet Road — Roadway improvements are likely to necessitate the need for improvements to the stormwater infrastructure. The need for improvements will be evaluated and recommendations made based on accepted standards and regulations. Preliminary stormwater design improvement drawings will be drafted for Truro Center Road, Old Pamet Road and South Pamet Road. Stormwater infrastructure modifications previously developed in 2021 at Truro Center Road that would result in continued direct discharge of roadway runoff to Pamet River will be revised to incorporate development of infiltration improvements within the roadway layout.

We assume that this task will consist of development of conceptual graphics depicting the horizontal layouts in plan, section and profile view of potential stormwater improvements at each crossing, which will support development of concise narratives describing issues associated with each alternative elevation under Task 2.4 below. The narrative will include a qualitative assessment of respective impacts to wetland resource areas, encroachment onto private properties, construction costs and other considerations (e.g., O&M) related to consideration of potential improvements at each location.

<u>2.4 Reporting</u> – The findings of Tasks 2 will be documented in a technical memorandum that will be distributed among the project team for review and comment. The document will detail the subsurface investigation and recommended design improvements to enhance resilience or stormwater improvements for the roadways which could include raising the road, making the roads more adaptable to flooding, stormwater/drainage improvements, etc. The Woods Hole Group project staff will then attend



a review meeting with the Town and project partners to discuss the findings and gather comments and feedback. A Final version of the Tech Memo will be issued within 2 weeks after receiving and addressing comments and feedback from this meeting (assuming comments are not extensive).

Task 2 Deliverables: Geotechnical Report, draft and final Tech Memo, and drawings showing roadway improvements.

Task 3: Middle Pamet River Channel Restoration Design

Task 3 is intended to restore the Middle Pamet River channel between Truro Center Road and Route 6 which has become silted and overgrown with *Phragmites* through improvement dredging. This has created a channel blockage that attenuates both tides and salinity over this reach, impairs storm drainage and impacts overall water quality. If dredging is not completed, then full restoration and connectivity of the Pamet River system will not be realized even after replacing both roadway crossings. Task 3 will collect the necessary data to support and develop a restoration channel design to restore connectivity between the two road crossings that are to be replaced. This following subtasks are too be included:

- <u>3.1 Topographic survey and wetland delineation</u> of the channel between Truro Center Road and Route 6 will be conducted to inform the dredge design. Topographic survey and wetland delineation were previously collected several years ago but would be considered out of date by the agencies by the time of filing future permits. In addition, this prior survey had data gaps since it was not equipped to collect data within the dense *Phragmites* choked channel. Newer methods and survey equipment will be utilized to collect data to update the base mapping and fill data gaps for existing conditions, which is needed to inform the improvement dredging design.
- <u>3.2 Dredge Plans</u> will be drafted in CAD software showing the existing and proposed conditions. An existing condition plan will be first developed showing the existing topography, shallow bathymetry, delineated wetland/coastal resources, and parcel boundaries from MassGIS between the road crossings. A restoration channel design plan will then be developed along its historic channel showing the dredged channel footprint, width, side slopes, and depth. The channel margins will be identified using both the field survey, LIDAR elevation data sets, and historic high resolution aerial imagery. Dredge area and volumes will be calculated. Dredge depths will be based on a combination of the existing and proposed culvert inverts, scour pool depths, as well as any historic survey data or plans. We assumes this task will consist of development of preliminary drawing(s) depicting a plan, typical section and profile of channel drainage improvements through the segment between the Truro Center Road and Rt 6 crossing structures.
- <u>3.3 Prepare & File Sampling Analysis Plan (SAP)</u> with MassDEP which will require a narrative describing the proposed dredging in detail including a proposed improvement dredge plan (drawing) showing footprint, depths and volumes, location of spoils placement, details on the construction methodology, and identifying the locations and depths of the sediment cores to be collected. An approved SAP is a requirement for any dredging project prior to any sediment sampling taking place. It is anticipated that the dredge spoils will either be beneficially reused onsite above the High Tide Line (HTL) or disposed of offsite at an approved facility, which will negate the need for filing a separate SAP with the US Army Corps of Engineers.
- <u>3.4 Sediment Sampling & Analysis</u> will be conducted following approval of the SAP at the locations identified. It is anticipated that a mobile vibracoring setup will be needed to collect sediment cores down



to the proposed dredge depth plus 1-foot of overdredge. Estimated dredging volume is anticipated to be about 5,000 cubic yards based on preliminary estimates. Based on prior field work, it is anticipated that the sediment samples will contain a fraction fine materials that exceeds the 10% threshold and require a full suite of chemical and physical analyses. It is anticipated that up to five (5) cores will need to be collected assuming 1 core per 1,000 cubic yards dredged. Sediment cores will be subsampled and sent for analysis at a qualified laboratory for both grain size and chemical analyses. The laboratory results will be used to determine regulatory requirements and disposal options.

Task 3 Deliverables: Survey data, improvement dredging plans, laboratory results, & SAP

Task 4: Engineering Design of Truro Center Road Crossing

Task 4 will advance the engineering design of the selected replacement structure for the Truro Center Road crossing and other associated project aspects which are included in the following subtasks:

<u>4.1 Truro Center Road Culvert Structural Alternatives Re-Evaluation</u> — A set of detailed design plans were previously developed for the Truro Center Road replacement crossing in 2021 but were not advanced to permitting since the project team identified additional study areas that needed to be completed first. This prior design drawing set will be reviewed and evaluated based on the selected replacement culvert structure design alternative in Task 1. Many elements of the prior existing conditions plan are still valid including base mapping, delineation and parcel boundaries since the roadway and hard features have not changed. However, the design will be modified to accommodate a potentially larger hydraulic structure, a modified tidal control configuration, and other design aspects. An evaluation of what will need to be retained, updated, or changed will be made.

We assume that this task will consist of the development and evaluation of up to three (3) structural layouts for the culvert crossing based on Woods Hole Group's single hydraulic opening size and gate configuration recommendations from Task 1. These configurations are assumed to consist of either adjacent gates precast concrete culvert bays or conventional bridge deck with inserted removable gated panels similar to what has been developed and is being implemented at the Chequessett Neck Road crossing of the Herring River. These crossing alternatives will be conceptually depicted in planimetric, section and profile layouts in support of narrative descriptions of construction cost, O&M, impact and other considerations for each alternative.

4.2 Design of Stabilization and Scour Mitigation Measures — Develop slope stabilization and scour mitigation measures for the roadway embankment, channel, and riverbank. Accepted engineering design methods and industry practices will be utilized to calculate the armor unit sizing and layering and scour depths and mitigation. The sediment results from Task 3 will be utilized to help inform scour calculations and mitigation design. This also includes design of the replacement structure for the failing bulkhead along the river bank downstream of Truro Center Road adjacent to the Post Office. While it is anticipated that hard structural solutions will be needed, efforts will be made to incorporate nature-based solutions in the designs that may include natural materials such as coir and plantings with native, salt tolerant vegetation. Design details and notes will be developed for roadway embankment protection, channel scour protection, and riverbank protection, which will be included with the 25% MassDOT Design Submittal.

<u>4.3 Resource Mapping and Impact Assessment</u> – Calculate the areas, volumes, linear footage of impacts to mapped wetlands, coastal resources, and private property needed to determine regulatory thresholds and triggers for developing the permitting path. Impacts will be separated into both permanent impacts



within the project footprint and temporary impacts from construction for access, staging and limits of work. These impacts will be tabulated into the different types and resource categories to aid in the permitting path and mitigation measures will be recommended, as needed. We assume the development of plans/tables quantifying temporary and permanent impacts to respective wetland resource and regulatory setback areas and quantification of the dredging volume associated with the selected alterative structural layout developed under Task 4.1 above.

<u>4.4 Supplemental Subsurface Investigation at Truro Center Road</u> – A supplemental subsurface investigation will be conducted at the Truro Center Road crossing to support evaluation and potential future design of a revised gated deck beam bridge crossing alternative (similar in concept to the Chequessett Neck Road bridge). A drilling contractor will be solicited to perform a SPT boring to a depth of at least 100-feet and a Cone Penetration Test (CPT) boring, the locations of which will be determined by the project team prior to drilling. It is assumed that scheduling and traffic control measures (e.g., signs, cones) will be coordinated with the Town of Truro; it is assumed that the Town will provide a police detail for closure of one lane during the borings (the cost for this detail is not included in this field program's budget). A qualified engineer will oversee the borings and collect samples to be sent to a qualified laboratory for gradation analyses. An observation well with a cast iron flush cover set in concrete will be installed within the borehole. The depth of the well and screened interval will be determined based on field observations. An in-situ hydraulic conductivity test will be performed in the observation well and documented in the report. A geotechnical report will be developed complete with laboratory results.

4.5 Permitting Level 60% Design Drawings — Conduct the engineering design work needed to prepare a set of 60% design drawings that will be ready to pursue environmental permits. The prior 2021 design plan will be updated based on the latest replacement culvert structure design alternative. The design elements to be incorporated will include roadway horizontal and vertical alignments through the roadway segment encompassing the culvert crossing, slope grading and armor design, scour countermeasure apron design and preliminary structural design of the culvert's superstructure and foundation, as well as channel drainage improvements between Truro Center Road and Route 6, and roadway resilience (elevation raising) improvements selected at Truro Center Road, Old Pamet Road and South Pamet Road. Drawings will depict proposed elements in planimetric (aerial), profile and cross-sectional layouts and include erosion/sedimentation control measures, the anticipated sequence of construction, traffic bypass/management elements and restoration of disturbed areas at respective locations with relevant construction notes. The wetland and coastal resource boundaries will be shown along with a tabulation of the impacts to respective resource areas based on preliminary impact assessments completed under Tasks 2 and 3 above. Drawings will show parcel boundaries based on available assessors or state GIS sources in support of the Town's consultations with respective property owners to establish temporary and permanent easements to respective areas for stormwater, roadway resilience and culvert crossing improvements.

4.6 25% MassDOT Ch85 Submittal Truro Center Road — Because the combined span of the hydraulic structure opening underneath Truro Center Road is anticipated to exceed 10-feet, this will trigger the Chapter 85 Review Process with MassDOT since the structure will be classified as a bridge. A separate Chapter 85 filing will be developed and submitted for the Route 6 crossing since it is a different roadway crossing with a different owner, which is being handled under a parallel effort with a different contract agreement. This is the initial submittal to MassDOT as part of the Chapter 85 Review Process will include the design drawings and supporting studies/data/analyses. The package will be submitted through the



MassDOT portal. It is anticipated that there will be review and discussion with MassDOT which may require providing additional information or incorporating feedback into the design for the next submittal.

This subtask also includes time to service the 25% Design Submittal package with MassDOT which includes coordinating, meeting, and responding to comments from MassDOT during the review process. This may require providing additional information or technical details to MassDOT during the process. It is anticipated that this would be a several month process. We assume one virtual meeting with MassDOT prior to submittal of the 25% design submittal, and two review meetings after the submittal to review/discuss comments as warranted to confirm responses, supplemental analyses and design revisions to be incorporated into revised narratives, drawings and/or other supporting materials.

- <u>4.7 Probable Opinion of Construction Cost</u> Review the prior probable opinion of construction cost developed in 2021 and update based on the updated/revised design along with updated materials costs, labor rates, etc. The costs will be inclusive of the crossing replacement, embankment slope stabilization, replacement of the downstream retaining wall structure, resiliency improvements, and stormwater improvements.
- <u>4.8 Operation and Maintenance Plan</u> Develop an Operations and Maintenance (O&M) plan for the new structure at Truro Center Road and respective roadway slope stabilization and stormwater improvements. The O&M plan will detail the operation of the proposed gate structure (s) needed to provide adaptive management and control of the tides and drainage. This is required as part of the regulations and permitting requirements for implementing the project.
- 4.9 Adaptive Management Restoration Plan An adaptive management and restoration plan will be developed to restore the coastal and wetland resource areas adjacent to the Truro Center Road crossing and upstream to Route 6. This plan will be developed to based on the results of the various field data collection efforts, selected alternative design, and expected tide and salinity modeling results. The plan will outline actions for restoration and when to take specific actions base on how the post-construction habitat and conditions are responding. Actions may include runneling, ditch filling, marsh plain raising, plantings, invasives removal, beneficial reuse of dredged material, etc. This will also develop a pre- and post-construction monitoring plan to document the baseline conditions and how the system responds over time following construction. This will in turn influence operation of any potential tidal control or gate structure at Truro Center Road. Phragmites and other invasive species are present in the system, and as part of this effort an invasive species management plan will be developed to handle existing invasives species and mitigate against potential proliferation of invasive following transformation of this primarily freshwater marsh system to saltwater marsh habitat.
- <u>4.10 Preparation of a Stormwater Management Report and UIC Application</u> Develop a stormwater management report for respective Truro Center Road, Old Pamet Road and South Pamet Road stormwater improvements. Develop DEP Underground Injection Control (UIC) applications for respective stormwater improvements, which are assumed to be filed during future permitting/compliance activities under a separate scope of services.

The deliverables for Task 4 will include:

- Set of engineering design drawings for Truro Center Road crossing
- Scour calculations and slope stabilization design
- ❖ 25% MassDOT Ch85 Submittal #1 & response to comments
- Updated opinion of probable construction cost



- O&M Plan
- Adaptive Management Restoration Plan
- Stormwater Management Report & UIC Applications

Task 5: Community Outreach Strategy

The community outreach strategy is focused on early community engagement to inform the public, stakeholders and agencies about the Pamet River Project. Work has been ongoing since 2018 and this would be opportunity to inform the public on the findings and recommendations to date and solicit community feedback. The outreach strategy seeks to highlight the Project's long-term benefits for the community and the environment while being transparent about the construction's short-term impacts; the goal of the proposed outreach strategy is to foster community understanding and create public support for the Project. An outreach strategy could include the following:

<u>Subtask 5.1 Community Meetings:</u> Woods Hole Group proposes three (3) Community Meetings for 2025 that will ensure that the community is kept informed throughout the alternatives assessment, with updates on milestones and opportunities for the community to provide feedback. It is anticipated that that Town will lead meetings and then Woods Hole Group will provide support during these meetings as needed. Summary notes will be prepared following each meeting, and then distributed via email.

- 1. *Kick-off meeting* (virtual) will be held to introduce the Project to the community. This meeting will include the Project's scope, timeline, benefits, and potential impacts on the community. It will be held in a way that ensures everyone can participate, whether through a Zoom meeting or Channel 18, and the recording will then be made available online.
- 2. Second hybrid meeting would be held to discuss the various alternatives that are being proposed. This meeting will offer a virtual option for those who can't attend in person and an in-person option for those who may find online technology challenging or prefer to meet in person. The recording can then be used for later viewing. At this point in the process, the Project could seek input from the community on the various alternatives.
- 3. Third hybrid meeting (in the late spring) could be used to discuss the Town's preferred alternative. It is recommended that this meeting could again be a hybrid meeting, where at the conclusion of the public meeting, participants will be invited to participate in a site walk with Woods Hole Group and Town officials to review site conditions, discuss the impacts of the preferred alternative, and ask any remaining questions. The community could provide input on ways the Town can minimize disruptions and identify potential improvements that could enhance the Project's impact.
- 4. (Optional) Presentation at Truro Council on Aging (COA): In Truro, 38% of the population is 65 or older, and this group is particularly vulnerable to climate-related hazards. Many older adults face economic challenges, such as living on fixed incomes (e.g., Social Security), rising healthcare costs, and dwindling savings, making them a significant part of Truro's Environmental Justice (EI) community. Engaging COA early by providing information about the Project in advance of the permitting process would establish a strong foundation for outreach and communication, aligning with the approach needed during the MEPA permitting process.

<u>Subtask 5.2: Communication Resources:</u> The Woods Hole Group aid the town is preparing a multitude of physical and electronic resources to support the community engagement including:

• Online Project Landing Page: Work with the Town to develop a dedicated webpage on the Town website explaining the Project, its timeline, and its anticipated benefits, such as flood risk



- reduction, restoration of tidal flow, and improved fish passage and habitat. Include visual aids like maps, diagrams, and video walkthroughs and available deliverables for download including reports, plans, and data.
- GIS Storymap: A GIS Storymap will be developed for the project and made available on the Town website to aid in informing the public on the site history, work completed to date, and proposed path forward. This will be updated as needed throughout the project schedule.
- Informational Flyers: The Project can place information flyers to communicate critical details about the Project to nearby businesses, the post office, libraries, and the senior center. These flyers could be posted at critical phases of the Project and/or used to notify the community about upcoming public meetings. This could include a mailing that is a direct outreach to residents and provides information about the Project directly to households near the Project. This could come later in the Project, with information focused on how the Project may affect them, including road closures, detours, and noise levels. Additionally, the flyers would emphasize the Project's positive impacts, including the mitigation of future flooding. Woods Hole Group would develop the flyers that the Town would then distribute.
- Newspaper articles: Work with local journalists to cover the importance of the Pamet River Project and how this Project fits into broader flood mitigation and conservation efforts.

<u>Subtask 5.3: Regulatory Agency Pre-Filing Consultations:</u> The Woods Hole Group anticipates that a multitude of local, state, and federal permits will be needed to implement the project starting with a filing with the Massachusetts Environmental Policy Act (MEPA) office (not covered under this Scope of Work). Prior to filing any permit applications, Woods Hole Group recommends consulting with regulatory agencies in a series of pre-filing meetings intended to inform the agencies of the project and gain useful feedback regarding applicable regulations/standards, requirements, and permitting path. Agencies that would be invited to participate are expected to include but not be limited to: the Truro Conservation Commission, MassDEP, Division of Ecological Restoration (DER), Cape Cod National Seashore, Coastal Zone Management (CZM), MEPA, NOAA, and the US Army Corps of Engineers.

Additionally, the Massachusetts Division of Marine Fisheries (DMF) should be contacted for information regarding essential fish habitat and time of year restrictions for resources occurring in the project area. The purpose of this will be to obtain written determinations from DMF indicating whether the project will be subject to time of year restrictions for in-water work. Note that the project is not located within Natural Heritage's Estimated or Priority Habitat for rare species or an Area of Critical Environmental Concem (ACEC). Meeting notes will be summarized and distributed via email to the project team.

<u>Subtask 5.4: Project Management, Monthly Team Meetings, and Communications:</u> This subtask includes time for the project team to meet and communicate on project updates, schedule, conduct invoicing and manage deliverables. It is anticipated that monthly meetings will be held virtually with the project team. Time budgeted here is assumed to be ongoing throughout the entire project duration through September 30, 2025. If attendance at additional remote phone/web conferences and/or in-person meetings at the project site or Truro Town hall are required, then these will be provided at the cost.

An additional goal of the Project's outreach strategy is to serve as a solid foundation for complying with Massachusetts' Environmental Justice (EJ) communities outreach requirements during the Massachusetts Environmental Policy Act Office's (MEPA) permitting process, which is the first step in the overall permitting path.



The Commonwealth mandates that project proponents engage EJ communities (i.e., those historically marginalized or facing disproportionate environmental burdens) in decision-making processes. In this case, an EJ population with the income criteria (Block Group 1, Census Tract 102.08, Barnstable County, Massachusetts). Massachusetts law requires accessible, transparent communication tailored to the specific needs of EJ communities. This means using language accessibility (e.g., translations into languages spoken by the community) and ensuring information is disseminated in ways that residents can understand. Outreach for EJ populations needs to make extended efforts to reach all community members through multiple communication channels, such as in-person meetings, local newspapers (or radio), and community bulletin boards. Additionally, a strategy that includes outreach to those who may not have reliable internet access or find digital media challenging (such as older adults).

