

DRAFT 3/12/15

TOWN OF WAYLAND

REQUEST FOR PROPOSALS (RFP)

RFP # 15-24 - RIVER'S EDGE PROPERTY

**Disposition of Town-Owned Real Property
For Rental, Affordable and Senior Housing Purposes**

RFP Issued: _____, 2015

Responses Due: _____, 2015

**By: Wayland Board of Selectmen
In Consultation with Wayland
River's Edge Advisory Committee**

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2	Required Transactional Documents
3	Town Meeting Votes for REHOD and Property Disposition
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TOWN OF WAYLAND
REQUEST FOR PROPOSALS (RFP)
RFP # 15-24 - RIVER'S EDGE PROPERTY

Disposition of Town-Owned Real Property
For Rental, Affordable and Senior Housing Purposes

A. Introduction

1. Request for Proposals

The Town of Wayland (the “Town”) is seeking proposals for the disposition of approximately ± acres of Town-owned real property located at 484-490 Boston Post Road, Wayland, Massachusetts for the construction of between 150 and 190 new rental housing units, including 25% affordable housing units and a minimum of 25% age-restricted (senior) housing units, and associated improvements on the property. The Town is a Massachusetts municipal corporation acting by and through its Board of Selectmen. By two-thirds vote under Article 15 (Exhibit 3.1)¹ and Article 16 (Exhibit 3.2)² at the 2014 Annual Town Meeting, the Town voted to adopt new zoning to streamline permitting of the new use and to authorize the transfer to and disposition of the property by the Board of Selectmen to the Successful RFP Respondent.

The goals of this RFP are to implement the votes of Town Meeting; realize significant financial benefits to the Town from the disposition and redevelopment of the Property and facilitate rental, affordable housing and senior housing opportunities in the Town through the construction of a first class rental housing development the design of which is well integrated into and compatible with the Town’s design goals.

The RFP specifies the process for disposition and the restrictions imposed on the subsequent use of the Property for rental, affordable and senior housing purposes. The purpose of this RFP is to enable the Town to select a qualified, experienced developer that will acquire, demolish, remediate, redevelop, restrict, market and manage the Property in accordance with this RFP and its Exhibits.

The RFP is posted on line at . Copies of the RFP may be obtained from the Wayland Planning Department, Monday through Thursday, during the hours of 8:30 AM and

1 Article 15 adopted at the 2014 Wayland Annual Town Meeting is entitled “Amend Zoning Bylaw Chapter 198: Rivers Edge Housing Overlay Zoning District.”

2 Article 16 adopted at the 2014 Wayland Annual Town Meeting is entitled “Transfer and Dispose of Septage Facility Land and Adjacent Town-Owned Land on Boston Post Road.”

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3:30 PM, in person or by calling the Planning Department at (508) 358-3778.

2. RFP Schedule

As described in more detail below, the anticipated **RFP Schedule** is as follows; however, the Town may in its discretion alter any of the dates in this anticipated RFP Schedule to promote the goals and purposes of this RFP:³

Day	Date	Time	Milestone
0	April 15, 2015		Central Register Notice of RFP Availability
19	May 4, 2015	4:00 PM	Register for Site Tour and Briefing
20	May 5, 2015	10:00AM	Site Tour and Briefing Held
23	May 8, 2015	4:00 PM	Deadline for Written Questions
33	May 18, 2015		Town's Issuance of Addenda (if any) and Town Responses to Questions
61	July 15, 2015	4:00 PM	Deadline to Submit RFP Responses (90 days from RFP issuance)
61	July 15, 2015	4:00 PM	Opening of Non-Price Proposals
72	Thru August 15, 2015		Committee Evaluation of Non-Price Proposals
72	August 15, 2015	4:00 PM	Opening of Price Proposals
75	September 15, 2015		Committee Evaluation of Price Proposals
83	September 30, 2015	7:00 PM	Selectmen's Review of RFP Responses and Committee's Evaluation and Recommendations
84	October 1, 2015		Notice of Award
114	November 1, 2015		Land Disposition Agreement Executed
174	December 31, 2015		Due Diligence Period Ends
300	April 30, 2016		Permitting Completed
300	April 30, 2016	10 AM	Closing

3. Site Tour and Briefing

Interested RFP Respondents are strongly encouraged to have a representative attend an information session at Wayland Town Building, 41 Cochituate Road, Wayland, MA 01778, followed by an on-site tour at the Property. The information session will be on _____,

³ As set forth in Section C below, interviews may be conducted by the Town's River's Edge Advisory Committee ("Committee") at its option, by the Town's Board of Selectmen ("Board" or "Selectmen") at its option, or not at all. If interviews are conducted, the Schedule will be adjusted accordingly.

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2015 beginning at 10:00AM in Room [REDACTED], of Wayland Town Building. Advance registration to attend the information session is encouraged by no later than 4:00 PM on [REDACTED], 2015. To register, please email the Elizabeth Doucette, Financial Analyst at edoucette@wayland.ma.us. Participants in the on-site visit will be required to sign a release in the form attached as Exhibit 2.6.

4. Written Questions Concerning RFP

All inquiries and requests for interpretation concerning this RFP must be submitted in writing or by email (phone calls will not be permitted) to be received by the Town no later than 4:00 PM on [REDACTED], 2015, to the following person and address/email address and with a subject line of "RFP # 15-24 - River's Edge Property - RFP Questions":

Elizabeth Doucette
Financial Analyst
Town Building
41 Cochituate Road
Wayland, MA 01778
edoucette@wayland.ma.us

5. Addenda to RFP

If the Town determines to respond to any questions submitted pursuant to Section A.4 or to amend the RFP in response thereto, the Town will do so in the form of an Addendum to the RFP issued no later than [REDACTED], 2015. Addenda will be sent by e-mail to all persons on record as having received the RFP and provided an email address. A prospective RFP Respondent may request to be included on the email distribution list for any Addenda by emailing Elizabeth Doucette, Financial Analyst at edoucette@wayland.ma.us using the subject line of "RFP # 15-24 - River's Edge Property – Addenda Request". Notwithstanding any such request to be included on the email distribution list, it is the RFP Respondent's responsibility to ensure that it has obtained all RFP Addenda issued prior to the submission deadline.

6. Due Diligence by RFP Respondents

The RFP anticipates that prospective RFP Respondents will perform all due diligence activities involving the review of publicly available information concerning the Property prior to submitting an RFP Response. In addition to the information referenced in and appended to this RFP, the Town has assembled a **set of materials** concerning the Property for inspection and copying by interested prospective RFP Respondents. These documents are posted on line at [REDACTED]. In addition, the Town will promptly respond to any public records requests by prospective RFP Respondents for additional public documents, subject to the requestor's commitment to pay the search and copying costs therefor in accordance with

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applicable public records regulations.