The deliverables for Task 5 include:

- Attend meetings, prepare presentations & meeting minutes
- Updated Town website, Communication Resources, GIS Storymap, flyers, etc.

BUDGET & SCHEDULE

The estimated total budget for the scope of services described above is \$1,198,377 and a breakdown of the budget by task is provided in the table below. The majority of the project is anticipated to be funded by a combination of approved grant awards that the Town has received from NOAA, National Resources Conservation Service (NRCS), Massachusetts Division of Ecological Restoration (DER), and Massachusetts Coastal Zone Management (CZM) as indicated in the table. We anticipate that a Notice To Proceed (NTP) will be issued by the Town before each of the five (5) tasks are begun to ensure that the funding source for a given Task is agreed upon between the Town and granting agencies. The grant awards have deadlines for expenditures in 2025 where the funding will be lost if they are not utilized, and, therefore, it is imperative that this scope of work be approved so work can begin in early January 2025 to meet these deadlines. The dates for expenditure of approved grant funds are June 30, 2025 for State funded projects (DER) while September 30, 2025 is the deadline for federally funded projects (NRCS and CZM); extensions are not guaranteed.

The following assumptions and exclusions apply to the scope of services:

- Negotiations or coordination for project access or other work affecting adjacent public and private properties is not included. It is assumed that the Town will coordinate/negotiate with all abutters on whose properties access will be required.
- It is assumed that scheduling and traffic control measures (e.g., signs, cones) will be coordinated with the Town of Truro; it is assumed that the Town will provide a police detail for closure of one lane during the boring (the cost for this detail is not included in this field program's budget).

If you wish to proceed and prior to any work being started, Woods Hole Group requires receipt of the signed and dated "Acceptance and Authorization to Proceed" form at the end of this proposal. We are prepared to proceed with Phase I within three (3) days of receiving a signed authorization to proceed. The proposal was assembled under the assumptions for a time and materials not to exceed (T&M NTE) services contract. Realistic budgets for planning purposes were estimated based on experience with similar projects and the project to date. Costs will be submitted based on the actual time and expenses required to perform the work. Every effort will be made to conserve costs where possible. Materials and other direct costs will be invoiced at cost plus our standard markup. These cost estimates are inclusive of Fuss & O'Neill and other subcontract services, standard Woods Hole Group mark-up, and Woods Hole Group labor. We also can proceed incrementally with key stop points along the way if



preferred by the Town. Invoices will be submitted monthly based on accrued time and expenses, and payment is due within 30-days of the invoice date. Woods Hole Group reserves the opportunity to withhold work products or pursue legal action to obtain rightful payment.

We appreciate the opportunity to present this proposal and look forward to continuing our work together on this project. If there are any questions please contact Robert Hamilton by email at bhamilton@woodsholegroup.com or phone at (508) 495-6229, or Mitchell Buck P.E. by email at mbuck@woodsholegroup.com or phone at (508) 495-6210.

Sincerely,

Woods Hole Group Representative	 Date
Client Name	Date
"I authorize Woods Hole Group, Inc. to proceed 0190-00 Pamet River Truro Center Road Prelim	d with the above scope of work and budget of \$1,198,377 for 18 inary Design."
Acceptance and Authorization to Proceed:	
The Woods Hole Group, Inc.	The Woods Hole Group Inc.
President & Coastal Engineer	Senior Coastal Engineer
Robert P. Hamilton, Jr.	Mitchell Buck, P.E.
R.P. famtley.	Mitorell Buck





TASKS / Subtasks	Budget		Funding Source
1. CONFIRMATORY H&H MODELING			
1.1 Model Review & Alternative Selection	\$	12,297	NRCS1
1.2 Additional Simulations for Selected Alternative	\$	42,106	NRCS1
1.3 Confirmatory Modeling of Selected Alternative	\$	16,287	NRCS1
1.4 Data Interpretation and Reporting	\$	28,872	NRCS1
Task 1 Total	\$	99,562	
2. DESIGN OF RESILIENCE IMPROVEMENTS FOR	TCR,	Old Pamet Rt, &	k S Pamet Rd
2.1 Subsurface Investigation at OPR & SPR	\$	35,313	NRCS1
2.2 Resiliency Improvements for TCR, OPR, & SPR	\$	50,662	NRCS1
2.3 Stormwater Improvements for TCR, OPR, & SPR	\$	26,677	Town
2.4 Reporting	\$	29,804	NRCS1
Task 2 Total	\$	142,456	
3. MIDDLE PAMET RIVER RESTORATION DESIGN	1		
3.1 Survey & delineation of channel	\$	28,590	DER ²
3.2 Dredge Plans	\$	20,795	DER ²
3.3 Prepare & File SAP	\$	15,802	DER ²
3.4 Sediment Core Sampling & Analysis	\$	50,626	DER ²
Task 3 Total	\$	115,813	
4. ENGINEERING DESIGN OF TRURO CENTER RO	DAD C	ROSSING	
4.1 TCR 2021 Design Re-Evaluation	\$	78,174	NRCS ¹ /CZM ¹ /DER ²
4.2 Design of Stabilization and Scour Mitigation Measures	\$	20,232	CZM ¹ /NRCS ¹ /DER ²
4.3 Resource Mapping and Impact Assessment	\$	28,864	CZM ¹ /NRCS ¹ /DER ²
4.4 Supplemental Subsurface Investigation and Assessment	\$	89,591	CZM ¹ /NRCS ¹ /DER ²
4.5 Permitting Level 60% Design Drawings	\$	236,024	CZM ¹ /NRCS ¹ /DER ²
4.6 25% MassDOT Ch85 Submittal #1 for TCR	\$	133,346	CZM ¹ /NRCS ¹ /DER ²
4.7 Updated Probable Opinion of Cost	\$	21,047	CZM ¹
4.8 O&M Plan	\$	19,544	CZM ¹ /NRCS ¹ /DER ²
4.9 Habitat Restoration Plan	\$	52,223	Town
4.10 Stormwater Management Report & UIC Application	\$	19,933	Town
Task 4 Total	\$	698,978	
5. PUBLIC OUTREACH AND AGENCY ENGAGEME	NT		
5.1 Community Meetings	\$	55,608	DER ²
5.2 Communication Resources	\$	15,020	Town
5.3 Regulatory Agency Pre-Filing Consultations	\$	12,712	CZM ¹
5.4 Project Management, Team Meetings, & Communications	\$	58,228	CZM ¹
Task 5 Total	\$	141,568	
TOTAL CONTRACT ESTIMATED BUDGET	\$	1,198,377	

^{1.} Funding deadline June 30, 2025; 2. Funding Deadline September 30, 2025

Agenda Item: 7D



TOWN OF TRUROSelect Board Agenda Item

DEPARTMENT: DPW

REQUESTOR: Jarrod J. Cabral, Public Works Director & Emily Beebe, Health & Conservation

Agent

REQUESTED MEETING DATE: December 17th, 2024

ITEM: Water System Infrastructure Update and Discussion, and Request for Future Water

Connection (Walsh)

EXPLANATION: Following the approval of the Walsh property recommendations at the 2024 Annual Town Meeting, Truro Town Meeting voted to approve up to 160 units of residential development on the Walsh property. This was proposed as a phased development, with the first phase consisting of approximately 60 to 80 units. The approval of these recommendations combined with the ongoing joint growth management forecasts being developed by Provincetown and Truro necessitates securing water resources to complete both the initial and future phases of this project. This agenda request and attached draft letter specifically focuses on the need to request and secure sufficient water resources from remaining existing capacity to begin the initial residential development phase for the Walsh property.

The Truro Select Board should submit a request to the Provincetown Select Board for extension of the existing water main service from the Truro Central School to provide water service to the Walsh property. The town recognizes that currently there is limited water capacity and water pressure and that projections limit existing capacity for initial development in the range of approximately 9,900 gpd (90 bedrooms) of title 5 flow.

Truro is committed to the priorities of constructing a water tower and developing an additional wellsite in Truro to support the combined growth management forecasts of both Truro and Provincetown. This is a preliminary request to facilitate discussion between the Town of Truro and Provincetown. The Town is also developing the engineering plans to provide Provincetown with more detailed documentation to support this request so that may be included in immediate to near-term growth forecast. Please note that because planning efforts are still ongoing by the Ad Hoc Walsh Property Advisory Committee, total water need for the Walsh site is not

completely clear, particularly as it relates to Recommendations R8, R9, and R10. This letter pertains specifically to the housing needs of the site, and not to non-residential uses, recreational uses, and school uses.

FINANCIAL SOURCE (IF APPLICABLE): N/A

IMPACT IF NOT APPROVED: The Provincetown Select Board will not have the Town of Truro's request and will not be able to adequately and accurately plan for immediate to near-term growth forecast.

SUGGESTED ACTION: MOTION TO approve the draft request for connection to Provincetown Water System for development of the Walsh property to be included in the immediate to nearterm growth forecast, and authorize the Chair and Town Manager to sign on behalf of the Select Board.

ATTACHMENTS: Draft Letter: Request for connection to Provincetown Water System for development of the Walsh property to be included in the immediate to near-term growth forecast.



TOWN OF TRURO

P.O. Box 2030, Truro MA 02666 Tel: (508) 349-7004 Fax: (508) 349-5505

Memorandum

To: Provincetown Select Board

Cody Salisbury, Water Superintendent

Jim Vincent, Department of Public Works Director

From: Town of Truro Select Board

Darrin Tangeman, Town Manager

Date: December 17, 2024

Subject: Request for connection to Provincetown Water System for development of the Walsh

property

On behalf of the Town of Truro, the Select Board respectfully requests an extension of the existing water main service from the Truro Central School located at 317 Route 6, 400 feet south to Walsh Way.

The water main would provide service to the Walsh property, in that area closest to Route 6. The service would support proposed residential development, ultimately, not to exceed 160 units, as recommended to the Town at the 2024 Special Town Meeting. A phased development process is proposed, with a first phase of 60 to 80 units, and this phase is not to exceed 9,900 gpd (90 bedrooms) of title 5 flow. The first phase may be constructed in stages, based on water and wastewater resources.

The town recognizes that currently there is limited water capacity and water pressure. Truro is committed to working with Provincetown on the shared priorities of constructing a water tower and developing an additional wellsite in Truro to support the combined growth management forecasts of both Truro and Provincetown. As expediency and efficiency are necessary to mitigate our Outer Cape regional housing crisis, the town anticipates working on these priorities on parallel tracks as development plans continue for the Walsh property, ensuring that housing comes online as soon as water resources are available. To achieve this, our request serves to initiate the first phase of the Walsh property development plan simultaneously with the installation of the water tower and initiate future phases simultaneously with the development of an additional wellsite.

The partnership between Provincetown and Truro is the cornerstone of addressing our shared and individual town needs and goals, and we hope this request will facilitate discussion. We are developing the engineering plans to provide the Town of Provincetown with more detailed documentation to support this request and we wish to discuss inclusion of the Walsh property development needsin the immediate to near-term growth forecast. We look forward to discussing this request with you and to working together to address our regional housing crisis and our shared water resources needs.

Sincerely,

Darrin Tangeman Town Manager Susan Areson Chair, Truro Select Board



TOWN OF TRUROSelect Board Agenda Item

DEPARTMENT: Department of Public Works, Climate Action Committee and Energy Committee

REQUESTOR: Jarrod Cabral, Public Works Director; Brian Boyle and Bob Higgins-Steele, Cochairs of Energy Committee; Lili Flanders, Chair of Climate Action Committee

REQUESTED MEETING DATE: December 17, 2024

ITEM: Discussion and Possible Vote on Adopting the Decarbonization Roadmap for the Green Communities Application for Designation

EXPLANATION: The last step in the process to be designated as a Climate Leader is to have the Select Board acknowledge and vote to adopt the decarbonization roadmap for the Green Communities Application for Designation. The attached memo is recommended language from the Department of Energy Resources.

FINANCIAL SOURCE (IF APPLICABLE): N/A

IMPACT IF NOT APPROVED: Missed opportunity for future grant money

SUGGESTED ACTION: MOTION to adopt the decarbonization roadmap of the Green Communities Climate Leaders application for certification and to approve and electronically sign the Select Board memo commemorating the vote.

ATTACHMENTS:

- 1. Decarbonization Roadmap for the Green Communities Application for Designation
- 2. Draft Memo from Truro Select Board Regarding the Vote on Decarbonization Roadmap for the Green Communities Application for Designation



Truro Municipal Decarbonization Roadmap

11 December 2024







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Purpose and knowledgements

Truro is committed to taking action to mitigate climate change. Truro aims to lead by example and reduce emissions from Truro's facilities, equipment, and operations to support climate and sustainability goals and make operations more efficient. As a participant in the Massachusetts Green Communities program, Truro has already begun to identify and implement strategies to reduce energy use and costs by implementing clean energy projects in municipal buildings, facilities, and schools. This Decarbonization Roadmap provides a framework for Truro to further these efforts and continue implementing clean energy strategies to eliminate the use of fossil fuels on–site by 2050.

While Truro's goal is to decarbonize municipal facilities by 2050, not all buildings and facilities are included in this roadmap. 85.9% of municipal emissions are covered by the buildings included in the roadmap, and buildings and facilities not included in the formal roadmap will be described a high level at the end of the Municipal Emissions Baseline section, and recommended decarbonization efforts will be suggested in the Decarbonization Roadmap Narrative. For the purpose of estimating the municipal emissions over time, these buildings and facilities will be assumed to uniformly reduce emissions over the twenty-six years covered in the roadmap.

Acknowledgements

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Executive Summary

This Decarbonization Roadmap¹ describes Truro's building portfolio and covers the various aspects of municipal emissions from building construction, operation, and maintenance as well as vehicle fleet emissions. The goal of this Roadmap is to identify Energy Conservation Measures (ECMs) to achieve complete fossil fuel elimination for municipal buildings and vehicles as well as reduce overall energy use intensity by the year 2050. This Roadmap considers how emissions are generated throughout Truro's facilities and vehicles and the potential costs associated with the ECMs necessary to achieve decarbonization by the target year. Truro staff worked closely with their technical assistance team to identify the scope of the Roadmap, incorporate stakeholder feedback, develop the municipal goals, and identify implementation processes and roles to achieve the strategies outlined in the Roadmap.

Summary of Truro

Town should include details and context that will inform the recommendations (populations, scope of facilities and services provided, history of green community participation, existing energy reduction policies and systems that have been implemented).

Summary of Municipal Building Portfolio

Truro manages 14 of facilities and spends \$150,000 per year on energy costs for these facilities. These facilities are a critical part of Truro's operations and services and are directly utilized by the community, including the central school, community centers, and public safety building.

[Department/Office] T is the lead implementer of energy management strategies and programs impacting building operations and maintenance. [Department/Office] works closely with [other lead departments/offices] to assess building needs, identify opportunities for clean energy improvements, and budget for or identify additional funding opportunities to implement facility and fleet upgrades.

Facility Name
Central School
Public Safety
Public Library
Town Hall
Community Center
Transfer Station
Recreational Field House
Beach Office

Summary of Municipal Emissions

In FY22 Truro's operation of municipal buildings, open spaces, vehicles, water treatment facilities, and traffic lights was responsible for 654.1 MTOCO2e. Municipal buildings and water treatment facilities contributed heavily to these emissions. Table 1 summarizes Truro's town-wide emissions.

Municipal buildings in Truro rely on a mix of electricity, oil, and propane for fuel. The use of these fuels results in carbon dioxide emissions. Building specific emissions range widely. Among the modeled buildings in this roadmap, the highest emitting building was responsible for 137.2 MTCO2e in FY22 while the lowest emitting building was responsible for 1.8 MTCO2e. The average emissions in FY22 from attributed to buildings included in this roadmap was 26.9 MTCO2e.

Truro Decarbonization Roadmap I 2

¹ The decarbonization roadmap is distinct from a community's ERP in that it lays out the path to municipal decarbonization by 2050, while an ERP is designed to create a path to at least a 20% energy reduction. The roadmap focuses on electrification opportunities and EUI reduction strategies.

Table 1. Summary of Metric Tons of CO2 equivalent emissions (MTCO2e)

Emission Category	Emissions in Baseline Year (MTCO2e)	Ownership
Buildings	377.0	Municipality
Open Space	_	Municipality
Vehicle	276.0	Municipality
Water and Sewer	1.2	Municipality

Source: MEI (2024

Summary of Emissions Reduction Potential

Truro's baseline municipal building emission portfolio presents strong emission reduction potential over the next 25 years. Table 2 summarizes the timeline of Truro's municipal emission reduction. The majority of Truro municipal building emissions are generated from electricity use. Without any ECMs, these emissions will decrease as the electrical grid transitions to cleaner generation sources. Truro's building portfolio is also poised to reduce both emissions and overall energy consumption by implementing ECMs that will increase the energy efficiency of municipal buildings. This roadmap proposes ECMs that will reduce Truro's EUI by 97% by 2050. Further major equipment replacements will reduce Truro's municipal building emissions by 97% by 2050.

Table 2. Summary of Municipal Emissions Reductions

Targets	2022	2027	2030	2040	2050
Reduce emissions from onsite fossil fuels via electrification	0%	-11%	-62%	-100%	-100%
Zero emission vehicles (ZEVs) in light-duty fleet adoption (% of fleet)	0%	10%	50%	80%	100%
Zero emission vehicles (ZEVs) in medium- /heavy-duty fleet adoption (% of fleet)	0%	10%	50%	80%	100%
Energy Use Intensity reduction (deep energy retrofits/retro commissioning)	EUI**	-13%	-56%	-89%	-97%
Total Emissions Reduction Goals (% of 2022 emissions)	0%	13%	55%	89%	97%

Municipal Building Portfolio

The Truro Municipal Decarbonization Roadmap includes eight of the fourteen municipal buildings comprising 90.4% of municipal building emissions: Truro Central School, Public Safety PFR, Library, Town Hall, Community Center, Transfer Station, Beach Office, and Field House.

Data sources used to develop baseline building emissions and characteristics include MassEnergyInsight (MEI), and data provided by Truro on each of the included facilities.

Municipal Emissions Baseline

The first step in developing this decarbonization roadmap was to assess the current greenhouse gas (GHG) emissions trends for the municipality's buildings. The baseline assessment provides a year-by-year view of GHG emissions. This section provides an overview of the methodology used to develop the emissions baseline, the municipal level emissions trends, and the facility level emissions for the baseline year of FY2O22.

As of the completion of this roadmap, MA EEA is finalizing electricity emission factors for 2022. This roadmap uses 0.0002345 MTCO2e/kWh and MEI, as of October 2024, uses 0.000243 MTCO2e/kWh. As a result, minor differences in baseline emissions may exist when comparing the baselines here and in MEI. DOER is aware of this difference and has approved the distinct emission factors for this roadmap.

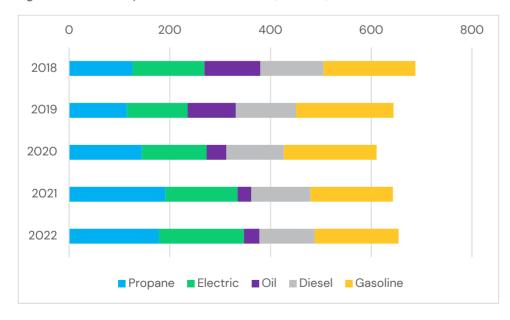
Identification of Inventory Tool

The fuel consumption and emission baseline used for the Truro buildings is MEI. Emission factors utilized by MEI are reported in Appendix D.

Municipal Emissions Over Time

As shown in Figure 1, Truro's municipal emissions have been decreasing over time, with lower consumption of all on-site fossil fuels from FY18 – FY22. Decreases range from a 72% decrease in oil to a 42% increase in propane consumption. As a Green Community, Truro has been continually engaging in ECMs and EUI reduction strategies.





During the baseline year of FY2O22, Truro's emissions were comprised of 27.3% propane, 25.7% electricity, 25.4% gasoline, 16.8% diesel, and 5.7% oil.

Facility Specific Fuel Consumption and Emissions for the Baseline Year

This section lays out baseline fuel consumption at a facility level for each of the fifteen municipal buildings included in the decarbonization roadmap. For each building, a brief narrative description of the building uses including regular and outlier cases, a brief overview of building characteristics², a summary of fuel usage by emissions in the baseline year (FY2O22), and a summary of implemented ECMs.

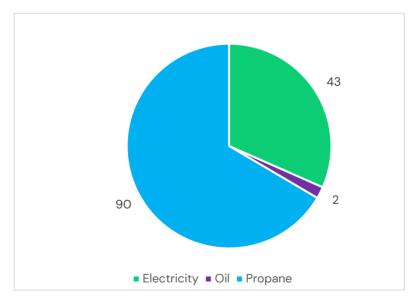
Truro Central School

The Truro Central School is the largest single source of municipal GHG emissions in the town. The school was building in 1938 and there was a significant renovation in 1990. It has a recent solar array that generates a portion of electricity usage annually, and the overall building condition is okay. The primary fuel types used by the Central School are propane, electricity, and oil.

Building Characteristics		
Year Built	1938, 1990 addition	
Square Footage	33,521	
Future Plans	Keep	
GHG (FY22)	137.2 MTCO2e	
EUI (FY22)	61.44 kBtu/sf	
Building Condition	Fair	

The fuel types used at the Truro Central School during FY2O22 are shown in Figure 2.

Figure 2. Truro Central School Emission by fuel type (FY2022)



² The building characteristics are categorized as poor, fair and good indicating the presence of significant deferred maintenance (poor), some deferred maintenance (fair), or no deferred maintenance, but aging equipment (good), or no deferred maintenance and no aging equipment (excellent)

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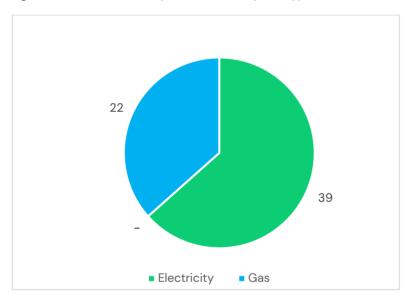
Public Safety PFR

The Public Safety PFR is a critical municipal facility as it serves as the headquarters of the police, fire, and emergency management departments. The primary fuel types used by the Public Safety PFR are electricity and propane.

Building Characteristics		
Year Built	1996	
Square Footage	10,310	
Future Plans	Keep	
GHG (FY22)	62.5 MTCO2e	
EUI (FY22)	88.91 kBtu/sf	
Building Condition	Good	

The fuel types used at the Public Safety PFR during FY2O22 are shown in Figure 2.

Figure 3. Truro Public Safety PFR Emission by fuel type (FY2022)



Library

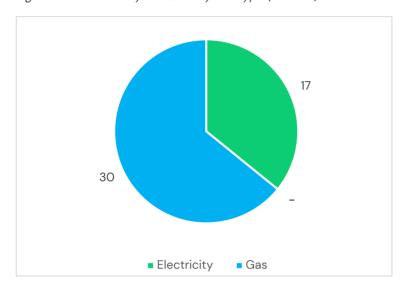
The Truro Public Library was constructed in 1998 and serves as a central community hub and houses a senior center and community meeting place. The primary fuel types used by the Library are propane and electricity.

Building Characteristics		
Year Built	1998	
Square Footage	11,275	
Future Plans	Keep	
GHG (FY22)	48 MTCO2e	

EUI (FY22)	64.27 kBtu/sf
Building Condition	Good

The fuel types used at the Library during FY2O22 are shown in Figure 2.

Figure 4. Public Library Emission by fuel type (FY2022)



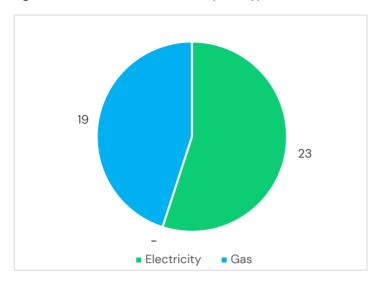
Town Hall

The Town Hall is the central location for multiple local government departments in the town as well as the meeting place for several organizations. The building underwent a significant change in 2004 when it was moved from the original footprint so a basement could be constructed. The primary fuel types used at Town Hall are electricity and propane.

Building Characteristics				
Year Built	1848			
Square Footage	10,074			
Future Plans	Keep			
GHG (FY22)	42.6 MTCO2e			
EUI (FY22)	62.62 kBtu/sf			
Building Condition	Fair			

The fuel types used at the Truro Town Hall during FY2O22 are shown in Figure 2.

Figure 5. Truro Town Hall Emission by fuel type (FY2022)



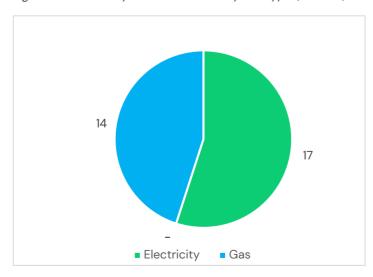
Community Center

The Community Center is a central hub for the community and recreation department. The primary fuel types used at the Community Center are electricity and propane.

Building Characteristics			
Year Built	2007		
Square Footage	9,245		
Future Plans	Keep		
GHG (FY22)	31.5 MTCO2e		
EUI (FY22)	50.37 kBtu/sf		
Building Condition	Good		

The fuel types used at the Community Center during FY2O22 are shown in Figure 2.

Figure 6. Community Center Emission by fuel type (FY2022)



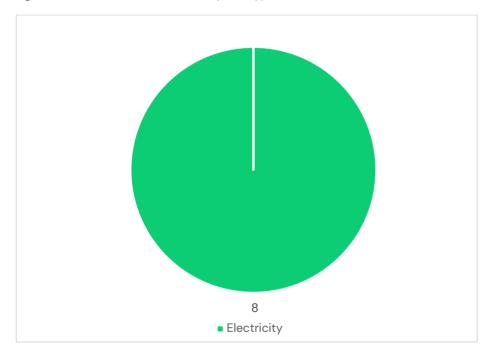
Transfer Station

The Transfer Station facility is a small office building and control space used to manage the transfer station activities. The primary fuel type used at the transfer station is electricity.

Building Characteristics			
Year Built	2006		
Square Footage	560		
Future Plans	Keep		
GHG (FY22)	8.7 MTCO2e		
EUI (FY22)	274.69 kBtu/sf		
Building Condition	Good		

The fuel types used at the Transfer Station during FY2O22 are shown in Figure 2.

Figure 7. Transfer Station Emission by fuel type (FY2022)



Beach Office

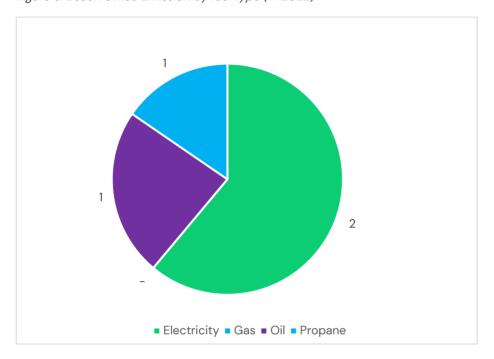
The Beach Office is a seasonal facility used by the recreation and beach department for administrative activities. The primary fuel types used at the beach office are electricity and propane. While the core equipment at the Beach Office are electric, there is a propane generator that is used for backup power.

Building Characteristics		
Year Built	1961	
Square Footage	1,000	

Future Plans	Keep
GHG (FY22)	3.6 MTCO2e
EUI (FY22)	51.6 kBtu/sf
Building Condition	Good

The fuel types used at the Beach Office during FY2O22 are shown in Figure 2.

Figure 8. Beach Office Emission by fuel type (FY2022)

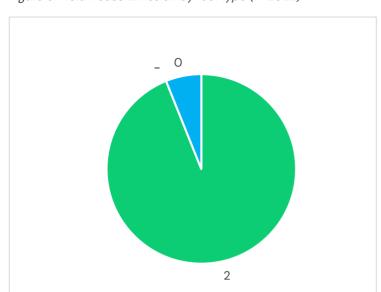


Field House

The Field House is a small office and storage space for the recreation department. The primary fuel types used at the Field house are electricity and propane

Building Characteristics			
Year Built	2003		
Square Footage	560		
Future Plans	Кеер		
GHG (FY22)	1.8 MTCO2e		
EUI (FY22)	46.2 kBtu/sf		
Building Condition	Good		

The fuel types used at the DPW Office during FY2O22 are shown in Figure 2.



Electricity

Gas

Figure 9. Field House Emission by fuel type (FY2022)

Other Buildings

As mentioned at the beginning of the Municipal Building Portfolio section, this roadmap includes the majority of Truro's municipal emissions. However, there exist other buildings and facilities not included in the formal roadmap process, that for completeness are included here. Due to a lack of data, the details included in this section will be less than that presented for the preceding buildings and facilities.

Table 3. Other Building Emission Baselines

Building Name	Square Footage	Plans	GHG (FY22)	EUI (FY22)	Building Env
DPW Sweeper	810	Keep	5.3	88.4	Excellent
DPW Carpenter Shop	816	Keep	3.7	61.2	Good
DPW Office	492	Keep	9.9	287.7	Fair
DPW Garage	2,560	Keep	18.8	100.1	Fair
Harbormaster	252	Keep	2.3	125.9	Fair
Swap Shop	960	Keep	59	14.2	Fair

Decarbonization Roadmap Narrative

Truro's building portfolio presents multiple opportunities to implement decarbonization strategies and meet Truro's decarbonization goals. The following section describes the key strategies that Truro can implement at their facilities to eliminate onsite fossil fuel use by 2050 and make incremental emissions reductions beginning in the near term. While this Roadmap identifies building–specific strategies for Truro to incorporate into capital and facility planning, it is also important for all building development, design, and maintenance activities to adhere to decarbonization principles to the extent possible. This may include the integration of efficiency and electrification measures into Truro's planning and procurement processes and advancing building standards and equipment requirements in addition to the specific strategies described in this section.

This section provides a high-level overview of decarbonization strategies to be implemented by the community, as well as facility specific recommendations. These actions are presented in four distinct time categories (2027, 2030, 2040, and 2050) to capture and effectively distribute fiscal and technical capacity for the community and ensure that the decarbonization process aligns with existing equipment replacement where possible. The high-level summary provides an overview of the community's goals for actions in the near term (2027 and 2030), followed by their goals for the long term (2040 and 2050).

Within the facility level recommendation section below, ECMs are broken down into a brief description of the ECM that could be implemented, the proposed timeline for implementation, the estimated emission reduction generated by the ECM, and the rough estimate of cost. Costs are broken down into four buckets (<\$10,000, \$10,000 - \$50,000, \$50,000 - \$100,000, \$100,000 - \$250,000, and >\$250,000). The description of major triggering events outlines those ECMs identified as falling into the largest cost buck (>\$250,000).

As Truro is required to maintain emergency shelter functionality at its designated facilities, current technical electrification solutions do not exist where self-sufficiency can be consistently delivered for 72 hours. As electrification options such as batteries, distributed energy projects, and other technologies come onto the market and are financially feasible, Truro will adopt them and add that transition to their decarbonization roadmap.

This roadmap breaks down implementation into six main categories: Lighting Retrofits, Weatherization Measures, Envelope/Insulation Improvements, HVAC Electrification and Controls Retrofit, Water Heating Electrification, and Solar PV Installation. These comprise the majority of projects that facilities can implement to either reduce their EUI or transition away from fossil fuel usage. This roadmap characterizes those six types with the following definitions.

Lighting Retrofits: Lighting retrofits entail the replacement of inefficient lighting, such as incandescent, halogen, HID, or T12 fluorescent, with highly efficient LED lighting. Best practices include replacing existing bulbs with LEDs and installing occupancy controls, such as timers, to reduce lighting consumption when spaces are unoccupied. **ENERGY STAR** provides a detailed list of LED fixtures.

Weatherization Measures: Weatherization measures increase the efficiency of buildings by improving heating and cooling. These include mechanical system upgrades or improvements, health and safety measures, and building shell measures. Weatherization best practices include completely air sealing the facility, replacing windows and doors with triple-pane, and incorporating weather-stripping to further reduce envelope holes. For roof replacement and retrofitting, incorporating solar ready roof replacements when feasible will reduce costs of rooftop solar array installation.

Envelope/Insulation Improvements: Building envelope/insulation improvements are modifications made to a building's outer shell to improve insulation and reduce energy loss. Envelope/insulation best practices

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include weatherstripping windows and door frames and air sealing and improving insulation by utilizing R-49 if some insulation exists, or R-60 if there is none. <u>ENERGY STAR</u> provides a detailed list of insulation best practices, as well as incentive information.

HVAC Electrification and Controls Retrofit³: HVAC electrification and controls retrofits include the replacement of fossil-fueled HVAC system components with electrified equipment such as highefficiency heat pumps. HVAC system retrofits must comply with any applicable building codes for HVAC system designs, efficiency ratings or permits. Best practices for electrification include audits and assessments to determine optimal systems for specific buildings and phased implementation of new technologies. Best practices for HVAC controls include settings occupancy, pre-set heating and cooling controls to reduce demand when areas aren't used and to reduce heating and cooling loads by reducing the differential from outdoor temperatures and optimize system operation. Ongoing monitoring and optimization help to ensure that system functions are meeting building needs.

Water Heating Electrification³: Water heating electrification includes the replacement of fossil-fueled water heating equipment with electric equipment, such as conventional storage, tankless or demand-type, and heat pump water heaters or the combination of equipment types. When feasible, tankless alternatives should be considered due to the lower energy use. Equipment replacement must plan on integration with existing plumbing and electrical systems, including upgrading panels and wiring where needed. As with HVAC equipment, ongoing monitoring and optimization of water heaters helps to ensure that system functions are meeting building needs.

Solar PV Installation

Installing rooftop solar panels on facilities can reduce onsite electricity usage, and while the grid continues to decarbonize, solar arrays will mitigate some emissions from the facility. For facilities with relatively flat or appropriately aspected roofs, solar arrays can be a beneficial investment.

Summary

Overview of Goals for implementation to 2027 and 2030

Truro has identified the primary goals of their roadmap through 2030 to be the rightsizing of building energy use. They are also examining the existing fossil fuel uses and identifying replacement equipment when end-of-life is reached.

Overview of Goals for calendar years 2040 and 2050

After decarbonizing all of the municipal facilities by 2030, the remaining facilities not covered in the inventory will be decarbonized over the following decade. Additional renewable energy development may be considered as a further reduction in energy use intensity at facility sites where it is feasible. Several of Truro's facilities are designated as emergency shelters and require 72 hours of self-sufficient power generation. At this time, battery storage alternatives to generators are not financially viable, however as options enter the market and prices decrease, Truro will re-evaluate the electrification of emergency shelters.

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³ Note: The projections in this Roadmap assume that weatherization and envelope/insulation improvements will be made prior to HVAC electrification to reduce overall energy consumption. This aligns with best practices to reduce energy load prior to electrification to minimize increases in electricity use.

Areas of highest emissions and greatest opportunity for impact

Due to Truro's ongoing commitment to reducing their climate impact, and efforts to reduce energy consumption, many of the easiest opportunities for emissions reduction have been achieved, such as LED replacements. The Central School, as the largest source of emissions, is the primary focus of the town's decarbonization efforts.

Achieving Elimination of Onsite Fossil Fuel Use by 2050

Through the recommended actions at the facility level discussed below, Truro will achieve decarbonization of their facilities by 2050. As technical and financial limitations allow, recommendations can be implemented sooner, which would result in decarbonization well before 2050 if fossil fuel equipment is targeted for replacement. In addition to the main recommendations and equipment replacements, ongoing energy audits maintenance is a core piece of the decarbonization roadmap, as it allows Truro to better monitor its building portfolio and identify replacement needs and upcoming maintenance.

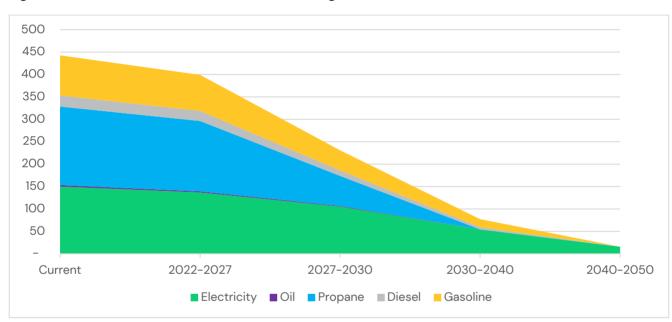


Figure 10. Truro Emissions Forecast 2022 Through 2050

Description of Major Trigger Events to Achieve Onsite Fossil Fuel Elimination

This section lays out the timelines for major equipment replacements and retrofits categorized as greater than \$250,000 along the timeline for 2027 – 2050. The goal of this timeline is to distribute major events over a broad period of time to eliminate the occurrence of overlapping projects which may increase the risk of deviating from the roadmap. While events may appear to overlap in later years, note that the trigger event timeline shifts to 5-year increments following 2030.

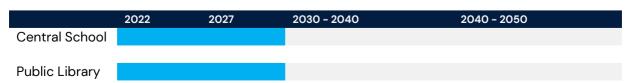
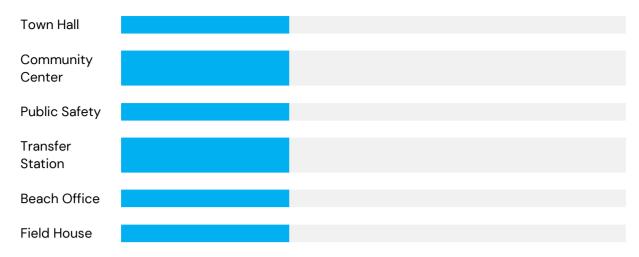


Figure 11. Trigger Event Timeline



Central School

The Central School requires all of the major trigger event capital projects proposed in this Roadmap. First from 2025–2030 the Central School requires insulation and weatherization ECMs to right-size energy use. Second, the Roadmap proposes complete HVAC and water heading electrification of the Central Fire Station by 2030.

Public Library

The Public Library requires all of the major trigger event capital projects proposed in this Roadmap. The Public Library should undergo right-sizing through insulation and weatherization ECMs. Second, the Roadmap proposes complete HVAC and water heading electrification of the Central Fire Station by 2030.