After receiving the Notice of Award and executing the Land Disposition Agreement (Exhibit 2.1), the Successful RFP Respondent may perform on-site environmental, engineering and similar on-site investigations and testing ("Due Diligence Investigations") during the due diligence period specified in the Land Disposition Agreement, subject to the Successful RFP Respondent's execution of a Right of Entry and License Agreement in the form attached as Exhibit 2.3. Based on the Due Diligence Investigations, the Successful RFP Respondent may terminate the Land Disposition Agreement in accordance with its terms, if and only if the Due Diligence Investigations reveal any new, different, significant and material conditions not disclosed in the Property Information made available by the Town for review by RFP Respondents prior to the deadline for submission of RFP Responses. See also Section B.16 below.

7. Submission Process and Submission Deadline

Sealed proposals will be received at the following address until 4:00 PM on , 2015:

Town of Wayland
c/o Elizabeth Doucette
Financial Analyst
Town Building
41 Cochituate Road
Wayland, MA 01778

Regardless of the cause of delay, RFP Responses submitted after the deadline for submission will not be accepted. It is the responsibility of each RFP Respondent to ensure the receipt of its RFP Response before the specified deadline.

The Town may in its discretion extend the deadline for submission by a written Addendum to the RFP issued before the deadline for submission.

Each RFP Respondent must submit one original and fifteen (15) hard copies of its Response and one electronic copy of the RFP Response in PDF Format in a sealed package, plainly marked on the outside "River's Edge RFP - Proposal for Disposition of Town Property." Within the sealed package, the original, fifteen (15) copies of, and the electronic copy of, the Price Summary Form (described below) must be contained in a separate sealed envelope plainly marked on the outside of the second envelope "River's Edge RFP - Price Summary Form."

RFP Respondents may correct, modify or withdraw proposals, in writing only, prior to the RFP submission deadline. Corrections, modifications and withdrawals must be in a sealed envelope when submitted. The envelope must be plainly marked on the outside as appropriate: "[Correction/Modification/Withdrawal] to River's Edge RFP - Proposal for

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Disposition of Town Property." One original, fifteen (15) hard copies and one electronic copy of the correction must be provided. A correction, modification or withdrawal to the Price Summary Form must be further enclosed in a separate sealed envelope plainly marked on the outside of the second envelope as appropriate: "[Correction/Modification/Withdrawal] River's Edge RFP - Price Summary Form."

All proposals must remain in effect for a period of one hundred eighty (180) calendar days from the deadline for submission, or until the disposition has been effectuated, or this Request for Proposals is cancelled, whichever occurs first. RFP Respondents must meet all minimum evaluation criteria, must complete all required forms and must include all required documents.

8. Disclaimers and Caveats

Each prospective RFP Respondent should consult with qualified professionals, review all information, data and documents provided or referenced in this RFP and any other information, data and documents considered relevant by the RFP Respondent, and conduct its own due diligence investigations to determine for itself the condition and suitability of the Property for the Project.

The Town has attempted in this RFP to be accurate, but Town is not responsible for any errors herein.

All proposals and inter-agency or intra-agency communications made in connection with an evaluation process for reviewing proposals shall be subject to the Massachusetts public records law which, in M.G.L. c. 4, § 7(26)(h), exempts from the definition of public records "proposals and bids to enter into any contract or agreement until the time for the opening of bids in the case of proposals or bids to be opened publicly, and until the time for the receipt of bids or proposals has expired in all other cases; and inter-agency or intra-agency communications made in connection with an evaluation process for reviewing bids or proposals, prior to a decision to enter into negotiations with or to award a contract to, a particular person."

The award of this contract is subject to M.G.L. c. 30B, § 16, and to Articles 15 and 16 adopted at the 2014 Wayland Annual Town Meeting (Exhibits 3.1 and 3.2).

The Town's Disposition of the Property is subject to approval of the Town Board of Selectmen.

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B. The Property Subject to the RFP

1. Property Information

The Town has assembled the background information below concerning the Property from a variety of sources. The Town makes no representation or warranty, express or implied, as to the accuracy or completeness of the information provided or referenced in this RFP, in its Exhibits, in any Addenda hereto, on the Town's website,⁴ in marketing information concerning the Property and the Town, or in public records available from the Town (collectively the "Property Information"). The Town assumes no liability for any inaccuracy or incompleteness of the Property Information. Each RFP Respondent assumes all risk in connection with the use of the Property Information. By responding to the RFP, the RFP Respondent on behalf of itself and its parents, subsidiaries, affiliates, officers, directors, members, managers, predecessors, successors, contractors, subcontractors, assigns, agents, and representatives agrees to release the Town of Wayland and its boards, commissions, officials, employees, agents, and representatives from any liability whatsoever arising out of or in connection with the use of the Property Information by the RFP Respondent.

2. Property Description

The Property that is the subject of this RFP consists of [REDACTED] ± acres of land with the buildings and improvements thereon situated in Wayland, MA and shown as Lot [REDACTED] on an Approval Not Required Plan ("ANR Plan," Exhibit 4.1) dated [REDACTED], endorsed by the Wayland Planning Board on [REDACTED], and recorded in Middlesex South Registry of Deeds (the "Registry") as Plan No. [REDACTED] of [REDACTED] (the "Property"). The Property is located at 484-490 Boston Post Road, Wayland, MA; it comprises a portion of the land shown on Wayland Assessors Map/Parcels 22-3, 22-6 and 22-7 (Exhibit 4.2); and it consists together of the following:

- a. A [REDACTED] ± acre portion of the 7.63 ± acre parcel known as and numbered 490 Boston Post Road, Wayland, MA, which parcel was acquired by the Town by an Order of Taking dated January 11, 1971 and recorded with the Registry in Book 11943, Page 420 and is shown on the plan recorded in the Registry as Plan Number 27 of 1971 (collectively Exhibit 4.3);

⁴ The following information is on the web: (a) the 2014 Annual Town Meeting Warrant is available at http://www.wayland.ma.us/Pages/WaylandMA_Selectmen/ATMWarrant2014.pdf; background information concerning Article 15 (Exhibit 3.1) and 16 (Exhibit 3.2) for the 2014 Annual Town Meeting is available at http://www.wayland.ma.us/Pages/WaylandMA_BComm/Econ/ATM2014; and other information concerning the Property, background information, and a prior (unsuccessful) 2013 Annual Town Meeting is available at http://www.wayland.ma.us/Pages/WaylandMA_BComm/Econ/RiversEdge.

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- b. The 4.5 ± acre parcel shown as Lot A on the plan recorded in the Registry as Plan Number 482 of 1978, which parcel was acquired by the Town by Order of Taking dated May 15, 1978 and recorded with the Registry in Book 13443, Page 177 (collectively Exhibit 4.4); and
- c. A [REDACTED] ± acre portion of the 1.0 ± acre parcel described in an Order of Taking dated November 15, 1965 and recorded with the Registry in Book 11003, Page 389 and shown on the plan recorded in the Registry as Plan Number 1582 of 1965 (collectively Exhibit 4.5), not including those portions of said parcel (i) comprising the private access way running from Boston Post Road (Route 20) to other property of the Town of Wayland shown as Assessors' Map/Parcels 22-5, 22-3, 17-8 and 22-4 (the "Access Road") or (ii) situated easterly of the Access Road.

The Property is the subject of a Surplus Declaration and Transfer of Custody pursuant to M.G.L. c. 40, § 15A, by the Wayland Department of Public Works dated [REDACTED] (Exhibit 4.6). The Property will be conveyed in its "as is" condition, with all faults, without any representation or warranties and subject to and with the benefit of any easements and restrictions of record.

3. Access

The Property has approximately [REDACTED] ± feet of frontage on Boston Post Road (Massachusetts Route 20). The Property will be conveyed with the benefit of a non-exclusive access easement from Boston Post Road over a portion of the Access Road (shown as the **Access Easement Area** on the ANR Plan) for all purposes for which public ways are used in the Town. The Town anticipates that the Access Easement Area will be the primary means of access and egress between Boston Post Road and the Property. Any other curb cut onto Route 20 will require approvals from the Town and the Massachusetts Department of Transportation and any other permits required by law. The Successful RFP Respondent shall be responsible for designing, permitting, constructing and maintaining all necessary improvements to the Access Road, the Access Easement Area, and the intersection of the Access Road with Route 20 to accommodate the rental housing development that is the subject of this RFP. The Town reserves the right, but is under no obligation, to lay out and accept as a public way all or any portion of the Access Road serving the Property.

4. Existing Buildings and Improvements

A portion of the Property was previously used as the Wayland/Sudbury Septage Facility which was decommissioned in or about 2009. There continue to exist various buildings, structures, improvements, foundations, pipes, tanks, fixtures and equipment on and under the Property associated with that use. In preparation for construction of the rental

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housing project under this RFP, the Successful RFP Respondent shall be responsible for the demolition, removal, recycling and/or proper disposal of all buildings, structures, improvements, foundations, pipes, tanks, fixtures, equipment and demolition debris situated on and under the Property, including without limitation the entirety of such Septage Facility (collectively the "Demolition Work"). Each RFP Respondent shall provide with its RFP Response a specific estimate as to the cost of this Demolition Work as described more fully in Section E.3.

5. Zoning

Portions of the Property are located in two underlying Zoning Districts (Residence District and Refuse Disposal Districts) and three Zoning Overlay Districts (the Municipal Service District, the Wireless Communications District, and the River's Edge Housing Overlay District ("REHOD")) under the Town's Zoning Bylaw. The REHOD was adopted under Article 15 of the 2014 Annual Town Meeting (Exhibit 3.1).

The purpose of the REHOD is to "increase the supply of housing in the Town of Wayland that is available to and affordable by low-income and moderate-income households which might otherwise have difficulty in finding housing in Wayland, and to ensure that such housing is affordable over the long term and provided in accordance with the Wayland Master Plan and the Town's Affordable Housing Production Plan." See Exhibit 3.1, § 198-2501.1. Multi-Family Affordable and Market-Rate Housing Dwelling Units are permitted, as of right, in the REHOD, subject to site plan approval issued by the Planning Board pursuant to the Zoning Bylaw. See Exhibit 3.1, § 2504.1.1.

6. Local Permitting

The Successful RFP Respondent must, at its cost, obtain all federal, state and local governmental permits and approvals that may be required for the Project. By adopting the REHOD zoning described above and by taking other steps to date, the Town has attempted to streamline local permitting required for the Project. The following is a brief overview of where the Project stands relative to local permitting:

- **Town Meeting**: The Wayland Town Meeting has approved the REHOD zoning and the transfer and disposition of the Property. See Exhibits 3.1 and 3.2.
- **Planning Board**. Per the REHOD zoning (Exhibit 3.2), once selected, the Successful RFP Respondent must obtain Site Plan Approval only from the Planning Board. If the Successful RFP Respondent seeks to divide or subdivide the Property to effectuate its Project, additional Planning Board approval would be required in the form of a subdivision plan or an approval not required plan.

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- **Zoning Board of Appeals:** As long as the Successful RFP Respondent designs the Project in compliance with the approved REHOD zoning, no discretionary special permits, variances or other zoning relief would be required from the Zoning Board of Appeals. Because the Project will be developed under the REHOD zoning with Local Action Units developed under the Department of Housing and Community Development's ("DHCD's") Local Initiative Program, there will be no comprehensive permit for the Project. See below.
- **Wayland Historic District Commission:** The Property is located outside Wayland's two local historic districts, the Wayland Center Historic District at the historic center of town and the Bow Road Historic District just north of the Town Center. Therefore, absent changed circumstances, the Project would not require an approval from the Wayland Historic District Commission.
- **Wayland Historical Commission:** The Property has been confirmed not to have historic significance, as set forth in the letter from the Wayland Historical Commission dated [REDACTED], included as Exhibit 10.1 Absent changed circumstances, the Project would not require further approval from the Wayland Historical Commission.
- **Wayland Conservation Commission:** The Town has undertaken considerable work to identify wetlands and riverfront delineations in advance. An Abbreviated Notice of Resource Area Delineation ("ANRAD") has been filed with the Wayland Conservation Commission (Exhibit 7.1) and an Order of Resource Area Delineation ("ORAD") is anticipated to be issued by the Conservation Commission for the Property in or about April 2015. See Wetlands discussion, below. Depending on the Successful RFP Respondent's design of the Project in relation to any wetland and riverfront resource areas delineated in the ORAD, the Project may require review and approval by the Conservation Commission.
- **Board of Health:** See the discussion below regarding sewer, site assignment and presumptive approval under of proposed use.
- **Building Department:** The Successful RFP Respondent must comply with all applicable and customary building, electrical, plumbing and similar codes for completion of the Project.

For review of utilities and infrastructure work required beyond the Property, see Section B.8 (Utilities) and Section B.9 (Infrastructure) below.