Town Hall

The Town Hall requires all of the major trigger event capital projects proposed in this Roadmap. First from 2025–2030 the Town Hall should add additional insulation and pump motors. Second, the Roadmap proposes complete HVAC and water heading electrification of the Town Hall by 2030.

Community Center

The Community Center requires all of the major trigger event capital projects proposed in this Roadmap. First from 2025–2030 the Community Center should add additional insulation and weatherization. Second, the Roadmap proposes complete HVAC and water heading electrification of the Community Center by 2030.

Public Safety PFR

The Public Safety PFR requires all of the major trigger event capital projects proposed in this Roadmap. First from 2025–2030 the Public Safety PFR should add additional weatherization. Second, the Roadmap proposes complete HVAC and water heading electrification of the Public Safety PFR by 2030.

Transfer Station

The Transfer Station is already an electrified facility, further EUI reduction through additional ECM measures may be useful, but the facility will decarbonize as the grid cleans over time.

Beach Office

The Beach Office's only fossil fuel use is the back-up generator. As a result, when distributed energy solutions are feasible, the backup will be electrified without compromising the facilities functions.

Field House

The Field House requires all of the major trigger event capital projects proposed in this Roadmap. First from 2025–2030 the Field House should convert the lighting to LED. Second, the Roadmap proposes complete HVAC and water heading electrification of the Field House by 2030.

Facility Level Recommendations to Achieve Onsite Fossil Fuel Elimination

This section lays out baseline fuel consumption at a facility level for each of the eight municipal buildings included in the decarbonization roadmap. For each building, a brief narrative description of the building uses including regular and outlier cases, a brief overview of building characteristics⁴, a summary of fuel usage by emissions in the baseline year (FY2022), and a summary of implemented ECMs.

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⁴ The building characteristics are categorized as poor, fair and good indicating the presence of significant deferred maintenance (poor), some deferred maintenance (fair), or no deferred maintenance, but aging equipment (good), or no deferred maintenance and no aging equipment (excellent)

Truro Central School

As noted in the baseline inventory, the Truro Central School utilizes primarily propane and electric in the baseline year of FY2022.

Table 4. Truro Central School Decarbonization Plan

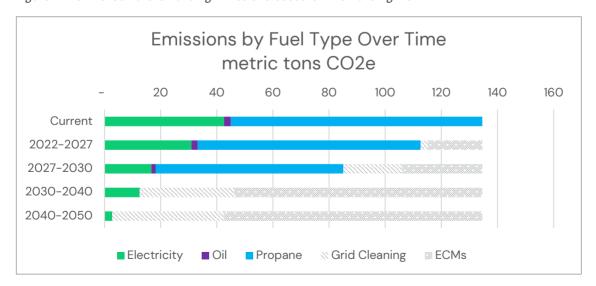
Planned	Proposed Strategy	Budget	FY22 vs FY50 MtCO2e
FY2026	Lighting	\$\$\$	8.2
FY2027	Weatherization	\$\$\$	11.1
FY2028	Insulation	\$\$\$\$\$	12.3
FY2029	Building Controls and HVAC Electrification	\$\$\$\$\$	62.8

Table 5. Truro Central School ECM Emission Reduction Forecast (MCTO2e)

	Electricity	Electricity	Oil	Propane	
ECM	Decrease	Increase	Decrease	Decrease	Timing
Lighting	8.2				2026
Weatherization	0.7		0.3	10.1	2027
Insulation			0.7	12.6	2028
Building Controls and HVAC Electrification		5.7	1.5	66.9	2029

By implementing the proposed decarbonization plan in Table 4, the projected building emissions for the Truro Central School are described in Figure 12. Some anticipated challenges include the fact that as a school, retrofits and ECM projects require additional logistics support to plan around academic calendars.

Figure 12. Estimated Future Building Emissions based on the Building Plan



Public Safety PFR

As noted in the baseline inventory, the Truro Public Safety PFR utilizes propane and electricity in the baseline year of FY2O22.

Table 6. Truro Public Safety PFR Decarbonization Plan

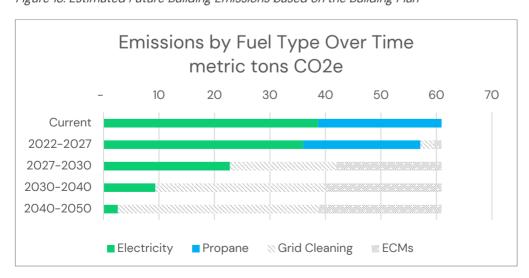
Planned	Proposed Strategy	Budget	FY22 vs FY50 MtCO2e
FY2025	Weatherization	\$\$\$	1.3
FY2027	Insulation	\$\$\$	2.9
FY2030	Building Controls and HVAC Electrification	\$\$\$\$	14.7
FY2040	Water Heating Electrification	\$\$	0.3

Table 7. Truro Public Safety PFR ECM Emission Reduction Forecast (MCTO2e)

ECM	Electricity Decrease	Electricity Increase	Propane Decrease	Timing
Weatherization	0.2		1.1	2027
Insulation			2.9	2027
Building Controls and HVAC Electrification		3.3	18.0	2028
Water Heating Electrification		0.1	0.2	2028

By implementing the proposed decarbonization plan in Table 6, the projected building emissions for the Truro Public Safety PFR are described in Figure 13. Some anticipated challenges are anticipated to be the critical functions of the facility, and ensuring that those services are not disrupted during the ECM projects.

Figure 13. Estimated Future Building Emissions based on the Building Plan



Library

As noted in the baseline inventory, the Library utilizes electric and propane in the baseline year of FY2O22.

Table 8. Truro Public Library Decarbonization Plan

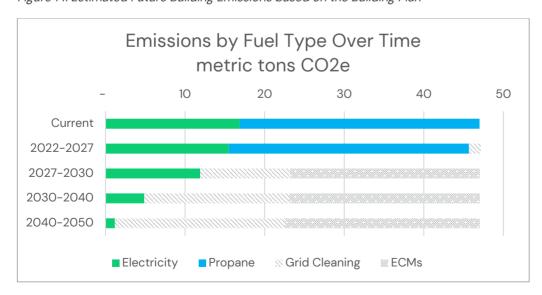
Planned	Proposed Strategy	Budget	FY22 vs FY50 MtCO2e
FY2025	Weatherization	\$	0.3
FY2027	Insulation	\$\$\$\$	7.9
FY2030	Building Controls and HVAC Electrification	\$\$\$\$\$	18.2
FY2040	Water Heating Electrification	\$\$\$	0.5

Table 9. Truro Public Library ECM Emission Reduction Forecast (MCTO2e)

ECM	Electricity Decrease	Electricity Increase	Propane Decrease	Timing
Weatherization	0.3			2025
Insulation	0.2		7.7	2026
Building Controls and HVAC Electrification		3.6	21.8	2026
Water Heating Electrification		0.1	0.6	2026

By implementing the proposed decarbonization plan in Table 8, the projected building emissions for the Public Library are described in Figure 14. Some anticipated challenges for the Library include ensuring continued access to services during project periods.

Figure 14. Estimated Future Building Emissions based on the Building Plan



Town Hall

As noted in the baseline inventory, the Town Hall utilizes electric and propane in the baseline year of FY2O22.

Table 10. Truro Town Hall Decarbonization Plan

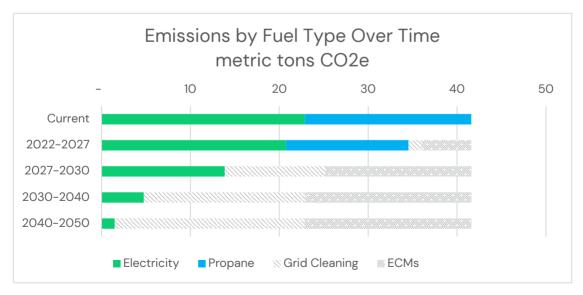
			FY22 vs
			FY50
Planned	Proposed Strategy	Budget	MtCO2e
FY2027	Insulation	\$\$\$\$	5.6
FY2030	Building Controls and HVAC Electrification	\$\$\$\$	10.7
FY2040	Water Heating Electrification	\$\$\$	0.5

Table 11. Truro Town Hall ECM Emission Reduction Forecast (MCTO2e)

ECM	Electricity Decrease	Electricity Increase	Propane Decrease	Timing
Insulation	0.7		4.9	2027
Building Controls and HVAC Electrification		2.5	13.2	2027
Water Heating Electrification		O.1	0.6	2027

By implementing the proposed decarbonization plan in Table 10, the projected building emissions for the Truro Town Hall are described in Figure 15. Some anticipated challenges for the Truro Town Hall include the historic nature of the building which adds complexity and cost to retrofitting and renovation projects.

Figure 15. Estimated Future Building Emissions based on the Building Plan



Community Center

As noted in the baseline inventory, the Community Center utilizes electric and propane in the baseline. *Table 12. Truro Community Center Decarbonization Plan*

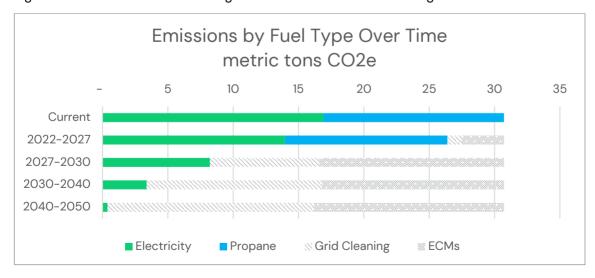
Planned	Proposed Strategy	Budget	FY22 vs FY50 MtCO2e
FY2025	Weatherization	\$\$\$	1.9
FY2027	Insulation	\$\$\$\$\$	4.2
FY2030	Building Controls and HVAC Electrification	\$\$\$\$\$	7.4
FY2040	Water Heating Electrification	\$\$\$	0.2

Table 13. Truro Community Center ECM Emission Reduction Forecast (MCTO2e)

ECM	Electricity Decrease	Electricity Increase	Propane Decrease	Timing
Weatherization	0.5		1.4	2029
Insulation	0.7		3.5	2029
Building Controls and HVAC Electrification		1.3	8.7	2030
Water Heating Electrification		0.1	0.3	2030

By implementing the proposed decarbonization plan in Table 12, the projected building emissions for the Truro Community Center are described in Figure 16. Some anticipated challenges are the continued operation and service of the facility during project periods.

Figure 16. Estimated Future Building Emissions based on the Building Plan



Transfer Station

As noted in the baseline inventory, the Transfer Station utilizes primarily electric, with some propane in the baseline year of FY2022.

Table 14. Truro Transfer Station Decarbonization Plan

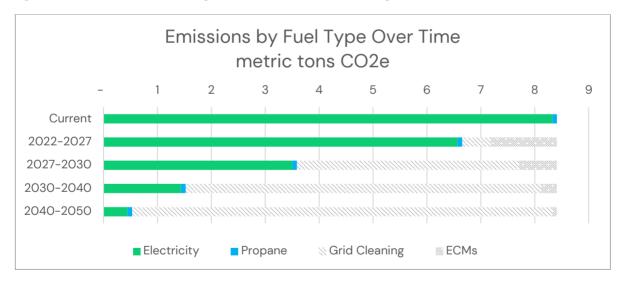
			FY22 vs FY50
Planned	Proposed Strategy	Budget	MtCO2e
FY2025	Lighting	\$	1.2
FY2025	Insulation	\$	0.1

Table 15. Truro Transfer Station ECM Emission Reduction Forecast (MCTO2e)

ECM	Electricity Decrease	Electricity Increase	Gas Decrease	Timing
Lighting	1.2			2025
Insulation	0.1			2025

By implementing the proposed decarbonization plan in Table 14, the projected building emissions for the Truro Transfer Station are described in Figure 17.

Figure 17. Estimated Future Building Emissions based on the Building Plan



Beach Office

As noted in the baseline inventory, the Transfer Station utilizes electric, propane and oil for backup HVAC and generators in the baseline year of FY2O22.

Table 16. Truro Beach Office Decarbonization Plan

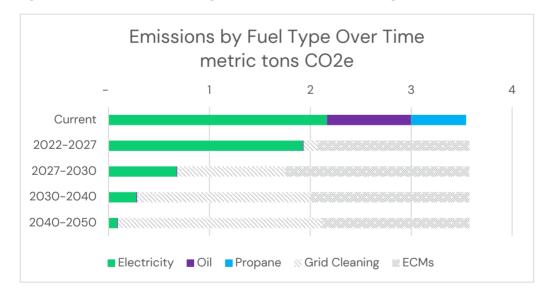
Planned	Proposed Strategy	Budget	FY22 vs FY50 MtCO2e
FY2025	Lighting	\$	5.3
FY2025	Weatherization	\$	9.3
FY2026	Insulation	\$\$	25.7

Table 17. Truro Beach Office ECM Emission Reduction Forecast (MCTO2e)

	Electricity	Electricity	Oil	Propane	
ECM	Decrease	Increase	Decrease	Decrease	Timing
Lighting	0.1				2025
Weatherization	0.1		0.8	0.6	2025
Insulation	0.1				2026

By implementing the proposed decarbonization plan in Table 16, the projected building emissions for the Beach Office are described in Figure 18.

Figure 18. Estimated Future Building Emissions based on the Building Plan



Field House

As noted in the baseline inventory, the Transfer Station utilizes electric in the baseline year of FY2O22.

Table 18. Truro Recreation Field House Decarbonization Plan

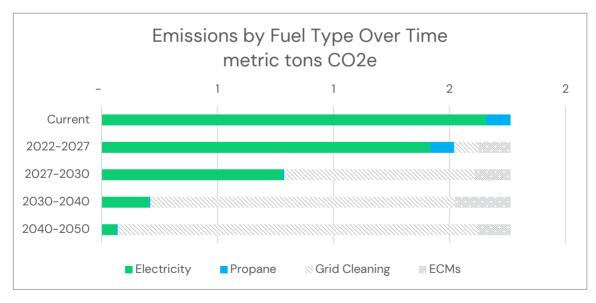
Planned	Proposed Strategy	Budget	FY22 vs FY50 MtCO2e
FY2026	Lighting	\$	O.1
FY2025	Weatherization	\$	0.1
FY2026	Building Controls and HVAC Electrification	\$\$\$	0.1

Table 19. Truro Recreation Field House ECM Emission Reduction Forecast (MCTO2e)

ECM	Electricity Decrease	Electricity Increase	Gas Decrease	Timing
Weatherization	0.1			2025
Weatherization	0.1		0.1	2025
Building Controls and HVAC Electrification		0.0	O.1	2026

By implementing the proposed decarbonization plan in Table 18, the projected building emissions for the Field House are described in Figure 19.

Figure 19. Estimated Future Building Emissions based on the Building Plan



Other Buildings

As noted in the baseline inventory, the recommendations for other buildings will be provided at a high level by category. The timeline for proposed adoption will assume a uniform decrease in building emissions over time, resulting in decarbonization by 2050. For each of the facilities, identifying gaps in weatherization and the envelope are key to reducing the overall energy use of the facility prior to investing in expensive equipment replacements that electricity these facilities.

Vehicles

In FY2O22, the municipal fleet of Truro generated a significant proportion of overall municipal emissions.

Light-Duty Vehicles

Within the municipal fleet of Truro, 38% is comprised of light-duty vehicles (17 vehicles). Truro has no current plans to add or reduce the number of vehicles in their light-duty fleet. The targeted percentage of light-duty ZEV vehicles in the fleet is detailed in Table 2.

Medium-Duty Vehicles

Within the municipal fleet of Truro, 24% is comprised of medium-duty vehicles (11 vehicles). Truro has no current plans to add or reduce the number of vehicles in their medium-duty fleet. The targeted percentage of medium-duty ZEV vehicles in the fleet is detailed in Table 2.

Heavy-Duty Vehicles

Within the municipal fleet of Truro, 38% is comprised of heavy-duty vehicles (17 vehicles). Truro has no current plans to add or reduce the number of vehicles in their heavy-duty fleet. The targeted percentage of heavy-duty ZEV vehicles in the fleet is detailed in Table 2.

Estimated Municipal Fleet Emissions

By transitioning the municipal fleet based on the Table 2, estimated municipal fleet emissions are shown in Figure 20.

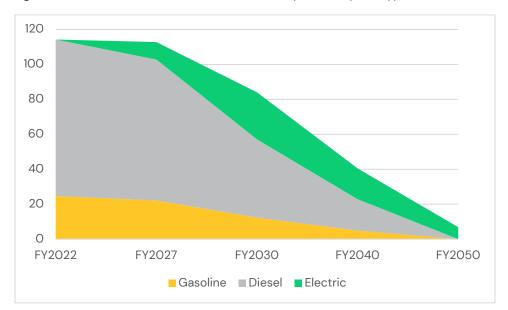


Figure 20. Emissions over time from Truro's municipal fleet by fuel type (MTCO2e)

Co-Benefit Considerations

In addition to supporting emissions reductions and decarbonization goals, these strategies can also provide co-benefits to the community by improving human health, economic development opportunities, and increased building resilience. Energy efficiency upgrades and the deployment of

on-site renewable resources can help to mitigate impacts from extreme heat or cold and power outages. The decarbonization strategies identified in this Roadmap can deliver co-benefits as investments in Truro's community.

Program Management Plan for Implementation, Monitoring and Oversight

Lead Implementers

With the support of stakeholders, funding, and this guiding Roadmap, Truro will begin implementing actions and strategies to achieve the town's decarbonization goals. Implementation of this multi-year Roadmap will require support and action from Truro government, businesses, and residents. The Roadmap provides a strategic, portfolio-level approach to prioritize and implement decarbonization measures at Truro's buildings. Town to add the lead departments/divisions for facility operations and maintenance, budget approvals, and energy management.

The actions identified in this Roadmap will require ongoing evaluation and strategic planning to incorporate building upgrades into existing budget processes or to identify additional funding sources where needed. Staff resources will also be necessary to support the implementation of these actions. Over time, as implementation progresses and technologies and policies evolve, Truro will also update this 2024 Roadmap to reflect accomplishments and new opportunities.

Roadmap Maintenance

Town to add the lead departments/divisions will be primarily responsible for maintaining this Roadmap and monitoring progress toward the 2050 goal.

Technical Appendix

Truro utilized a modeling tool developed for the purposes of this Roadmap to estimate the emissions reduction potential from a range of potential energy conservation measures (ECMs). The tool incorporated existing building characteristics data and business–as–usual (BAU) fuel use and costs from Fiscal Year 2022 (FY2022), in addition to known information about retrofit and upgrades completed to date for each building, to estimate the impact of implementing a range of ECMs. The tool inputs and assumptions are described in this Appendix.

Data Sources and Assumptions

The baseline emissions profile for the town's portfolio and by building was sourced from MEI. The tool used the below emission factors from MA EEA's forecasting for each fuel type. These estimates were produced as part of the MA 2050 Decarbonization Roadmap and were forecasted for every 5 years from 2020 to 2050. For estimating emissions in this roadmap, the 2025 emission factor for electricity is being applied to the 2027 period.