The foregoing is a general summary to orient RFP Respondents to local permitting in the Town. Each RFP Respondent should consult with its own counsel to confirm all federal, state and local governmental permits and approvals that may be required for the Project.

(A0297204.4)

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7. Taxes

Current and historical tax rates for the Town of Wayland are posted on the Town's website at http://www.wayland.ma.us/Pages/WaylandMA_Treasurer/taxinfo.

Currently in Wayland, there are no sizable market rate rental housing projects on the local real estate tax inventory, so there is no direct precedent from which RFP Respondents may extrapolate tax expenses for the Property as improved by the Project. To assist Respondents, the Town anticipates that the Assessor's Office will set future valuation based on valuation methodology in comparable communities, and current estimated criteria are as outlined below. These criteria are subject to change by the time of actual first assessment valuation, based on market conditions. However, to complete the required pro forma and estimated tax revenue forms to be submitted with the RFP Response (*see* Attachments to Exhibit 1.2), RFP Respondents should assume the following information:

- The current tax rate in Wayland for FY2015 is \$18.35 per thousand.
- For property valuation immediately upon conveyance, the land value will be set at the purchase price of the Property, and taxes will be calculated and paid per Exhibit 1.7 Commitment for Payment in Lieu of Property Taxes as required by state law for previously municipally-owned properties.
- Thereafter, the Property will be assessed based on the land value plus the value of any improvements as of June 30 of any given year for the following fiscal year, until such time as the Property becomes operational in full or in part.
- When the Property becomes operational in full or in part, property valuation for the completed/operational portion of the Property will be set as of the date of the Certificate of Occupancy, with assessment based on Net Operating Income before Debt Service (NOI) divided by a cap rate of 8%. NOI will be calculated as gross rental revenues, less 5% vacancy, less 35% expenses. This assessment will apply for completed portions of the Property and the value of land plus improvements will apply for the portions still under construction.

These uniform assumptions are non-binding, preliminary guidance and are provided solely for convenience to ensure ease of comparison between proposals in terms of their potential relative tax revenue from the Project. Nothing in this RFP shall define, set, warrant or represent the Town's tax rate or tax assessment of the Property or related parameters for the Property now or in the future; and the actual figures therefor may vary significantly from these assumptions.

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8. Utilities - Natural Gas and Electricity

NSTAR serves the Wayland community.⁵ The Successful RFP Respondent shall be responsible for obtaining and paying for all utility connections and usage concerning the Property and the Project.

Electricity connections are available in the public way (Route 20) abutting the Property.⁶

Natural gas is not available in the public way (Route 20) abutting the Property. The RFP Respondent should investigate the opportunities to connect the Property to natural gas.

9. Water and Sewer Infrastructure

Public Water and Sewer are not available in the public way (Route 20) abutting the Property; and the Property will be conveyed subject to a restriction that there shall be no drinking water wells or irrigation wells installed at the Property. In an effort to expedite the Project and assist its connection to public water and public sewer, the Town is pursuing certain State funding to extend the public sewer and water infrastructure to the Property. Because there is no assurance at this time that such State funds will be provided to the Town, the RFP requires the RFP Respondent to address in its Price Proposal a Base Case and three Alternatives as described below.

a. Base Case

As the Base Case, the RFP Respondent shall be solely responsible for all costs and expenses for the Water Main Extension and the On-Site Package Treatment Plant described below:

- **Water Main Extension:**

As shown on the Utilities Plan provided as RFP Exhibit 8.3, the closest existing Wayland public water supply main is located at Wayland Town Center and Route 20. Any connection to and extension of the existing Wayland public water supply main is subject to the review and approval of the Town's Water Division. If approved, the point at which such connection would be made is defined as the "Water Main Connection Point."

⁵ See http://www.nstar.com/about_nstar/communities.asp.

⁶ Electricity from solar panels located next door at the Sudbury landfill may be available for use at the River's Edge Property. The Successful RFP Respondent may want to contact the Town of Sudbury during the due diligence period to investigate whether such electrical power usage makes sense for both parties.

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As part of the Base Case, the Successful RFP Respondent shall pay all costs and expenses to (a) design and construct the necessary water main extension, connections and supporting infrastructure from the Water Main Connection Point to the Property (collectively the "Water Main Extension"); (b) obtain all necessary governmental permits and approvals for the Water Main Extension and to connect the Property to the Water Main Extension; (c) design and construct all water supply infrastructure from the terminus of the Water Main Extension into and within the Property; and (d) pay all applicable water betterments, assessments, connection fees and water usage rates.⁷

- **On-Site Package Treatment Plant:**

Because there is no public sewer serving the Property, as part of the Base Case the Successful RFP Respondent shall pay all costs and expenses to obtain all necessary governmental permits and approvals for and to design, construct, operate and maintain an on-site package treatment plant and associated piping, leaching fields and infrastructure for the Project (collectively the "On-Site Package Treatment Plant").⁸ The Successful RFP Respondent shall also be responsible for designing and constructing all wastewater infrastructure within the Property

The Base Case is described further in the attached Price Summary Form (Exhibit 1.2)

b. Alternatives to Base Case

There are three alternatives to the Base Case, each contingent on and subject to the limits and conditions of any State funding provided to the Town for this purpose, and each at the Town's sole and exclusive option. The RFP Respondent must address each of these alternatives in its Price Summary Form (Exhibit 1.2). The three alternatives are as follows:

- **Alternative 1 (as to Public Water):**

⁷ Current Wayland water connection fees are included in Exhibit 8.1. Current Wayland water usage rates and administrative fees are available at: http://www.wayland.ma.us/pages/WaylandMA_Water/Water%20Rates%20-%202006-26-14.pdf.

⁸ Soil testing for suitability of any on-site sewage disposal system(s) must be witnessed by the Wayland Board of Health. Preliminary perk tests were completed by the Town's consultant and are included for informational purposes only as Exhibit 5.4. The Successful RFP Respondent is responsible for conducting any necessary testing for the design, permitting, construction, operation and maintenance of any On-Site Package Treatment Plant as may be required for the Project.

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Alternative 1 is the same as the Base Case except that the Town may enter into a separate agreement with the RFP Respondent whereby the Town (rather than the RFP Respondent) will design and construct the Water Main Extension.