	2022	2025	2030	2040	2050
Electricity (kWh)	0.000235	0.00022	0.000118	0.0000485	0.000015
Gas (therms)	0.00531	0.00531	0.00531	0.00531	0.00531
Oil (gallons)	0.01015	0.01015	0.01015	0.01015	0.01015
Propane (gallons)	0.00576	0.00576	0.00576	0.00576	0.00576

Source: MA EEA

Building Characteristics & Energy Consumption

The tool used building characteristics data from MEI including total fuel use, EUI, and square footage for each building. The fuel use by type data included FY2O22 totals for electric, gas, oil, propane, and total fuel use for each building. The fuel costs by type were also FY2O22 totals for each applicable fuel type. For each building, the MEI building category was mapped to an EIA building category to apply the most appropriate building assumptions for each facility type.

MEI	EIA Match
Administration	Office
Indoor Recreation	Public Assembly
Library	Public Assembly
Public Safety	Public Order and Safety
Public Works	Service
School	Education
Other	Other

The tool used Commercial Building Energy Consumption by End Use factors from the U.S. Energy Information Administration (EIA) Commercial Buildings Energy Consumption Survey to estimate each facility's energy consumption by end use to estimate reductions from each ECM.⁵ These factors provided the percentage of total consumption for each end-use by energy source.

⁵ Table E5 and E7, Commercial Buildings Energy Consumption Survey (CBECS), 2018 https://www.eia.gov/consumption/commercial/data/2018/index.php?view=consumption

Energy Conservation Measures

ECM implementation timelines aligned with the roadmap timeline structure (2022-2027, 2027-2030, 2030-2040, 2040-2050) and enabled short-, medium-, and long-term assumptions for each ECM type based on available facility data and cost estimations.

Existing ECMs information in MEI, and additional resources and information sources where applicable, were used to determine each building's eligibility for additional Energy Conservation Measures (ECMs) with 100% being fully eligible, i.e. having not implemented the ECM to any extent, and 0% being ineligible, i.e. having already fully implemented that ECM or the ECM is not applicable or appropriate for that building. Where no data was available, the tool assumed 100% eligibility for that ECM.

Note: As the commercial EIA factors did not include an end-use energy value for pump equipment used in water and wastewater treatment plants, the lighting ECM for these facilities overcounts for the impact of lighting retrofits (i.e., assumes that all electricity end-use consumption is from lighting and not other equipment). For these facilities, the eligibility assumptions for the lighting ECMs were reduced by 90% to account for the overrepresentation of lighting end-use in the savings calculations.

Building Name	Fuel Use Total	Fuel Use Total	EUI	Building Square Footage	(100%=Eligible, 0%=Not Eligible. Percentages indicate amount already					
	MMBtu	kBtu	kBtu/sf	sq.ft.	Lighting	Weatheriz ation	Envelope/In sulation	HVAC Controls	HVAC Electrific ation	Water Heating Electrification
Town Hall	630.67	630,670.00	62.61	10,074	0%	0%	100%	0%	100%	100%
DPW Carpenter Shop	49.9	49,900.00	61.15	816	100%	100%	100%	100%	100%	100%
DPW Sweeper	71.59	71,590.00	88.38	810	100%	100%	100%	100%	100%	100%
Beach Office	51.63	51,630.00	51.64	1,000	25%	25%	25%	0%	0%	0%
Community Center	465.66	465,660.00	50.37	9,245	100%	100%	100%	100%	100%	100%
Snow's Field	25.87	25,870.00	46.2	560	100%	20%	0%	100%	100%	0%
Library	724.6	724,600.00	64.27	11,275	20%	0%	75%	100%	100%	100%
Harbormaster	31.74	31,740.00	125.93	252	100%	100%	100%	100%	100%	100%
Public Safety PFR	916.65	916,650.00	88.91	10,310	0%	50%	0%	0%	100%	50%
DPW Office	141.56	141,560.00	287.72	492	100%	100%	0%	0%	100%	100%
Swap Shop	13.68	13,680.00	14.25	960	100%	100%	100%	0%	100%	100%
Transfer Station	122.51	122,510.00	274.69	560	100%	0%	20%	0%	0%	0%
School	2186.38	2,186,380.00	61.44	35,000	100%	100%	0%	0%	100%	50%
DPW Garage	256.18	256,180.00	100.07	2,560	100%	100%	100%	100%	100%	100%

The eligibility assumptions were incorporated into the ECM calculations for each building, using the assumptions and factors described below. **Note:** the HVAC Electrification and Controls Retrofit calculations use the estimated energy consumption following implementation of the Weatherization and Envelope/Insulation Improvements. This assumption requires a phased approach where all weatherization and envelope/insulation measures are implemented prior to any electrification measures.

Lighting Retrofits

To estimate lighting end-use consumption reductions from lighting retrofits, the tool used the matched building type, building square footage, and electricity usage to estimate the lighting end-use consumption. The estimated lighting end-use consumption was multiplied by an Expected Electricity Savings assumption of 66% (based on Averaged PNNL Study based on Design Lights Case Studies⁶) to estimate the total reduction potential from lighting retrofits.

To estimate total implementation costs per facility, the tool applied the following cost per unit assumption:

Description	Cost	Unit
LED retrofit w/ photocells	\$3.15	\$/sqft

Cost estimates do not account for prevailing wage requirements in Massachusetts.

Weatherization

To estimate energy savings from weatherization measures, the tool used the matched building type, building square footage, and applicable fuel usage to estimate the HVAC end-use consumption. For each applicable fuel type per building, the estimated HVAC end-use consumption was multiplied by an Expected Electricity Savings assumption of 8% (ICF assumption⁷) and an Expected Gas/Fuel Savings assumption of 12% (ICF assumption) to estimate the total reduction potential from weatherization measures

To estimate total implementation costs per facility, the tool applied the following cost per unit assumption:

Description	Cost	Unit
Weatherization Measures	\$5.00 ⁸	\$/sqft

Cost estimates do not account for prevailing wage requirements in Massachusetts.

Envelope/Insulation Improvements

To estimate energy savings from envelope/insulation improvements, the tool used the matched building type, building square footage, and applicable fuel usage to estimate the HVAC end-use consumption. For each applicable fuel type per building, the estimated HVAC end-use consumption was multiplied by an Expected Electricity Savings assumption of 20% (ICF assumption) and an Expected Gas/Fuel Savings assumption of 30% (ICF assumption) to estimate the total reduction potential from envelope/insulation improvements.

To estimate total implementation costs per facility, the tool applied the following cost per unit assumption:

Description	Cost	Unit
-------------	------	------

⁶ https://www.designlights.org/our-work/networked-lighting-controls/lighting-controls-case-studies/

Weatherization and Envelope/Insultation improvement energy reduction potentials were derived from ICF industry experience in alignment with recent studies completed and reduction potentials from commercial buildings. Since reduction potentials of building envelope vary based on investment, higher cost and reductions potentials were used for the Envelope/Insulation Improvements. https://www.insulate.org/ICFStudy2022.pdf

⁸ ICF assumption.

·		
Building Envelope Retrofit	\$19.50 ⁹	\$/saft
Building Envelope netrone	Ψ10.00	Ψίσητ

Cost estimates do not account for prevailing wage requirements in Massachusetts.

HVAC Electrification and Controls Retrofit

To estimate energy savings from HVAC electrification and controls retrofits, the tool used the matched building type, building square footage, and applicable fuel usage (using the projected reduced fuel usage following implementation of any weatherization and envelope/insulation improvements) to estimate the HVAC end-use consumption. For each applicable fuel type per building, the estimated HVAC end-use consumption was multiplied by an Expected Electricity Savings assumption of 10% (ICF assumption) and an Expected Gas/Fuel Savings assumption of 10% (ICF assumption) to estimate the total reduction potential from HVAC electrification and controls retrofits.

Energy savings from increased efficiency of heat pump are estimated using a coefficient of performance (COP) of 2.5. This results in a 60% reduction in HVAC energy demand for a building after the HVAC retrofit has occurred. Current data on realized COP values is limited for non-residential properties. The COP of 2.5 used in this model is based on a range of values from 1.00 - 3.50 based on heating degree days, with lower COPs occurring in high heating degree day regions 10. The value of 2.5 is associated with 7,000 heating degree days, which provides a conservative estimate.

To estimate total implementation costs per facility, the tool applied the following cost per unit assumption:

Description	Cost	Unit
Building Automation System	\$3.0011	\$/sqft
HVAC Electrification	\$17.87 ¹²	\$/sqft

Cost estimates do not account for prevailing wage requirements in Massachusetts.

Water Heating Electrification

To estimate energy savings from electrifying existing natural gas-fired water heaters, the tool used the matched building type, building square footage, and applicable fuel usage to estimate the water heating end-use consumption. For each applicable fuel type per building, the estimated water heater end-use consumption in fossil fuels was estimated using building characteristic data and then transformed to electricity use assuming an existing hot water heater with an Uniform Efficiency Factor (UEF) efficiency of 80% and new heat pump water heater with a UEF of 2 to estimate the total energy change from water heater electrification.

To estimate total implementation costs per facility, the tool applied the following cost per unit assumption:

ſ	Description	Cost	Unit
١	Water Heater Electrification	\$6.30 ¹³	\$/sqft

Cost estimates do not account for prevailing wage requirements in Massachusetts.

Solar PV

To estimate solar eligibility and system size, the tool used estimates from NREL's PVWatts® Calculator.¹⁴ This calculator estimates the energy production of grid-connected photovoltaic (PV) energy systems

⁹ Based on an average cost between \$11.00-28.00 provided in Transformative Building Envelope Retrofit Using Insulation-Inflatable Walls Assisted by Automation, 2021. Source: info.ornl.gov/sites/publications/Files/Pub172058.pdf.

¹⁰ ACEEE Electrifying Space Heating in Existing Commercial Buildings

¹¹ Energy Information Administration (EIA)- Commercial Buildings Energy Consumption Survey (CBECS) Data

¹² Energy Home, DEP, Montgomery County, MD (montgomerycountymd.gov)

¹³ Energy Home, DEP, Montgomery County, MD (montgomerycountymd.gov)

¹⁴ PVWatts Calculator (nrel.gov)

throughout the world based on a rooftop size estimator using aerial images of the facility. Each facility was searched on PVWatts® to determine whether it was a good candidate for a PV system and, if determined to be an eligible candidate, the simulated outputs from PVWatts® were integrated into the tool. These outputs included the estimated DC system capacity (KW) and estimated solar generation annually (kWh). In addition to the results provided from the PVWatts® calculator, eligibility assumptions were determined by judging the feasibility of solar on the rooftop based on the aerial imagery. I.e., if a facility was historic (such as a Town Hall), or the rooftop had irregularities, obstacles and slope type that would alter solar PV feasibility, judgement was used to determine a percentage from 0% (not eligible) to 50% (eligible), with these rooftop irregularities in mind.

The tool used an average of Mass CEC costs to establish a cost estimation. To estimate total implementation costs, the tool applied the following cost per unit assumption:

Description	Cost	Unit
PV	\$3.11 ¹⁵	\$/W

Cost estimates do not account for prevailing wage requirements in Massachusetts.

Energy Consumption Projections

After an ECM eligibility assumption for each building was established, the tool estimated the energy increases and/or decreases and costs associated with each ECM for each fuel type (electricity (kWh), natural gas (MMBTU), oil, (MMBTU), and propane (MMBTU)). These projections included the energy change over time for each Roadmap time period and cumulatively to demonstrate the impacts of ECM implementation through 20250. The tool also projected the emissions change over time, using the projected energy changes and fuel emission factors provided above, to demonstrate the emission reductions over time and by fuel type.

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¹⁵ https://www.masscec.com/resources/commercial-solar-information-hub

Agenda Item: 7E2



TOWN OF TRURO

P.O. Box 2030, Truro, MA 02666

Tel: 508-349-7004, Extension: 110 or 124 Fax: 508-349-5505

December 17, 2024

To Whom It May Concern:

Please be advised that on December 17, 2024, the Select Board of the Town of Truro met at a duly noticed and regularly scheduled meeting and voted to adopt the decarbonization roadmap of the Green Communities Climate Leaders application for certification. The Select Board was given copies of the plan for review prior to the meeting.

The Select Board voted unanimously to adopt the plan and the minutes of that meeting include the vote.

Sincerely,		
Truro Select Board		
Susan Areson, Chair		Robert Weinstein, Vice-Chair
Nancy Medoff, Clerk		Susan Girard-Irwin
_	Stephanie Rein	

Agenda Item: 7F



TOWN OF TRUROSelect Board Agenda Item

DEPARTMENT: Administration

REQUESTOR: Darrin Tangeman, Town Manager

REQUESTED MEETING DATE: December 17, 2024

ITEM: Preliminary Discussion on 2024 Annual Town Report Cover, Theme and Dedication

EXPLANATION: Each year staff requests suggestions from the Board for a cover/theme for the Annual Town Report and for the report dedication. Previous covers and themes have included Puma Park, town beaches, the Pamet River, and the elders of the community. Prior dedications of the book have been to community members or staff members for years of service or community groups and businesses. Staff offers that one idea for theme and cover could be "Truro's Pets" featuring some of Truro's non-human community members.

The Board will begin a preliminary discussion to start brainstorming for the cover, theme and dedication. Additionally, over the coming weeks, staff will invite suggestions from the community on possible themes, covers and dedications.

Upon closing out calendar year 2024, staff will prepare the list of individuals who passed in 2024 and resignations/ retirements for their inclusion in the Annual Town Report and for the Board's consideration for possible dedication.

IMPACT IF NOT APPROVED: If the cover is not decided upon at this meeting it can be determined at a later meeting. The Annual Town Report must be ready two weeks before the Annual Town Meeting.

SUGGESTED ACTION: None. Preliminary Discussion only.

ATTACHMENTS:

1. 2023 Annual Town Report Cover and Dedication





Agenda Item: 7F1

Town of Truro 2023 Annual Town Report







In Dedication to Our Community's Caregivers

This year, the Town of Truro dedicates its annual report to the remarkable caregivers within our community, whose tireless efforts can often go unnoticed yet have a profound effect. We honor the dedication across all spectrums of care – from the tender support of family members and friends to the specialized expertise of healthcare professionals – all of whom enrich the lives of others. Whether providing respite, offering comfort in hospice care, nurturing our youngest through childcare, empowering individuals with disabilities, providing support as live-in caregivers, or navigating the challenges of memory-related conditions-your commitment and dedication serve as a guiding light of hope and comfort.

Additionally, we honor three local restaurants that are closing or changing hands after decades of serving our community with warmth and hospitality. These establishments have been more than just places to eat; they've been integral parts of our town's identity, where friendships were forged, memories were made, and stories were shared. Though these restaurateurs are moving on, their legacies are lasting in Truro's rich history.

To all who serve this community, whether through caregiving, entrepreneurship, or any other endeavor, we express our gratitude for your dedication to Truro. You are the lifeblood of our town.





TOWN OF TRUROSelect Board Agenda Item

DEPARTMENT: Administration

REQUESTOR: Noelle Scoullar, Executive Assistant

REQUESTED MEETING DATE: December 17, 2024

ITEM: Approval of Renewal of 2025 Annual Business Licenses:

• Millan's Restaurant-Common Victualer

Truro Box Lunch-Common Victualer

Montano's Restaurant-Common Victualer

EXPLANATION: These licenses are under the authority of the Select Board as the Local Licensing Authority. If you approve the licenses for renewal, the licenses will be issued only upon compliance with all regulations, receipt of the necessary fees, and proof of taxes paid in full for the fiscal year. There were no reported issues with these establishments in 2024.

Mass General Law	Licenses & Permits Issued by Select Board	Names of Businesses
Chapter 140 § 2	Common Victualer	Millan's Restaurant
Chapter 140 3 2	(Cooking, Preparing ,and Serving food)	Truro Box Lunch Montano's Restaurant

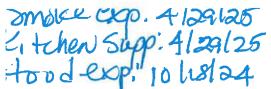
FINANCIAL SOURCE (IF APPLICABLE): N/A

IMPACT IF NOT APPROVED: The applicants will not be issued their licenses to operate.

SUGGESTED ACTION: Motion to approve the 2025 Common Victualer License for Millan's Restaurant, Truro Box Lunch, Montano's Restaurant upon compliance with all regulations and receipt of the necessary fees.

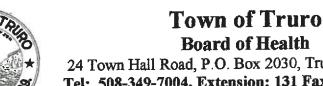
ATTACHMENTS:

- 1. Renewal Application for 2025: Millan's Restaurant-Common Victualer
- 2. Renewal Application for 2025: Truro Box Lunch-Common Victualer
- 3. Renewal Application for 2025: Montano's Restaurant-Common Victualer



Consent Agenda Item: 9C1

HEALTH DEPARTMENT TOWN OF TRURO



NOV 1 2 2024

RECEIVED BY:

24 Town Hall Road, P.O. Box 2030, Truro, MA 02666
Tel: 508-349-7004, Extension: 131 Fax: 508-349-5508
Email: lbudnick@truro-ma.gov or nrichey@truro-ma.gov

APPLICATION FOR FOOD SERVICE - COMMON VICTUALER Name of Business: Millan's Restaurant Renewal/No Changes (Skip to Section 3) □ New Section 1 - License Type Common Victualer (\$50) Type of License: Food Service Type of Food Service Establishment: Food Service (restaurant or take out)/\$75 ☐ Catering/\$50 ☐ Manufacturer of Ice Cream/Frozen Dessert / \$10 ☐ Retail Food (commercially prepared foods)/\$15 ☐ Bakery \$10 ☐ Residential Kitchen \$25 ☐ Bed & Breakfast w/Continental Breakfast Section 2 - Business/Owner/Manger Information Federal Employers Identification Number (FEIN/SS) Business Name: Owner Name: _____ Email Address: ____ Mailing Address: Phone No: Section 3 - Business Operation Details Inside: 55 Outside: Number of Employees: 13 Number of Seats: Length of Permit: Annual Seasonal Operation Hours of Operation: 5 pm To 9pm Days Closed Excluding Holidays: In season none, Shoulder season Monday and Tuesdays closed If Seasonal: Approximate Dates of Operation: 5 / 1 /25 To 12 /31 /25 Person Directly Responsible for Daily Operations: (Owner, Person in Charge, Supervisor, Manager) Name: Dawnell Dennison Email Address: Mailing Address: 104 Shore Rd, Truro MA

24 Hour Emergency:

Phone No:

Certified Food Man	ager(s) (attach copy): (at least 1 full-time equivalent PER SHIFT required)
Allergen Awareness	Certification (attach copy):
Has your menu ch If yes please attach c	anged from last year? M Yes No opy of menu or provide description of food to be prepared and sold:
Section 4 - Attest	ation
to allow the regulator affirm that the food es Regulation Section X, 62C § 49A, I certify u	test to the accuracy of the information provided in this application and further agree by authority access to the food service establishment as specified under § 8-402.11. I stablishment operation will comply with 105 CMR 590.000, Truro Board of Health Food Service Regulations and all other applicable laws. Pursuant to MGL Ch. and the penalties of perjury that I, to my best knowledge and belief, have filed all peaid state and local taxes required by law.
Signature of Applica	Date: 117124
Application Check	<u>list</u> :
☐ Food Service Pe	rmit Application
☐ Smoke Detector	/Fire Protection Certification
☐ Workers Comp	ensation Affidavit/Certificate of Insurance
☐ Copy of Inspect Report	ion of Kitchen Equipment: Commercial Hood and Ventilation System
☐ Copy of Service	report of mechanical washing equipment (Dishwasher)
☐ Copy of ServSat	fe Certification and Allergy Awareness
☐ Copy of Choke	Saver (for food service establishment w/seating capacity of 25 or more)
	FOR HEALTH DEPARTMENT USE ONLY
Comments:	
Review by	Date



The Commonwealth of Massachusetts Department of Industrial Accidents 1 Congress Street, Suite 100 Boston, MA 02114-2017

www.mass.gov/dia

Workers' Compensation Insurance Affidavit: General Businesses. TO BE FILED WITH THE PERMITTING AUTHORITY.