- **Alternative 2 (As to Public Sewer):**

Alternative 2 is the same as the Base Case except that, in lieu of the RFP Respondent constructing the On-Site Package Treatment Plant, the Town (in coordination with the Wayland Wastewater Management District Commission established pursuant to Chapter 461 of the Acts of 1996 (“WWMDC”)) may establish a connection for the Property to the public sewer. Alternative 2 is subject to a separate agreement among the Town, the RFP Respondent and the WWMDC, which the RFP Respondent must enter into if the Town elects this Alternative. The main elements of Alternative 2 are as follows:

- The Town (or WWMDC) would design and construct a Sewer Extension to connect the Property to and from the Municipal Wastewater Treatment Facility (located at the Town Center, across the Sudbury River, and approximately one-half mile away from the Property). See Exhibit 8.3. The Sewer Extension would consist of necessary pipes, pumps, infrastructure and connections to convey untreated effluent from the Property boundary to the Municipal Wastewater Treatment Facility and to convey treated effluent from the Municipal Wastewater Treatment Facility to the Reserved Leaching Field Easement Area on the Property, described below.
- The Property will be conveyed subject to a Reserved Leaching Field Easement over, across, under and along a portion of the Property for the benefit of, and in a location to be proposed by the Successful RFP Respondent and approved by the Town and WWMDC (the “Reserved Leaching Field Easement Area”). Within the Reserved Leaching Field Easement Area will be constructed leaching fields, a reserve area, and associated piping and infrastructure for the subsurface disposal of up to gal/day of treated effluent from the Municipal Wastewater Treatment Facility (“the Reserved Leaching Field Easement Improvements”).
- The separate agreement among the Town, the RFP Respondent and the WWMDC would address, among other matters, the terms and conditions pursuant to which the Sewer Extension and Reserved Leaching Field Easement Improvements will be designed, constructed, operated, maintained and (if necessary) relocated. Without limitation, this agreement would address applicable procurement requirements, the applicable

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specifications, and coordination among the parties as to the design, permitting and construction of the Project on the one hand and the design, permitting and construction of the Sewer Extension and Reserved Leaching Field Easement Improvements on the other.

- The Successful RFP Respondent will be responsible for designing, constructing, operating and maintaining all wastewater infrastructure within the Property for discharging untreated effluent from the buildings comprising the Project to the Sewer Extension.
- The Successful RFP Respondent shall pay to the Town or the WWMD as applicable all lawful sewer betterments, assessments, connection fees and annual use rates for connection to and use of the public sewer.⁹

Alternative 2 is described further in the attached Price Summary Form (Exhibit 1.2).

- **Alternative 3 (As to Public Water and Public Sewer):**

Alternative 3 combines Alternatives 1 and 2. Alternative 3 is also subject to the separate agreements referenced in Alternatives 1 and 2.

10. Traffic

Preliminary traffic analysis prepared by the Town's consultants for a project generally of the size anticipated by this RFP is available in the RFP materials posted on line at . Based on this analysis, the Project (based on 150 - 190 housing units) approaches the MEPA transportation review threshold in 301 CMR 11.03(6). Each RFP Respondent should carefully review its proposed Project in the context of the MEPA transportation review threshold (and any other applicable MEPA review threshold) and should be aware of sizing implications. For example, if the Project includes 25% senior housing, it may trigger the MEPA transportation review threshold if there are over 161 units in the Project; conversely, if the Project includes the maximum of 190 units, it may trigger the MEPA transportation review threshold if less than 51% of the units in the Project are age-restricted units. These figures are illustrative only. Each RFP Respondent should carefully review the MEPA thresholds as to its proposed Project with its permitting and/or traffic consultants.

⁹ Current sewer connection fees and current annual sewer use rates are included as Exhibit 8.2.

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11. Environmental

The Town's environmental consultant, Tighe & Bond, has completed a Phase I Environmental Site Assessment and a Limited Phase II Investigation dated October 2012 (Exhibit 6.1). This report identifies a number of recognized environmental conditions associated with the Property (such as an area of former underground storage tanks with favorable test results, a hazardous waste storage shed, methane releases from the abutting Sudbury Landfill, arsenic concentrations in excess of a GW-1 standard, the presence of soil stockpiles, and leachable lead in soils from the Wayland firing range) and various data gaps associated with the Property and the recognized environmental conditions.

As part of its response, the Successful RFP Respondent must agree to (a) assess, contain, remove and remediate all pre-existing releases of oil and hazardous materials at or from the Property in accordance with General Laws Chapter 21E and the Massachusetts Contingency Plan to either a Permanent Solution with No Conditions or a Permanent Solution with such Conditions as are acceptable to the Town's Board of Selectmen, (b) design, construct and operate the Project in such a way to evaluate and eliminate the risk of methane gas or other vapor intrusion from the Sudbury landfill or otherwise into the residential buildings and units consistent with a Permanent Solution involving No Significant Risk under General Laws Chapter 21E and the Massachusetts Contingency Plan, and (c) design, construct and operate the Project in such a way to achieve a condition of No Significant Risk to the Project's residents as to other recognized environmental conditions such as arsenic in groundwater (e.g. by prohibiting on-site drinking water wells and irrigation wells, following DEP Best Management Practices for any gardening on the Property, and the like).

12. Wetlands

Wetlands exist on and proximate to the Property. Wetlands and riverfront areas have been flagged and peer reviewed by the Town. An Abbreviated Notice of Resource Area Delineation ("ANRAD") (Exhibit 7.1) has been filed with the Wayland Conservation Commission, and the Commission is expected to issue an Order of Resource Area Delineation ("ORAD") concerning the Property in the Spring of 2015. Design requirement guidelines for riverfront have been issued by the Conservation Commission for design guidance prior to the ORAD and these are included as Exhibit 7.2.

13. Site Assignment and Presumptive Approval of Proposed Use

Historically, a portion of the Property (the parcel described in Exhibit 4.3) was included within the limits of a "Site Assignment" dated February 9, 1979 (Exhibit 6.2) and a "Permit to Operate Sanitary Landfill" dated June 16, 1980 (Exhibit 6.3) issued by the Wayland Board of Health pursuant to M.G.L. c. 111, § 150A. However, rather than being used for a landfill, that portion of the Property was actually developed and used for the Wayland/Sudbury Septage Facility which was decommissioned in or about 2009.

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Because that portion of the Property was not used as part of the sanitary landfill, the Town has consulted with the Wayland Board of Health and the Massachusetts Department of Environmental Protection (“DEP”) regarding the appropriate procedure to recognize and allow the River’s Edge use. As a result of those consultations, the Town has on [REDACTED], 2015, submitted a request for presumptive approval of the proposed use under 310 CMR 19.029(3) and 19.034 (Exhibit 6.4). This request was submitted to DEP and the Wayland Board of Health on an application form provided by DEP and included a written description of the proposed use. This request for presumptive approval triggered a 45 day period within which DEP can determine, in a letter to the Town, that 310 CMR 19.034 does not apply to the proposed use or that additional information is needed to make that determination. In the absence of such action by DEP, the request will be deemed presumptively approved. As of the issuance of the RFP the status of that request is as follows: [REDACTED].