Applicant Information	Please Print Legibly
Business/Organization Name: Millan's Restaurant LLC	
Address: 104 Shore Road	
City/State/Zip: Truro, MA 02652	Phone #:
Are you an employer? Check the appropriate box: 1. I am a employer with employees (full and/ or part-time).* 2. I am a sole proprietor or partnership and have no employees working for me in any capacity. [No workers' comp. insurance required] 3. We are a corporation and its officers have exercised their right of exemption per c. 152, §1(4), and we have no employees. [No workers' comp. insurance required]* 4. We are a non-profit organization, staffed by volunteers, with no employees. [No workers' comp. insurance req.] *Any applicant that checks box #1 must also fill out the section below showing the section should check box #1.	12. Other Other workers' compensation policy information.
I am an employer that is providing workers' compensation insurance Company Name:	trance for my employees. Below is the policy information.
Insurer's Address:	
City/State/Zip:	
Policy # or Self-ins. Lic. # Attach a copy of the workers' compensation policy declaration	Expiration Date: on page (showing the policy number and expiration date).
Failure to secure coverage as required under Section 25A of MC fine up to \$1,500.00 and/or one-year imprisonment, as well as ci of up to \$250.00 a day against the violator. Be advised that a continue tigations of the DIA for insurance coverage verification.	L. c. 152 can lead to the imposition of criminal penalties of a vil penalties in the form of a STOP WORK ORDER and a fine
I do hereby certify, under the pains and penalties of perjury the	at the information provided above is true and correct.
Signature: Despire	Date: 11 7 24
Phone #:	
Official use only. Do not write in this area, to be completed	by city or town official
City or Town:P	ermit/License #
Issuing Authority (circle one): 1. Board of Health 2. Building Department 3. City/Town 6. Other	Clerk 4. Licensing Board 5. Selectmen's Office
Contact Person:	Phone #:

MILLRES-01

JLOGAN

DATE (MM/DD/YYYY) 4/19/2024

CERTIFICATE OF LIABILITY INSURANCE

ACORD

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED DEPOPESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER. IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s) PHONE (508) 487-6060 FAX No.: (508) 487-2040 Kaplansky insurance PO Box 267 HEALTH DEPARTME ADDRESS info@kaplansky.com 154 Shore Rd North Truro, MA 02652 TOWN OF TRUPO INSURER(S) AFFORDING COVERAGE NAIC # 19862 INSURER A: The Hartford APR 3 0 2024 INSURER B : INSURED INSURER C: Millan's Restaurant, LLC RECEIVED BY: INSURER D 104 Shore Rd. North Truro, MA 02652 NSURER E INSURER F: REVISION NUMBER: CERTIFICATE NUMBER: THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES, LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. COVERAGES POLICY EFF POLICY EXP LIMITS ADDL SUBR POLICY NUMBER INSR TYPE OF INSURANCE COMMERCIAL GENERAL LIABILITY EACH OCCURRENCE DAMAGE TO RENTED CLAIMS-MADE OCCUR MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE GEN'L AGGREGATE LIMIT APPLIES PER: PRODUCTS - COMP/OP AGG 學 LOC POLICY COMBINED SINGLE LIMIT OTHER AUTOMOBILE LIABILITY BODILY INJURY (Per person) ANY AUTO SCHEDULED BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) CWNED AUTOS ONLY MUNSHAW PIRANSHAW 如認 ONLY EACH OCCURRENCE OCCUR HMBRELLA LIAB AGGREGATE CLAIMS MADE EXCESS LIAB DED RETENTION \$ X PER STATUTE WORKERS COMPENSATION AND EMPLOYERS' LIABILITY 500,000 A/18/2024 AM8/2025 ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandalory in NH) 08WECBF6BSK E.L. EACH ACCIDENT N 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 if yes, describe under DESCRIPTION OF OPERATIONS below E.L. DISEASE - POLICY LIMIT DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 104, Additional Remarks Schedule, may be attached if more space is required)
Restaurant: 104 Shore Rd., North Truro, MA 02652 CANCELLATION CERTIFICATE HOLDER SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. Town of Truro 24 Town Hall Rd. Truro, MA 02666 AUTHORIZED REPRESENTATIVE N

APR 3 0 2024





TRURO FIRE RESCUE Truro Public Safety Facility 344 Route 6 Truro, MA 02666

FIRE PROTECTION SYSTEMS ANNUAL TEST REPORT

Maria Destarrant
BUSINESS NAME: Millan's Restaurant
OWNER/MANAGER: Dawnell Dennison
ADDRESS: 104 Shore Road, Truro
PHONE #NUMBER OF UNITS:1
CONTACT PERSON: Carlos Millan
ADDRESS: 104Shore Road, N. Truro
TESTING COMPANY: fire equipment inc
TESTING ELECTRICIAN/TECHNICIAN: 605/ - James Spinosq
COMPANY PHONE #: <u>508 944866</u> HOME PHONE #: <u>508 775 3437</u>
LICENSE #: 605/
The fire protection system (s) including, but not limited to, (Sprinkler Systems) (Range Hood Systems) (Fire Extinguishers) (Type I II III Fire Alarm Systems) (C.O. Detectors) at the above mentioned business address, were tested, (CERTIFIED) the add parts of the systems, were found to be, or corrected to be, fully operational.
COMMENTS:
DATE OF CERTIFICATION: 4-29-24 BY: Signature of Licensed Electrician

THIS REPORT MUST BE FILLED OUT AND SUBMITTED, PRIOR TO THE ISSUANCE OF, OR RENEWAL OF A LICENSE TO OPERATE WITHIN THE TOWN OF TRURO.



HEALTH DEPARTMENT TOWN OF TRURO

MAY 01 2024

RECEIVED BY:

Kitchen Suppression System Inspection Certificate

For

HEALTH DEPARTMENT TOWN OF TRUPO

NOV 1 2 2024

RECEIVED BY

Millan's Restaurant 104 Shore Road North Truro, MA 02666

Tested to NFPA Standards

This Inspection was performed in accordance with NFPA 17 or 17A Standards. The subsequent pages of this report provide performance measurements, listed ranges of acceptable results, and complete documentation of the inspection. Whenever discrepancies exist between acceptable performance standards and actual test results, notes and/or recommended solutions have been proposed or provided for immediate review and approval.

Inspection Date: 4/29/2024

Inspector Name: James Spinosa - T6

Title: Service Technician



Kitchen Suppression System Inspection Certificate

Property: Millan's Restaurant	Street: 104 Shore Road	City/State/Zip: North Truro, MA 02666
Frequency: Annual	Inspector Name: James Spinosa - T6	Date: 4/29/2024
Installed Product: K 00076442	Product: Kitchen Suppression System	Equipment Location: Kitchen

System in service before conducting tasks	Yes
Pertinent parties notified before conducting tasks	Yes
Appliances Left to Right:	10 burn, 4 burn, gr char
Type of special agent extinguishing system: Wet chemical Dry chemical Prior to performing the required maintenance steps, verify that the system protection is designed and installed correctly for the existing appliance and ventilation system configuration. If not, note deficiencies.	Wet Chemical
Were building alterations/renovations made since last inspection?	No
Is system connected to building fire alarm?	No
Automatic Shutdown	
What is fuel source? Electricity Gas or Both	Gas
Nozzles	
Are caps in place?	Yes
Quantity of Nozzle Caps Changed	
Quantity of Nozzle Seals Changed	
Are nozzles properly oriented to protect hazard?	Yes
Are there signs of damage or clogging?	No
Manual Releases	
Are manual releases clear and unobstructed?	Yes
System Cylinders and Mechanical Controls	
Are system pressure gauges in proper operating range?	Yes
Tanks mounted and secured?	Yes
All visible piping & conduit properly supported and in good condition?	Yes
Proper pipe schedule and fitting weight(s) for hazard design?	Yes
Flexible discharge hoses? Date: Part#: Size: :	No
Portable Fire Extinguishers	
Are fire extinguishers provided?	No
Mechanical Detection Line	-
Function tested	Yes
Ouantity of 165° F Links Changed	

Quantity of 212° F Links Changed	
Quantity of 280°F Links Changed	
Quantity of 360° F Links Changed	3
Quantity of 450° F Links Changed	
Quantity of 500°F Links Changed	
Interlocks	Yes
Fuel shutoff	ies
CERTIFICATE OF INSPECTION	
System tagged and left in service	Yes
Pertinent parties notified after conclusion of tasks	Yes
System returned to service	Yes
COMMENTS:	
6-Year Maintenance Test Are 6-year tests recorded?	
12-Year Tests Are 12-year tests recorded?	



FIRE SUPPRESSION CYLINDER RECORD

Model	Hydro	Number of	Location
		Tanks	
	Model	Model Hydro	Model Hydro Number of Tanks



TOTAL # OF EXTINGUISHERS - 3

Halotron 5 lb

EXTINGUISHERS DUE SERVICE NEXT YEAR -

Yew Equipment -	1.222	DRY CHEM 10 ABC	DRY CHEM 20 ABC
DRY CHEM 2.5 ABC	DRY CHEM 5 ABC	DRY CHEW 10 ABC	DICT CULLIN 20 1100
DRY CHEM 10 BC	DRY CHEM 20 BC	DRY CHEM 10 PK	DRY CHEM 20 PK
CO2 5lb	CO2 10ib	CO2 15.5lb	CO2 20lb
CO2 310	002.000		TT-leter Elb
Pressurized Water	K Class	Halotron 2.5lb	Halotron 5lb
Halotron 11lb	Halotron 15lb	Emergency Lights	Exit Lights
Other	Fire Extinguishers		
	Disposed Of		

nspection/Recerti	2	KClass	1	Pressurized Water	Halotron
DryChem	-	Conductivity Test		Wheeled Unit	Emergency Light
CO2 Exit Light		Other Insp			
Recharges –					D. Chan 201h
Dry Chem 2 1/2 lb		Dry Chem 5 lb		Dry Chem 10lb	Dry Chem 20lb
CO2 5 lb	-	CO2 10 lb		CO2 15 lb	CO2 20 lb
					27.1
Pressurized Water		K Class .61		2.5G	Halotron 2.5 lb

Service – 6 YR Maintenance Halotron	Hydrotest Dry Chem	
6 YR Maintenance Other	Hydrotest Other	

Halotron 11 lb

Halotron 15.5 Lb

Parts -		01 10	Pull Pin
Service Collar	ORing	Check Stem	
	Heavy Duty Bracket	Batteries	Battery Disposal
Vehicle Bracket			20lb
Wall Hook	M1 - 5lb	M2 -10lb	2010

Conductivity Tests



Bulbs	Replacement Cover	Gauge	FEC Cover	
Other Parts	DOT	OSHA	PWM 90	_
BL Series Vinyl	Type			
RP Series Plastic	Types			

FIREEXTINGUISHERS AREIN COMPLIANCE WITHNFPA10 CODE -

			_	
Reco	***	enda	ations	

Comments -

Signature:	James survee	
Date:	Apr 29, 2024	

HEALTH DEPARTMENT TOWN OF TRURO

APR 3 0 2024

RECEIVED BY

CERTIFICATE

of

COMPLETION

Juan C Millan

has successfully completed the required Allergen Awareness program for

Allergen Awareness

Date Completed:

2024-4-7

Valid through:

2027-4-7

Certificate Number:

3536272

Exam Form Number:

86



The Always Food Safe Company 899 Montreal Circle, St. Paul, 55102 www.alwaysfoodsafe.com



Nick Eastwood President The Always Food Safe Company



HEALTH DEPARTMENT TOWN OF TRURO

APR 3 0 2024

RECEIVED BY:

Establishments" as required by the Massachusetts Department of Public Health 105 CMK590.009. Included with this training was "Hands Only CPR" for adults and children. This training was conducted by the Cape Cod Medical Reserve Corps American Heart Association certified trained instructors.

This certificate is good for two years from the date of issuance.

Diana R. Gaumond, RN, BSN, MPH
Director Cape Cod Medical Reserve Corps

Date: April 23, 2024

HEALTH DEPARTMENT TOWN OF TRUBO

APR 3 0 2024

RECEIVED BY:



Establishments" as required by the Massachusetts Department of Public Health 105 CMK590.009. Included with this training was "Hands Only CPR" for adults and children. This training was conducted by the Cape Cod Medical Reserve Corps American Heart Association certified trained instructors.

This certificate is good for two years from the date of issuance.

Diana R. Gaumond, RN, BSN, MPH

Director Cape Cod Medical Reserve Corps

Date: April 23, 2024



TOWN OF TRURO

P.O. Box 2030, Truro, MA 02666 Tel: 508-349-7004, Extension: 113 or 126 Fax: 508-349-5505

TAX STATUS REQUEST FOR LICENSING

Date 11/18/2024

Request is coming from the Selectmen's Offic	eHealth OfficeX
Owner's Name:	
Business Name: Millan's Restaurant	•
Residential Address: 104 Shore Rd	
Map and Parcel: 35-68	
Please verify whether the Real Estate and Perproperty are up to date for the current fiscal y	
Tax Collector's Signature	11-20-2024 Date



Town of Truro

Board of Health

24 Town Hall Road, P.O. Box 2030, Truro, MA 02666 Tel: 508-349-7004, Extension: 131 Fax: 508-349-5508

Email: <u>lbudnick@truro-ma.gov</u> or <u>nrichey@truro-ma.gov</u>

4 185,000
APPLICATION FOR FOOD SERVICE - COMMON VICTUALER DICENCES Name of Business: JCG, LLC BOX LUNCH TRULO CV, FS, BK, CA
□ New □ Renewal/No Changes (Skip to Section 3)
Section 1 – License Type Type of License: Food Service Common Victualer (\$50)
Type of Food Service Establishment: Food Service (restaurant or take out)/\$75 Retail Food (commercially prepared foods)/\$15 Residential Kitchen \$25 Bed & Breakfast w/Continental Breakfast Type of Food Service Establishment: Bed & Breakfast w/Continental Breakfast Type of Food Service Establishment: Bed Service (restaurant or take out)/\$75 Bed & Gatering/\$50 Bakery \$10
Section 2 – Business/Owner/Manger Information
Federal Employers Identification Number (FEIN/SS)
Business Name: Box Runch Truro
Owner Name: Tulio a range Email Address
Mailing Address: 334 Commercial St 02457 Phone No: 508.487.465
10 17
Section 3 – Business Operation Details 4-5 Wither
Number of Seats: Inside: B Outside: Number of Employees: B 10 Summer
Length of Permit: Annual Seasonal Operation
Hours of Operation: To 4 (Summer 7-7)
Days Closed Excluding Holidays:
If Seasonal: Approximate Dates of Operation:/To/
Person Directly Responsible for Daily Operations: (Owner, Person in Charge, Supervisor, Manager) Name: Tillie Grande Email Address: box lunch ptown agmail: Com Mailing Address: 334 Commercial St 02457 Phone No: 508,487,4024 24 Hour Emergency:

	Certified Food Manager(s) (attach copy): (at least 1 full-time equivalent PER SHIFT required) July Grande ('27) Frank Grande (27) Monica Banas (26)
(PH)	Allergen Awareness Certification (attach copy):
The)	Frank Grande (2027)
en C	
KIN	Has your menu changed from last year? □ Yes \ No
	If yes please attach copy of menu or provide description of food to be prepared and sold:
	Section 4 - Attestation
	Attestation I, the undersigned, attest to the accuracy of the information provided in this application and further agree to allow the regulatory authority access to the food service establishment as specified under § 8-402.11. I affirm that the food establishment operation will comply with 105 CMR 590.000, Truro Board of Health Regulation Section X, Food Service Regulations and all other applicable laws. Pursuant to MGL Ch. 62C § 49A, I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all state tax returns and paid state and local taxes required by law.
	Signature of Applicant:
	Application Checklist:
	☐ Food Service Permit Application
	☐ Smoke Detector/Fire Protection Certification
	☐ Workers Compensation Affidavit/Certificate of Insurance
	☐ Copy of Inspection of Kitchen Equipment: Commercial Hood and Ventilation System Report
	□ Copy of Service report of mechanical washing equipment (Dishwasher) (NA)
	☑ Copy of ServSafe Certification and Allergy Awareness
	☐ Copy of Choke Saver (for food service establishment w/seating capacity of 25 or more)
	FOR HEALTH DEPARTMENT USE ONLY
	Comments:
	Review by Date

Rev 9/22



The Commonwealth of Massachusetts Department of Industrial Accidents 1 Congress Street, Suite 100 Boston, MA 02114-2017

www.mass.gov/dia

Workers' Compensation Insurance Affidavit: General Businesses.
TO BE FILED WITH THE PERMITTING AUTHORITY.

Applicant Information	Please Print Legibly
Business/Organization Name: TCG, LLC I	Box Lurch Thiro
Address: 300 Rt. 6 Trupo, N	lass
City/State/Zip: Truro, Mass	Phone #: 508-487.4545
Are you an employer? Check the appropriate box: 1. I am a employer with 5-6 employees (full and/or part-time).* 2. I am a sole proprietor or partnership and have no employees working for me in any capacity. [No workers' comp. insurance required] 3. We are a corporation and its officers have exercised their right of exemption per c. 152, §1(4), and we have no employees. [No workers' comp. insurance required]* 4. We are a non-profit organization, staffed by volunteers, with no employees. [No workers' comp. insurance req.] *Any applicant that checks box #1 must also fill out the section below showing the staffed bound check box #1.	12. Other
I am an employer that is providing workers' compensation insurance Company Name: Insurer's Address:	rance for my employees. Below is the policy information.
City/State/Zip: Policy # or Self-ins. Lic. # Attach a copy of the workers' compensation policy declaratio	Expiration Date:
Failure to secure coverage as required under Section 25A of MGI fine up to \$1,500.00 and/or one-year imprisonment, as well as civ of up to \$250.00 a day against the violator. Be advised that a cop Investigations of the DIA for insurance coverage verification.	L c. 152 can lead to the imposition of criminal penalties of a vil penalties in the form of a STOP WORK ORDER and a fine
I do hereby certify, under the pains and penalties of perjury that Signature: Phone #:	t the information provided above is true and correct. Date: 2 10 34
Official use only. Do not write in this area, to be completed b	y city or town official.
	rmit/License #
Issuing Authority (circle one): 1. Board of Health 2. Building Department 3. City/Town C 6. Other	Clerk 4. Licensing Board 5. Selectmen's Office
Contact Person:	Phone #:



TRURO FIRE RESCUE Truro Public Safety Facility 344 Route 6 Truro, MA 02666

FIRE PROTECTION SYSTEMS ANNUAL TEST REPORT

BUSINESS NAME: BOX Punch Truro
OWNER/MANAGER: Julie Frank grande
ADDRESS: 300 Rt. 6
PHONE #. 508.487.4545 NUMBER OF UNITS:
CONTACT PERSON: Julie Grande (CI)
ADDRESS: 2 Lambron Lane Trusque (Cell:203948.33)4
TESTING COMPANY:
TESTING ELECTRICIAN/TECHNICIAN:
COMPANY PHONE #:HOME PHONE #:
LICENSE #:
The fire protection system (s) including, but not limited to, (Sprinkler Systems) (Range Hood Systems) (Fire Extinguishers) (Type I II III Fire Alarm Systems) (C.O. Detectors) at the above mentioned business address, were tested, (CERTIFIED) the add parts of the systems, were found to be, or corrected to be, fully operational.
COMMENTS:
PATE OF CERTIFICATION:BY:Signature of Licensed Electrician

THIS REPORT MUST BE FILLED OUT AND SUBMITTED, PRIOR TO THE ISSUANCE OF, OR RENEWAL OF A LICENSE TO OPERATE WITHIN THE TOWN OF TRURO.



Serv Safe® CERTIFICATION

FRANK GRANDE

for successfully completing the standards set forth for the Sensola Food Protection Manager Certification Examination, which is accredited by the American National Standards Institute (ANS)—Conference for Food Protection (CFP).

10.50

CETTEREATE MABER

2/8/2022

DATE OF EXALLARIAN Local laws apply. Che

10774

EXAM FORM NUMBER

2/8/2027

DATE OF EXPIRATION pcy for recertification requirements.

Sherm

ociation Solutions

ACCREDITED PROGRAM
AMERICAN NAMED SEMINARDS INSTITUTE
AUTHORITIES CONTINUENCE IN FOOG PROLECTION

#0655

to complete with the

the SanSale logo are trademarks of the NRAEF. National Budgmant Associations and the arc design



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

12/11/24

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

	is certificate does not confer rights t							require an endorsemen	ii. A s	taternent on
_	DUCER				CONTAC NAME:		NA SANTOS	S		
FIE	RESIDE INSURANCE AGENCY IN	C							(508)	487-0649
0.00	Shank Painter Cmn POB 760				E-MAIL	ss. SABRIN	A@FIRESI	DEINSURANCEAGENC	Y.COM	Л
5500	ovincetown, MA 02657-0760				ADDICE	10VDG		DING COVERAGE		NAIC#
	ovincetown, with 02007-0700				INCUIDE	RA: USLIC		DING COVERNGE		IVAIO II
INSU	RED	-				March 18 Avenue 18 Co.	The state of the s	RANCE COMPANY		
	J.C.G., LLC DBA: PROVINCE	TOW	N BOX	KIIINCH	INSURE		DAILD IIVOO	TANGE COMITAIN		
	AND THE TRURO BOX			X LONGIT	INSURE	Shiori		13-12-36		
	334 COMMERCIAL ST	LUIN	ОП		INSURE	MANUTATION OF THE PARTY OF THE				
	PROVINCETOWN, MA 0	2657	,		INSURE					
CO				NUMBER:	INSURE	KF:		REVISION NUMBER:		
TI	HIS IS TO CERTIFY THAT THE POLICIES DICATED. NOTWITHSTANDING ANY R ERTIFICATE MAY BE ISSUED OR MAY	OF EQUIP	INSUR.	RANCE LISTED BELOW HA	OF AN	Y CONTRACT	OR OTHER	ED NAMED ABOVE FOR T DOCUMENT WITH RESPE	CT TO	WHICH THIS
	CLUSIONS AND CONDITIONS OF SUCH			LIMITS SHOWN MAY HAVE	BEEN F					
INSR LTR		INSD	SUBR	POLICY NUMBER		POLICY EFF (MM/DD/YYYY)	(MM/DD/YYYY)	LIMIT	s	
	COMMERCIAL GENERAL LIABILITY							DAMAGE TO RENTED	\$	1,000,000
	CLAIMS-MADE X OCCUR							PREMISES (Ea occurrence)	\$	100,000
						NATIONAL TRANSPORT OF THE STATE	SECOND UNION TO P. STORY	MED EXP (Any one person)	\$	5,000
Α						05/15/24	05/15/25	PERSONAL & ADV INJURY	\$	1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:		ΙΤ					GENERAL AGGREGATE	\$	2,000,000
	POLICY PRO- JECT LOC							PRODUCTS - COMP/OP AGG	\$	2,000,000
	OTHER:							COMPINED SINGLE LIMIT	\$	
	AUTOMOBILE LIABILITY							(Ea accident)	\$	
	ANY AUTO							BODILY INJURY (Per person)	\$	
	OWNED SCHEDULED AUTOS ONLY							PROPERTY DAMAGE	-	
	HIRED AUTOS ONLY AUTOS ONLY							(Per accident)	\$	
	100 100 100 100 100 100 100 100 100 100								\$	
	UMBRELLA LIAB OCCUR							EACH OCCURRENCE	\$	
	EXCESS LIAB CLAIMS-MADE							AGGREGATE	\$	
	DED RETENTION\$							A A BEB	\$	
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N							X PER STATUTE OTH-		
В	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?	N/A				03/26/24	03/26/25	E.L. EACH ACCIDENT	\$	100,000
_	(Mandatory in NH) If yes, describe under	0.7600.0				00/20/24	00/20/20	E.L. DISEASE - EA EMPLOYEE	\$	100,000
	DESCRIPTION OF OPERATIONS below	_						E.L. DISEASE - POLICY LIMIT		500,000
	LIQUOR LIAB. FOR				_	2000 645 445 5744 544 No.	9496778890443990443	PER OCCUR	1000	00,000
Α	PROVINCETOWN INCL.					05/15/24	05/15/25	EACH PERSON	A 60 0 0 70	00,000
								GEN. AGG.	2,0	00,000
DES	CRIPTION OF OPERATIONS / LOCATIONS / VEHIC	LES (/	AGORD 1	101, Additional Remarks Schedu	e, may b	e attached if mor	e space is requir	euj		
	TIELOATE HOLDES				04110	ELLATION:				
CE	RTIFICATE HOLDER				CANC	ELLATION				
	TOWN OF TRURO 24 TOWN HALL ROAD TRURO, MA 02666				ACC	EXPIRATION ORDANCE WIT	I DATE THI TH THE POLIC	ESCRIBED POLICIES BE CEREOF, NOTICE WILL BY PROVISIONS.	CANCEL BE DE	LED BEFORE LIVERED IN
						No	nald	5. Paras		



Town of Truro Board of Health

24 Town Hall Road, P.O. Box 2030, Truro, MA 02666 Tel: 508-349-7004, Extension: 131 Fax: 508-349-5508 Email: lbudnick@truro-ma.gov or nrichey@truro-ma.gov

APPLICATION FOR FOOD SERVICE - COMMON VICTUALER
Name of Business: Frankie's Hospitality Inc aba Montano's Rest
□ New .□ Renewal/No Changes (Skip to Section 3)
Section 1 - License Type Type of License: ☐ Food Service ☐ Common Victualer (\$50)
Type of Food Service Establishment: Food Service (restaurant or take out)/\$75 Retail Food (commercially prepared foods)/\$15 Residential Kitchen \$25 Bed & Breakfast w/Continental Breakfast
Section 2 - Business/Owner/Manger Information
Federal Employers Identification Number (FEIN/SS)
Business Name:
Owner Name: Email Address:
Mailing Address:
Phone No:
Section 3 – Business Operation Details
Number of Seats: Inside: \[\&\ \&\ \\ \\ \\ \\ \\ \\ \\ \\ \\ \\ \
Length of Permit: Annual Seasonal Operation
Hours of Operation: 10 AM To 10PM
Days Closed Excluding Holidays:
If Seasonal: Approximate Dates of Operation:/To/
Person Directly Responsible for Daily Operations: (Owner, Person in Charge, Supervisor, Manager)
Name: Educide Mederos Email Address:
Mailing Address: 346 Taunton Ave, Seekonk, MA 02711
Phone No: 24 Hour Emergency:

Certified Food Manager(s) (attach copy): (at least 1 full-time equivalent PER SHIFT required)
Ann A. White
Allergen Awareness Certification (attach copy):
Anna A. White Desiree Gray
Has your menu changed from last year? □ Yes ☑ No
If yes please attach copy of menu or provide description of food to be prepared and sold:
Section 4 - Attestation
Attestation
I, the undersigned, attest to the accuracy of the information provided in this application and further agree to allow the regulatory authority access to the food service establishment as specified under § 8-402.11. I affirm that the food establishment operation will comply with 105 CMR 590.000, Truro Board of Health Regulation Section X, Food Service Regulations and all other applicable laws. Pursuant to MGL Ch. 62C § 49A, I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all state tax returns and paid state and local taxes required by law.
12/5/21
Signature of Applicant: 2 Date: 12/10/24

Application Checklist:
☑ Food Service Permit Application
Smoke Detector/Fire Protection Certification
Workers Compensation Affidavit/Certificate of Insurance
Copy of Inspection of Kitchen Equipment: Commercial Hood and Ventilation System Report
☐ Copy of Service report of mechanical washing equipment (Dishwasher)
Copy of ServSafe Certification and Allergy Awareness
Copy of Choke Saver (for food service establishment w/seating capacity of 25 or more)
FOR HEALTH DEPARTMENT USE ONLY
Comments:
Review by Date
Review by Date



WORKERS COMPENSATION AND EMPLOYERS LIABILITY POLICY

TYPE V INFORMATION PAGE WC 00 00 01 (A)

POLICY NUMBER:	
REWRITING	

INSURER: THE CHARTER OAK FIRE INSURANCE COMPANY

A Stock Company

1.

NCCI CO CODE

INSURED:

FRANKIE'S HOSPITALITY INC

481 RTE 6

TRURO, MA 02666

PRODUCER:

AUTOMATIC DATA PROC INS

1 ADP BLVD

ROSELAND, NJ 07068-1728

insured is a CORPORATION

Other work places and identification numbers are shown in the schedule(s) attached.

- 2. The policy period is from 03-25-24 to 03-25-25 12:01 A.M. at the insured's mailing address.
- 3. A. WORKERS COMPENSATION INSURANCE: Part One of the policy applies to the Workers Compensation Law of the state(s) listed here:
 - B. EMPLOYERS LIABILITY INSURANCE: Part Two of the policy applies to work in each state listed in item 3.A. The limits of our liability under Part Two are:

Bodily Injury by Accident: \$

1,000,000 Each Accident

Bodily Injury by Disease: \$

1,000,000 Policy Limit

Bodily Injury by Disease: \$

1,000,000 Each Employee

C. OTHER STATES INSURANCE: Part Three of the policy applies to the states, if any, listed here:

AL AR AZ CA CO CT DC DE FL GA HI TA ID IL IN KS KY LA MD ME MI MN MO MS MT NC NE NH NJ NM NV NY OK OR PA RI SC. SD TN TX UT VA VT WI WV

D. This policy includes these endorsements and schedules:

SEE LISTING OF ENDORSEMENTS - EXTENSION OF INFO PAGE

4. The premium for this policy will be determined by our Manuals of Rules, Classifications, Rates and Rating Plans. All required information is subject to verification and change by audit to be made ANNUALLY

DATE OF ISSUE: 03-15-24 VT

OFFICE: PAYROLL

70A

PRODUCER: AUTOMATIC DATA PROC INS XV770



Report Claims immediately by Calling* 1-800-238-6225

Speak directly with a claim professional 24 hours a day, 365 days a year

*Unless Your Policy Requires Written Notice or Reporting

WORKERS COMPENSATION AND EMPLOYERS LIABILITY POLICY

A Custom Insurance Policy Prepared for:

FRANKIE'S HOSPITALITY INC 481 RTE 6 TRURO MA 02666

Nautilus Insurance Company®

An Arizona Corporation

COMMERCIAL EXCESS LIABILITY POLICY

THIS POLICY IS NOT OBTAINED PRIMARILY FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES.

THIS POLICY CONSISTS OF:

- Declarations;
- Commercial Excess Liability Policy Form;
- Schedule of Underlying Insurance; and
- Applicable Forms and Endorsements

In Witness Whereof, we have caused this policy to be executed and attested, and, if required by state law, this policy shall not be valid unless countersigned by our authorized representative.

W. Robert Berkley, Jr.

President

hilip S. Welt

Secretary

Administrative Office: 7233 East Butherus Drive, Scottsdale, Arizona 85260 (480) 509-6627

Policy Issuing Office: 7233 East Butherus Drive, Scottsdale, Arizona 85260 (480) 951-0905

JNE 09 44 07 20

This policy is insured by a company which is not admitted to transact insurance in the commonwealth, is not supervised by the commissioner of insurance and, in the event of an insolvency of such company, a loss shall not be paid by the Massachusetts Insurers Insolvency Fund under chapter 175D.

Nautilus Insurance Company®

An Arizona Stock Corporation

COMMERCIAL EXCESS LIABILITY DECLARATIONS

Policy Number:

Renewal/Rewrite of

Named Insured and Mailing Address Frankie's Hospitality, Inc. & San Miguel LLC 346 Taunton Avenue Seekonk, MA 02771

Producer's Name and Mailing Address RISK PLACEMENT SERVICES, INC. T/A RPS PO P. O. Box 1518 Portland, ME 04104

POLICY PERIOD: From

03/27/2024

03/27/2025

At 12:01 A.M. Standard Time at your mailing address shown above

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE TO PROVIDE YOU WITH THE INSURANCE AS STATED IN THIS POLICY.

THE NAMED INSURED IS:

☐ Individual

Partnership

★ Corporation

Joint Venture

T Other

□ Trust

Limited Liability Company

Item 1: Limits of Insurance:

Each Occurrence Limit

1,000,000

Aggregate Limit

1,000,000

Item II:

Premium:

Deposit Premium Terrorism Premium

Total Premium



Premium Policy Fee MA Surplus Lines Ta **Total Charges**



Item III:

Minimum Retained Premium:

If the insured cancels this policy, we will retain no less than \$250 or 25% of the Total Premium, whichever

is greater.

Item IV:

Forms attached at inception:

See Schedule of Forms EU 00 05

Authorized Representative

To Report a Loss

Dial toll-free #1 (844)777-8323 or visit our

Website: https://my.rpsins.com/claimsfnol

· Contact Insurer directly (see policy section)

DNE 21 10 01 19

COMMERCIAL EXCESS LIABILITY

SCHEDULE OF UNDERLYING INSURANCE

This Schedule of "underlying insurance" is incorporated into and made part of the Declarations to which it is attached.

Commercial General Liability (01)

Company: Partners General Insurance Agency, Policy Period: From: 3/27/2024 To: 3/27/2025

LLC, PES-GL-01-0330

Coverage: Occurrence

Limits of Insurance

Each Occurrence \$ 1,000,000
General Aggregate \$ 2,000,000
Products-Completed Operations Aggregate \$ 2,000,000

Personal And Advertising Injury \$ 1,000,000 Any one person or organization

LIQUOR LIABILITY COVERAGE PART SUPPLEMENTAL DECLARATIONS

Policy Number: P	Effective Date: 3/27/2024
Named Insured: Frankie's Hospitality, Inc; S	San Miguel, LLC Agent Number:
Item1. Limits of Insurance	
Aggregate Limit	\$ 1.000,000
Each Common Cause Limit	\$ <u>1.000,000</u>
Item 2. Description of Business	
Form of business:	
🔲 Individual 🖾 Partnership or Jo	int Venture
☐ Organization (other than Partnershi	p, Joint Venture or Limited Liability Company)
Location of all premises you own, rent or oc	cupy:
See Schedule of Locations	
Item 3. Classification and Premium	The second secon
Classification Code No.	. *Premium Basis Rate Advance Premium Included Included Included
. Major Managarity	Managa Managa
	Total Advance Premium Included
	applicable form(s) and endorsement(s) shown elsewhere in the policy)
,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	coverage Part and made part of this policy at time of issue:
See Schedule of Forms and Endorsements	

*(a) Area, (c) Total Cost, (m) Admission, (p) Payroll, (s) Gross Sales, (u) Units, (o) Other THIS SUPPLEMENTAL DECLARATIONS AND THE POLICY DECLARATIONS, TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE FORM(S) AND ENDORSEMENT(S) COMPLETE THE ABOVE NUMBERED POLICY.



The Commonwealth of Massachusetts Department of Industrial Accidents 1 Congress Street, Suite 100 Boston, MA 02114-2017 www.mass.gov/dia

Workers' Compensation Insurance Affidavit: General Businesses.
TO BE FILED WITH THE PERMITTING AUTHORITY.

Applicant Information Please Print Legibly	
Business/Organization Name: Frankie's Hospitality Inc also Montano's	
Address: 481 US Route 6	
City/State/Zip: NorthTruro, MA 021052 Phone #: (508) 487 2026	
Are you an employer? Check the appropriate box: 1. I am a employer with 30 employees (full and/ or part-time).* 2. I am a sole proprietor or partnership and have no employees working for me in any capacity. [No workers' comp. insurance required] 3. We are a corporation and its officers have exercised their right of exemption per c. 152, §1(4), and we have no employees. [No workers' comp. insurance required]** 4. We are a non-profit organization, staffed by volunteers, with no employees. [No workers' comp. insurance req.] Pany applicant that checks box #1 must also fill out the section below showing their workers' compensation policy information. I am a employer with 30 employees (full and/ or part-time).* Business Type (required): 5. Retail 6. Restaurant/Bar/Eating Establishment 7. Office and/or Sales (incl. real estate, auto, etc.) 8. Non-profit 9. Entertainment 10. Manufacturing 11. Health Care 12. Other	
I am an employer that is providing workers' compensation insurance for my employees. Below is the policy information. Insurance Company Name: The Charlet Dall Fire Toswane Company Name: The Charlet	
do hereby certify, under the pains and penalties of perjury that the information provided above is true and correct. Signature: Date: 12/11/24 Phone #: 401 641 9264	
Official use only. Do not write in this area, to be completed by city or town official.	
City or Town: Permit/License # Issuing Authority (circle one): 1. Board of Health 2. Building Department 3. City/Town Clerk 4. Licensing Board 5. Selectmen's Office 6. Other	
Contact Powent	

Information and Instructions

Massachusetts General Laws chapter 152 requires all employers to provide workers' compensation for their employees. Pursuant to this statute, an *employee* is defined as "...every person in the service of another under any contract of hire, express or implied, oral or written."

An *employer* is defined as "an individual, partnership, association, corporation or other legal entity, or any two or more of the foregoing engaged in a joint enterprise, and including the legal representatives of a deceased employer, or the receiver or trustee of an individual, partnership, association or other legal entity, employing employees. However, the owner of a dwelling house having not more than three apartments and who resides therein, or the occupant of the dwelling house of another who employs persons to do maintenance, construction or repair work on such dwelling house or on the grounds or building appurtenant thereto shall not because of such employment be deemed to be an employer."

MGL chapter 152, §25C(6) also states that "every state or local licensing agency shall withhold the issuance or renewal of a license or permit to operate a business or to construct buildings in the commonwealth for any applicant who has not produced acceptable evidence of compliance with the insurance coverage required." Additionally, MGL chapter 152, §25C(7) states "Neither the commonwealth nor any of its political subdivisions shall enter into any contract for the performance of public work until acceptable evidence of compliance with the insurance requirements of this chapter have been presented to the contracting authority."