14. Fair Housing Act

The federal Fair Housing Act protects all residents from discrimination on the basis of race, color, national origin, religion, sex, handicap or familial status (families with children under the age of 18 living with parents or legal guardians; pregnant women and people trying to get custody of children under 18). Housing that meets the federal Fair Housing Act’s definition of housing for older persons is exempt from the law’s familial status requirements, provided that certain conditions are met. One of those exemptions concerns a project which houses at least one person who is 55 or older in at least 80 percent of the occupied units, and which adheres to a policy that demonstrates intent to house persons who are 55 or older.¹⁰

The REHOD Zoning requires that a “minimum of twenty-five percent (25%) of all dwelling units shall be age restricted to a minimum of at least one occupant aged 55 or over.” (See Exhibit 3.1, § 2506.6.1.) If an RFP Respondent proposes less than 80% age restricted units, the RFP Respondent must suitably address in its RFP Response how its proposal will be planned and executed to comply with the federal Fair Housing Act. The RFP Respondent may evaluate and propose any techniques it considers appropriate to develop its Project on the Property (e.g. a subdivision of the Property into an age restricted parcel and a non-age restricted parcel) as long as the Project is FHA-compliant.

15. Appraisal

The firm of Byrne McKinney & Associates has appraised the Property for the Town, as required pursuant to M.G.L. c. 30B, § 16, as of [REDACTED] for multi-family rental housing purposes consistent with the REHOD Zoning as set forth in the Appraisal Report dated [REDACTED] (Exhibit 5.1).

¹⁰ See http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/seniors.

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16. Respondent's Responsibility for Due Diligence

The RFP Respondent should undertake an independent review and analysis concerning the Property, its history and use, its physical conditions, environmental conditions, applicable zoning, governmental permits and approvals required for the Project, and all other development and legal considerations pertaining to the Property, the Work, and the proposed use. The RFP Respondent shall submit with its RFP Response (a) a proposed Scope of Work for any on-site environmental and engineering investigations which the RFP Respondent proposes to conduct on or beneath the Property as part of the RFP Respondent's Due Diligence Investigations to be completed during the due diligence period provided for in the Land Disposition Agreement and, (b) a list of each governmental permit and approval the RFP Respondent reasonably anticipates is required for the Project (including without limitation whether MEPA review is likely to be required for the Project), the name of the issuing authority, and the proposed time frame for obtaining the governmental permits and approvals. See Section B.17 below.

The Town makes no representation or warranty with respect to the Property, including without limitation, the Town's title to the Property, the value, quality or character of the Property or its fitness or suitability for any particular use and/or the physical and environmental condition of the Property.

The Successful RFP Respondent shall accept the Property on a strictly "as is" basis, with all faults, and without any warranty or obligation whatsoever on the part of Town.

17. Closing

The Land Disposition Agreement anticipates that Closing will occur within six (6) months of the execution of that agreement in order for the Successful RFP Respondent to obtain all final governmental permits and approvals for the Project. The Land Disposition Agreement allots a six month period to complete these milestones, with the potential for certain additional extensions based on (a) the payment of additional deposit amounts, (b) the institution of third party appeals of required permits beyond the Successful RFP Respondent's control (provided that the Successful RFP Respondent diligently defends or settles the litigation), or (c) the exercise of discretion of the Board of Selectmen. To ensure that the Project is diligently pursued and ultimately viable, the Successful RFP Respondent must provide with its RFP Response a realistic proposed schedule for permitting and any exceptions the Successful RFP Respondent may have to the Closing timeframe set forth in the Land Disposition Agreement and the possible extensions thereof. See Section E.8 and Exhibit 1.3.

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C. Evaluation of Proposals

The Town will review all proposals received by the filing deadline in accordance with the Minimum Threshold Criteria and Comparative Evaluation Criteria in Section G and the following procedure:

- Proposals meeting the Minimum Threshold Criteria will initially be evaluated and rated by the Town's River's Edge Advisory Committee (the "Committee") according to the Comparative Evaluation Criteria set forth in this Section G to the RFP.
- The Committee will make its recommendations to the Town's Board of Selectmen.
- The Town's Board of Selectmen will select the most advantageous proposal from the responsible and responsive RFP Respondents, taking into consideration the Comparative Evaluation Criteria (including without limitation price), the Committee's recommendations, and the Board's own judgment as to which RFP Respondent best meets the Comparative Evaluation Criteria.
- The Town will notify all RFP Respondents in writing of the Board of Selectmen's decision.

The Town reserves the right to accept or reject any or all proposals if the Town determines that it is in its best interests to do so. The Town reserves the right to waive any informalities in a proposal and to accept the proposal for processing when deemed to be in the best interest of Town. The Town reserves the right to make an award as deemed to be in the best interests of the Town.

The Town reserves the right but is under no obligation to interview RFP Respondents after the opening of Proposals but before issuing a Notice of Award. Interviews may be conducted by the Committee (at its option), by the Board of Selectmen (at its option) or not at all. Interviews may be taped or videotaped at the Town's option. If interviews are conducted, interviewees will be evaluated in accordance with Evaluation Criterion I(2)(h).

The Town reserves the right to seek additional information from any RFP Respondent after the opening of Proposals but before issuing a Notice of Award or entering into a Land Disposition Agreement. The Town reserves the right to reject any proposal if Town deems it to be in the best interests of Town, and to award the Land Disposition Agreement to the next qualified respondent.

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D. Land Disposition Agreement

The Successful RFP Respondent will have thirty (30) days from the receipt of a Notice of Award from Town to execute the Land Disposition Agreement for the Sale and Redevelopment of the Property (the "Land Disposition Agreement" or "LDA") substantially in the form set forth in Exhibit 2.1, and the agreements requiring execution referenced as exhibits therein, all with such mutually acceptable amendments (if any) as are approved by the Town's Board of Selectmen. The agreements requiring execution referenced in the LDA are as follows:

- Escrow Agreement (RFP Exhibit 2.2);
- Right of Entry and License Agreement (RFP Exhibit 2.3);
- Reserved Easement Agreement (RFP Exhibit 2.4); and
- Repurchase Agreement (RFP Exhibit 2.5).