Applicants

Please fill out the workers' compensation affidavit completely, by checking the boxes that apply to your situation and, if necessary, supply your insurance company's name, address and phone number along with a certificate of insurance. Limited Liability Companies (LLC) or Limited Liability Partnerships (LLP) with no employees other than the members or partners, are not required to carry workers' compensation insurance. If an LLC or LLP does have employees, a policy is required. Be advised that this affidavit may be submitted to the Department of Industrial Accidents for confirmation of insurance coverage. Also be sure to sign and date the affidavit. The affidavit should be returned to the city or town that the application for the permit or license is being requested, not the Department of Industrial Accidents. Should you have any questions regarding the law or if you are required to obtain a workers' compensation policy, please call the Department at the number listed below. Self-insured companies should enter their self-insurance license number on the appropriate line.

City or Town Officials

Please be sure that the affidavit is complete and printed legibly. The Department has provided a space at the bottom of the affidavit for you to fill out in the event the Office of Investigations has to contact you regarding the applicant. Please be sure to fill in the permit/license number which will be used as a reference number. In addition, an applicant that must submit multiple permit/license applications in any given year, need only submit one affidavit indicating current policy information (if necessary). A copy of the affidavit that has been officially stamped or marked by the city or town may be provided to the applicant as proof that a valid affidavit is on file for future permits or licenses. A new affidavit must be filled out each year. Where a home owner or citizen is obtaining a license or permit not related to any business or commercial venture (i.e. a dog license or permit to burn leaves etc.) said person is NOT required to complete this affidavit.

The Department's address, telephone and fax number:

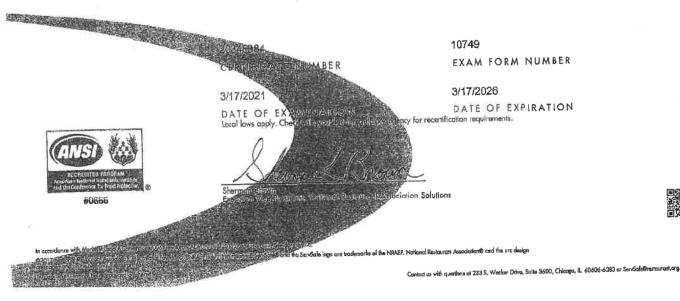
The Commonwealth of Massachusetts
Department of Industrial Accidents
1 Congress Street
Boston, MA 02114-2017
Tel. # 617-727-4900 ext. 7406 or 1-877-MASSAFE
Fax # 617-727-7749
www.mass.gov/dia



ServSafe® CERTIFICATION

ANNA WHITE

for successfully completing the standards set forth for the ServSafe® Food Protection Manager Certification Examination, which is accredited by the American National Standards Institute (ANSI)-Conference for Food Protection (CFP).





Name of Recipient: ANNA WHITE

Certificate Number: 5677716

Date of Completion: 6/9/2022

Date of Expiration: 6/9/2027



The above-named person is hereby issued this certificate for completing an allergen awareness training program recognized by the Massachusetts Department of Public Health in accordance with 105 CMR 590.009(G)(3)(a).

This certificate will be valid for five (5) years from date of completion.

Issued By:



Massachusetts Restaurant Association 333 Turnpike Road, Suite 102 Southborough, MA 01772 508-303-9905

www.marestaurantassoc.org







DESIREE GRAY

For successfully completing the training and examination requirements:

Sponsoring Agency:

Beechwood Hotel 363 Plantation St Worcester MA 01605 Exp 2 yrs from date below That meet Mass DPH 105 CMR 590.009(E)(1) "Anti choking Procedures for Food service establishments..."

S.A.F.E Est. 1994 Lowell MA Info@ChokeSaver.com 978-703-1113

For

S.A.F.E. CHOKESAVER

2 Hr Training Program

This 23rd day of October, 2024



Souther Wellerstein Gunther Wellenstein, EMT (Instructor (No. 0489749



ServSafe Allergens™ Certificate of Completion

DESIREE GRAY

Provided by the National Restaurant Association



Certificate Number 7403299 Date 10/17/2024 Expiration Date 10/17/2027

Frank A Vitale

5 Lynch Ln Harwich, MA 02645 508-430-2959 LIC # 000033

	nu i	90
eza		

Montano's Restaurant

481 Rte 6

N Truro, MA 02652

508-487-2026

Services conducted: CHAMED TIMESTED

HOOD CLEANING STICKER IS AFFIXED

DATE OF LAST HOOD CLEANING

GREASE ACCUMULATION

FILTERS ARE INTACT

FAN IS IN OPERATING ORDER

LIGHTING IN HOOD IS PROPERLY PROTECTED FROM DAMAGE

THES NO

DATE 12/9

HEAVY MODERATE LIGHT

BYES ONO

PRES | NO | UNK

THES ONO O NIA OUNK

Ocheck here if Notice of Non-Compliance was issued to local Fire Department

Date sent to Fire Department

Attach copy of Notice of Non-Compliance

Note: A copy of this report shall be kept by both the Service Company and the customer for a period of 3 YEARS. Such records shall be open for the inspection of the Local Fire Department during regular business es of operation.



TRURO FIRE RESCUE Truro Public Safety Facility 344 Route 6 Truro, MA 02666

FIRE PROTECTION SYSTEMS ANNUAL TEST REPORT

BUSINESS NAME: Frankie's Hospitality, Inc. dba Montano's Restaurant
OWNER/MANAGER: Edward G. Medeiros
ADDRESS: 481 US Route 6, North Truro, 02652
PHONE #: 401 641 9264NUMBER OF UNITS:
CONTACT PERSON: Edward G. Medeiros
ADDRESS: 346 Taunton Ave, Seekonk, MA 02771
TESTING COMPANY: Fire Equipment Incorporated
TESTING ELECTRICIAN/TECHNICIAN:
COMPANY PHONE #: 508 775 3473 HOME PHONE
LICENSE #:
The fire protection system (s) including, but not limited to, (Sprinkler Systems) (Range Hood Systems) (Fire Extinguishers) (Type I II III Fire Alarm Systems) (C.O. Detectors) at the above mentioned business address, were tested, (CERTIFIED) the add parts of the systems, were found to be, or corrected to be, fully operational.
COMMENTS:
DATE OF CERTIFICATION: BY: Signature of Licensed Electrician

THIS REPORT MUST BE FILLED OUT AND SUBMITTED, PRIOR TO THE ISSUANCE OF,

OR RENEWAL OF A LICENSE TO OPERATE WITHIN THE TOWN OF TRURO.



PO BOX 423 READING, MA 01867-0623

Fax: 508-775-6110

www.feinewengland.com

hyaservice@feinewengland.com

INVOICE #: SIN243345 INVOICE 04/23/2024 DATE: DUE DATE: 05/23/2024

INVOICE

BILLING ADDRESS:

Phone: 508-775-3473

MONTANOS **481 ROUTE 6** NORTH TRURO, MA 02652

SHIPPING ADDRESS:

Montanos 481 Route 6 North Truro, MA 02652

WORK PERFORMED

Kitchen system and extinguishers inspection

CUSTOMER REFERENCE	WORK ORDER NUMBER	PURCHASE ORDER	WORK COMPLETED ON
montanos	WO-00332396	T&M	04/23/2024

PRODUCT NAME	DESCRIPTION	QUANTITY	UNIT PRICE	NET VALUE
Portable Fire Extinguisher	1 - Annual - 426K - Kitchen Inspection	1.00	\$0.00	
Single Tank System Inspection	Single Tank System Inspection	1.00	\$150.00	
Fusible Links	Fusible Links	11.00	\$15.40	
Nozzle Seals	Nozzle Seals	17.00	\$13.20	
Inspection of Fire Extinguishers	Inspection of Fire Extinguishers	5.00	\$6.60	
Pull Tamper Seals	Pull Tamper Seals	5.00	\$2.20	

NET TOTAL: TAX TOTAL:

INVOICE TOTAL:

OUTSTANDING TOTAL:



Kitchen Suppression System Inspection Certificate

For

Montanos 481 Route 6 North Truro, MA 02652

Tested to NFPA Standards

This Inspection was performed in accordance with NFPA 17 or 17A Standards. The subsequent pages of this report provide performance measurements, listed ranges of acceptable results, and complete documentation of the inspection. Whenever discrepancies exist between acceptable performance standards and actual test results, notes and/or recommended solutions have been proposed or provided for immediate review and approval.

Inspection Date: 4/23/2024

Inspector Name: James Spinosa - T6

Title: Service Technician



Kitchen Suppression System Inspection Certificate

Property: Montanos	Street: 481 Route 6	City/State/Zip: North Truro, MA 02652
Frequency: Annual	Inspector Name: James Spinosa - T6	Date: 4/23/2024
Installed Product: K 00076692	Product: Kitchen Suppression System	Equipment Location: Kitchen

System in service before conducting tasks	Yes
Pertinent parties notified before conducting tasks	Yes
Appliances Left to Right:	Fry, fry, 6 burn, 8 burn, griddle, gr char, conv, 6 burn
Type of special agent extinguishing system: Wet chemical Dry chemical Prior to performing the required maintenance steps, verify that the system protection is designed and installed correctly for the existing appliance and ventilation system configuration. If not, note deficiencies.	Wet Chemical
Were building alterations/renovations made since last inspection?	No
Is system connected to building fire alarm?	Yes
Automatic Shutdown	
What is fuel source? Electricity Gas or Both	Both
Nozzles	
Are caps in place?	Yes
Quantity of Nozzle Caps Changed	
Quantity of Nozzle Seals Changed	17
Are nozzles properly oriented to protect hazard?	Yes
Are there signs of damage or clogging?	No
Manual Releases	
Are manual releases clear and unobstructed?	Yes
System Cylinders and Mechanical Controls	
Are system pressure gauges in proper operating range?	Yes
Tanks mounted and secured?	Yes
All visible piping & conduit properly supported and in good condition?	Yes
Proper pipe schedule and fitting weight(s) for hazard design?	Yes
Flexible discharge hoses? Date: Part#: Size: :	No
Portable Fire Extinguishers	
Are fire extinguishers provided?	No
Mechanical Detection Line	
Function tested	Yes



Quantity of 165° F Links Changed	
Quantity of 212° F Links Changed	
Quantity of 280° F Links Changed	
Quantity of 360° F Links Changed	11
Quantity of 450° F Links Changed	
Quantity of 500° F Links Changed	
Interlocks	
Fuel shutoff	Yes
CERTIFICATE OF INSPECTION	
System tagged and left in service	Yes
Pertinent parties notified after conclusion of tasks	Yes
System returned to service	Yes
COMMENTS:	
6-Year Maintenance Test Are 6-year tests recorded?	
12-Year Tests Are 12-year tests recorded?	



FIRE SUPPRESSION CYLINDER RECORD

Kitchen	Model	Hydro	Number of	Location
Manufacturer			Tanks	



TOTAL # OF EXTINGUISHERS - 5

EXTINGUISHERS DUE SERVICE NEXT YEAR -

New Equipment

DRY CHEM 2.5 ABC	DRY CHEM 5 ABC	DRY CHEM 10 ABC	DRY CHEM 20 ABC
DRY CHEM 10 BC	DRY CHEM 20 BC	DRY CHEM 10 PK	DRY CHEM 20 PK
CO2 5lb	CO2 10lb	CO2 15.5lb	CO2 20lb
Pressurized Water	K Class	Halotron 2.5lb	Halotron 5lb
Halotron 11lb	Halotron 15lb	Emergency Lights	Exit Lights
Other	Fire Extinguishers Disposed Of		

DryChem	4	KClass	1	Pressurized Water	Halotron	
CO2		Conductivity Test		Wheeled Unit	Emergency Light	
Exit Light		Other Insp				

Recharges -

Dry Chem 2 1/2 lb	Dry Chem 5 lb	Dry Chem 10lb	Dry Chem 20lb
CO2 5 lb	CO2 10 lb	CO2 15 lb	CO2 20 lb
Pressurized Water	K Class .61	2,5G	Halotron 2.5 lb
Halotron 5 lb	Halotron 11 lb	Halotron 15.5 Lb	Conductivity Tests

Service -

6 YR Maintenance Halotron	Hydrotest Dry Chem	
6 YR Maintenance Other	Hydrotest Other	

Parts -

Service Collar	ORing	Check Stem	Pull Pin	
Vehicle Bracket	Heavy Duty Bracket	Batteries	Battery Disposal	
Wall Hook	M1 - 5lb	M2 -10lb	20lb	



Bulbs	Replacement Cover	Gauge	FEC Cover
Other Parts	DOT	OSHA	PWM 90
BL Series Vinyl	Туре		
RP Series Plastic	Types		

FIREEXTINGUISHERS ARE IN COMPLIANCE WITHNFPA10CODE -

Recommendations -

Comments -

Signature:

Date: Apr 23, 2024





TOWN OF TRURO

Select Board Agenda Item

DEPARTMENT: Administration/Licensing

REQUESTOR: Nicole Tudor, Executive Assistant

REQUESTED MEETING DATE: December 17, 2024

ITEM: Review and Approval of the 2024 ABCC (Alcoholic Beverages Control Commission)

Annual Report

EXPLANATION: In accordance with Chapter 138 § 10A of the Massachusetts General Laws, every city and town in the Commonwealth that issues retail alcohol licenses must submit an Annual Report for Alcoholic Beverage Licenses issued from their respective towns including the total number of licenses, fees, revenue generated and notice of any violations.

FINANCIAL SOURCE (IF APPLICABLE): N/A

IMPACT IF NOT APPROVED: There will be no report submitted from Truro. In accordance with MGL, the report must be submitted to the State before February 15, 2025.

SUGGESTED ACTION: *MOTION TO approve the 2024 Annual Alcoholic Beverages Control Commission report for submission to the State.*

ATTACHMENTS:

- 1. 2024 Annual ABCC Report from Truro
- 2. ABCC Annual Report Memo

Consent Agenda Item: 9D1



TOWN OF TRURO

Licensing Department

Tel: 508-349-7004, Extension: 110 & 124 Fax: 508-349-5505 Email: ntudor@truro-ma.gov & nscoullar@truro-ma.gov

December 17, 2024

The Alcoholic Beverage Control Commission

ATT: Patricia Hathaway Licensing Supervisor 95 Fourth Street Suite 3 Chelsea, MA 02150

In accordance with Chapter 138 § 10A of the Massachusetts General Laws, we submit our 2024 Annual Report for Alcoholic Beverage Licenses issued in the Town of Truro:

Annual Report for 2024

Class of Licenses	Number Issued	Fee set	Revenue Collected
All Alcoholic Beverages - Restaurants			
Annual <i>Montano's Restaurant</i>	1	\$1,650.00	\$1,650.00
Seasonal Blackfish, Highland Light Ca	afe 4	\$1,875.00	\$7,500.00
Top Mast Café, Captains Choice		_	\$9,150.00
All Alcoholic Beverages - Package Stores			
Annual Pamet Valley, Salty Market Fa	rmstand 2	\$1,650.00	\$3,300.00
Seasonal Fuller's Market, Days Market	2	\$1,875.00	\$3,750.00
•			\$7,050.00
All Alcoholic Beverages - General on Premis	es		
Annual None	0	\$1,650.00	\$0.00
Seasonal Beach Point Health and Swim	1	\$1,875.00	\$1875.00
			\$1875.00
Wine & Malt – General on Premises			
Annual <i>None</i>	0	\$1,350.00	\$0.00
Seasonal <i>Payomet</i>	1	\$1,500.00	\$1,500.00
			\$1,500.00
Wine & Malt - Restaurants			
Annual	1	\$1,350.00	\$1,350.00
Seasonal None	0	\$1,500.00	\$0.00
			\$1,350.00
Wine & Malt - Package Stores			
Annual None	0	\$1,350.00	\$0.00
Seasonal Truro General Store	1	\$1,500.00	\$1,500.00
			\$1,500.00

Class of Licenses	Number Issued	Fee set	Revenue Collected				
Club	0	\$200.00	\$0.00				
Farm Winery Pouring License	1	\$200.00	\$200.00				
Farm Distillery Pouring License	1	\$400.00	\$400.00				
(Truro Vineyards of Cape Cod)			\$600.00				
Special (One Day) All Alcoholic Bevera	0	\$75.00	\$150.00*				
*The Local Authorities waive a portion of educationally or culturally.	the fee for non-profit	t organizations that l	benefit its citizens, either				
Special (One Day) Wine and Malt:	3	\$50.00	\$150.00*				
*The Local Authorities waive a portion of the fee for non-profit organizations that benefit its citizens, either							
educationally or culturally. Special (One Day) Wine Only:	0	\$50.00	\$0.00*				
*The Local Authorities waive a portion of							
educationally or culturally.	the fee for hon profit	organizations that	ochoric its ortizons, orthor				
Farmers' Market License	0	\$25.00	\$0.00				
			\$300.00				
Total Revenue			<u>\$23, 025.00</u>				
*Alcohol fees were raised on January 9, 2	024. Revised fees wer	re only applicable to	the 2024 Seasonal licenses.				
Violations: NONE							
Susan Areson, Chair	Ro	bert Weinstein, Vice	e-Chair				
Nancy Medoff, Clerk	Ste	phanie Rein					

Susan Girard-Irwin Select Board/Local Licensing Authorities Town of Truro



Commonwealth of Massachusetts Alcoholic Beverages Control Commission 95 Fourth Street, Suite 3 Chelsea, Massachusetts 02150-2358

Jean M. Lorizio, Esq. Chairman

To: Town Administrator/Local Licensing Authority From: Alcoholic Beverages Control Commission

Date: December 2, 2024

RE: ANNUAL REPORT for Calendar Year 2024

Dear Town Administrator/Local Licensing Authority:

I would like to offer a reminder to you that your annual report to the Alcoholic Beverages Control Commission ("ABCC").

As you know, state law requires each local licensing authority to file with the ABCC an annual report on or before February 15th that follows the conclusion of the calendar/license year. The contents of this report are specified in the state law, M.G.L. Ch. 138, § 10A, which requires you to file this report.

Your annual report must contain <u>only</u> the following:

- 1) The number of licenses of each class granted;
- 2) The established schedule of fees for all classes of liquor licenses;
- 3) The revenue generated from these licenses;
- 4) A list of all violations of the law by licensees, which came to your attention; and
- 5) Your actions and findings regarding those violations.

The ABCC reviews these reports to assist in fulfilling its function of reporting on the conduct and condition of traffic in alcoholic beverages during the calendar year, developing recommendations for legislation that may be necessary or desirable for the better regulation and control of the traffic in alcoholic beverages and for the promotion of temperance in the use of alcoholic beverages.

To this end, your attention and cooperation in filing your annual reports on time is greatly appreciated. Reports should be received on or before February 15, 2025. If you do not file your report, you will not be in compliance with the law.

Respectfully yours,

Roth Soumme

Ralph Sacramone Executive Director

*Please note you may submit your report by email to: phathaway@tre.state.ma.us; by facsimile to 617-727-1510; or by mail to the Alcoholic Beverages Control Commission, 95 Fourth Street, Suite 3, Chelsea, MA 02150, to the attention of Patricia Hathaway.

Telephone: (617) 727-3040 * Fax: (617) 727-1510 * www.mass.gov/abcc