If an RFP Respondent takes exception to any provision(s) of the proposed Land Disposition Agreement (Exhibit 2.1), Escrow Agreement (Exhibit 2.2), Right of Entry and License Agreement (Exhibit 2.3), Reserved Easement Agreement (Exhibit 2.4), or Repurchase Agreement (RFP Exhibit 2.5), the RFP Respondent must identify with specificity in its RFP Response the provision to which exception is taken, the basis for the exception, and the RFP Respondent's proposed alternative language or provision to address that exception. To do so, the RFP Respondent must include with its RFP Response a redlined copy of the proposed Land Disposition Agreement and the above Exhibits 2.2-2.5 indicating the changes (if any) requested by the RFP Respondent. Any exceptions or changes not so identified in the RFP Response will be deemed waived.

The Town's Board of Selectmen reserves the right to accept, reject, or negotiate proposed amendments to resolve any such proposed exceptions or changes to the Land Disposition Agreement (Exhibit 2.1), Escrow Agreement (Exhibit 2.2), Right of Entry and License Agreement (Exhibit 2.3), Reserved Easement Agreement (Exhibit 2.4), or Repurchase Agreement (RFP Exhibit 2.5), at any time before the Board's execution thereof.

If the Successful RFP Respondent fails to execute the Land Disposition Agreement and Exhibits 2.2-2.5 within thirty (30) days of Notice of Award (or within any extension to which Town may agree in writing), the Town may cancel the Notice of Award and select the next most advantageous offer. If the Successful RFP Respondent fails to close on the acquisition of the Property pursuant to the Land Disposition Agreement, the Town may terminate the Land Disposition Agreement and its exhibits pursuant to their terms, cancel the Notice of Award, retain the Deposit under the Land Disposition Agreement, and select the next most advantageous offer.

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E. Specific Terms, Conditions and Restrictions on Use of the Property

Pursuant to M.G.L. c. 30B, § 16, the Town sets the following terms, conditions and restrictions on the Successful RFP Respondent's use of the Property pursuant to the RFP:

1. The Project and the Work

After acquiring the Property, the Successful RFP Respondent shall, at its sole cost and expense, perform and complete all work necessary for the design and construction of the multi-family rental housing development project on the Property, together with related improvements, as approved by the Board of Selectmen in the Notice of Award (the "Project"). All work relative to the Project shall be completed in compliance with the following requirements, plans, permits and approvals, and in general conformance with the spirit and intent of the following River's Edge Design Guidelines (collectively the "Work"):

- a. The requirements of the Wayland Zoning Bylaw relative to the REHOD as adopted under Article 15 at the 2014 Wayland Annual Town Meeting (Exhibit 3.1);
- b. The requirements of all required governmental permits and approvals for the Project;
- c. The requirements of the final, executed Land Disposition Agreement;
- d. The requirements of this RFP and any Addenda hereto;
- e. The conceptual Site Plan, Schematic Architectural Drawings, and Building Elevations and other Proposal materials submitted by the Successful RFP Respondent and approved by the Board of Selectmen in the Notice of Award together with such amendments to the conceptual Site Plan, Architectural Drawings, and Building Elevations and other Proposal materials as the Town may approve during the course of the disposition of the Property; and
- f. The River's Edge Design Guidelines (Exhibit 5.2).

Without limitation, after acquiring the Property, the Successful RFP Respondent shall, at its sole cost and expense, perform and complete the following Work related to the Project:

- a) Demolish, remove, recycle and/or properly dispose of all buildings, structures, improvements, foundations, pipes, tanks, fixtures, equipment and demolition debris on or under the Property (collectively, the "Demolition Work").

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- b) Assess, contain, remove and/or remediate all pre-existing releases of oil and hazardous materials at or from the Property in accordance with General Laws Chapter 21E and the Massachusetts Contingency Plan to either a Permanent Solution with No Conditions or a Permanent Solution with such Conditions as are acceptable to the Town's Board of Selectmen ("Environmental Remediation").
- c) Design, construct and operate the Project in such a way to evaluate and eliminate the risk of methane gas or other vapor intrusion from the Sudbury landfill or otherwise into the residential buildings and units consistent with a Permanent Solution involving No Significant Risk under General Laws Chapter 21E and the Massachusetts Contingency Plan. ("Environmental Mitigation").
- d) Design, construct and operate the Project in such a way to achieve a condition of No Significant Risk to Project residents as to other recognized environmental conditions such as arsenic in groundwater (e.g. by prohibiting on-site drinking water wells and irrigation wells, following DEP Best Management Practices for any gardening on the Property, and the like).
- e) Obtain all governmental licenses, permits, approvals and other relief required for the Project, the Work, the Demolition Work, the Environmental Remediation, the Environmental Mitigation, and all other Work necessary for the development and use of the rental housing project pursuant to this RFP.

- *[NOTE: The Project should be developed under DHCD's Local Initiative Program with Local Action Units developed pursuant to Site Plan Approval from the Planning Board under the REHOD Zoning Bylaw (Exhibit 3.1); and the Project must meet all regulatory requirements for 100% of the units in the Project to be eligible for inclusion on the Town's Subsidized Housing Inventory ("SHI"). Without the express written permission of the Board of Selectmen, the Successful RFP Respondent (and its successors and assigns) shall not file an application for a comprehensive permit for the Project pursuant to M.G.L. c. 40B, §§ 20—23. If and to the extent required to ensure that 100% of the units in the Project are eligible for inclusion in the Town's Subsidized Housing Inventory (e.g. as Local Initiative Program Units or under another affordable housing subsidy program), the Board of Selectmen may so consent. However, under no circumstances shall the Successful RFP (and its successors and assigns) seek to waive the requirement for Site Plan Approval from the Planning Board under the REHOD Zoning Bylaw (Exhibit 3.1) or to obtain that Site Plan Approval from the Board of Appeals under a comprehensive permit for*

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the Project. In addition, the Successful RFP Respondent (and its successors and assigns) shall not seek a waiver from any other provision of the REHOD Zoning Bylaw (Exhibit 3.1) without the express written permission of the Board of Selectmen. This provision shall run with the land.]

- f) Comply with all applicable laws, bylaws, rules and regulations with respect to the Project, the Work, the Demolition Work, the Environmental Remediation, the Environmental Mitigation, and all other activities necessary for the development and use of the rental housing project pursuant to this RFP.

The RFP Respondent will, if awarded the Project, engage a contractor licensed by the Commonwealth of Massachusetts as a Construction Supervisor to supervise all construction on the Project and will engage a Massachusetts Licensed Site Professional to supervise all Environmental Remediation and Environmental Mitigation on the Property.

2. Costs and Expenses

The Successful RFP Respondent shall be solely responsible for all costs and expenses arising out of or related to the RFP Response, Due Diligence Investigations, the Land Disposition Agreement, the Project, the Work, the Demolition Work, the Environmental Remediation, the Environmental Mitigation, and all other activities necessary, proper, or incidental to the redevelopment and use of the Property for the rental housing project pursuant to this RFP.¹¹ Without limitation, the Successful RFP Respondent shall be solely responsible for all costs and expenses of (a) the design, permitting and construction of the new buildings and improvements, the installation of all utilities and site work required for the proposed housing use, and any other measures necessary to construct and occupy the Project in compliance with the RFP, the Land Disposition Agreement and all applicable federal, state and local laws, ordinances, rules, regulations and codes for the proposed use, (b) all products, materials, tools, equipment, fixtures, relating thereto, (c) all contractors, subcontractors, architects, engineers, project managers, construction managers, attorneys, consultants relating thereto.

3. Costs of Demolition Work for the Former Wayland/Sudbury Septage Facility

The Town of Wayland has an Inter-Municipal Agreement (“IMA”) with the Town of Sudbury whereby the Town of Sudbury must reimburse the Town of Wayland for a portion of the actual costs of the Demolition Work for the former the Wayland/Sudbury Septage Facility on a portion of the Property. For this reason, each RFP Respondent shall include with its RFP

¹¹ In the limited circumstances in which the Town opts for an Alternative to the Base Case, the Town may in its sole and exclusive discretion agree, in a separate written agreement, to undertake certain costs of water or sewer utility infrastructure work. See Section B.9 above.

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Response an estimate for the costs of the Demolition Work.

The Successful RFP Respondent shall separately track and account for all costs and expenses actually incurred for the Demolition Work for the former the Wayland/Sudbury Septage Facility. Within forty-five (45) days of completing that Demolition Work, the Successful RFP Respondent shall provide to the Wayland Town Administrator a detailed accounting of all costs of the Demolition Work, including all supporting documents reasonably necessary to substantiate those costs. The Successful RFP Respondent shall fully cooperate with the Town of Wayland's efforts to recover the applicable portion of the costs of the Demolition Work from the Town of Sudbury to ensure that the purpose of the IMA is met.

To the extent that the Successful RFP Respondent's actual costs of the Demolition Work are less than its estimate of the costs of the Demolition Work, then the Successful RFP Respondent shall reimburse the Town for the difference between (i) the Successful RFP Respondent's estimate and (ii) the actual costs of the Demolition Work. Said amount shall be paid within forty-five (45) days after the Successful RFP Respondent provides the detailed accounting of the costs of the Demolition Work. (If actual costs of the Demolition Work are more than estimated, then no adjustment shall be made.) The Successful RFP Respondent waives any claim it allegedly may have now or in the future with respect to any reimbursement paid by the Town of Sudbury to the Town of Wayland with respect to the Demolition Work costs and expenses. The RFP Respondent acknowledges that its proposed purchase price for the Property takes into account the anticipated costs and expenses of Demolition Work.

4. Release and Indemnity

The Successful RFP Respondent on behalf of itself and its parents, subsidiaries, affiliates, officers, directors, members, managers, predecessors, successors, contractors, subcontractors, assigns, agents, and representatives shall release, defend, indemnify and hold harmless the Town of Wayland and its boards, commissions, officials, employees, agents, and representatives from and against any and all claims, damages, liabilities, losses, penalties, costs, expenses and fees (including without limitation reasonable legal fees and expert fees) arising out of or relating to the condition of the Property, any release of oil or hazardous materials to, at or from the Property, the Property Information, the Due Diligence, the Project, the Work, the Demolition Work, the Environmental Remediation, the Environmental Mitigation, and all other activities necessary, proper, or incidental to the redevelopment and use of the Property for the rental housing project pursuant to this RFP.

5. Performance Standards

The Successful RFP Respondent shall perform and complete the Work in a good, workmanlike and commercially reasonable manner, in compliance with good engineering and construction practices, using all new or suitable recycled materials, and in conformance with the standard of diligence and care normally employed by a duly qualified persons in the

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performance of comparable work, in accordance with generally accepted practices appropriate to the activities undertaken in the greater Boston area, and in accordance with the requirements of all applicable laws, ordinances, codes, orders, rules and regulations of all governmental authorities, agencies or departments with jurisdiction (including without limitation Massachusetts prevailing wage laws if and to the extent applicable). The Successful RFP Respondent shall take all reasonably necessary measures to (i) minimize dust, noise and construction traffic, (ii) minimize any damage, disruption or inconvenience caused by the Work, and (iii) make adequate provision for the safety and convenience of all persons affected thereby and to properly police same. Dust, noise and other effects of such work shall be controlled using commercially accepted methods customarily utilized in order to control deleterious effects associated with construction projects in a populated or developed area.

6. Rental, Senior and Affordable Housing Requirements

The Town has established the following rental, senior and affordable housing goals and requirements for the use of the Property, which shall be incorporated as perpetual terms, conditions and restrictions on the Successful RFP Respondent's use of the Property:

- a. The Project shall consist of between 150 and 190 residential units.
- b. One hundred percent (100%) of the units shall be rental units.
- c. Per the REHOD, at least 25% of the units shall be 55+ age-restricted units.
- d. Per the REHOD, at least 25% of the units shall be affordable units for occupancy by persons or households whose aggregate family income does not exceed 80% of the median gross income for the area ("AMI"), as established by the United States Department of Housing and Urban Development.
- e. The affordable units shall be distributed proportionally (by type, size and location) between and among the age-restricted and non-age-restricted units.
- f. The Project shall be developed under DHCD's Local Initiative Program with Local Action Units developed pursuant to Site Plan Approval from the Planning Board under the REHOD Zoning Bylaw (Exhibit 3.1); and the Project must meet all regulatory requirements such that 100% of the units in the Project are eligible for inclusion on and counted toward the Town's Subsidized Housing Inventory established and administered by the Commonwealth of Massachusetts Executive Office of Housing and Economic Development, Department of Housing and Community Development ("DHCD"), or its successor (the "Subsidized Housing Inventory").
- g. Local preference for affordable units shall be provided to the maximum extent allowed by legal requirements.

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- h. These senior and affordable housing unit requirements shall be incorporated into a perpetual Affordable Housing Restriction substantially in the form of DHCD's "Local Initiative Program Regulatory Agreement and Declaration of Restrictive Covenants for Rental Project, Local Action Units" attached hereto as Exhibit 9.1, with such revisions thereto as the Town's Board of Selectmen in consultation with DHCD may approve, and provided that any such revisions shall conform to the requirements and guidelines for Local Initiative Program Local Action Units to be eligible for inclusion on the Town's Subsidized Housing Inventory. Said restriction shall run with the land and have priority over other encumbrances created by or under the Successful RFP Respondent, including without limitation any mortgage securing the acquisition of the Property or the construction of the Project, to ensure that the Project remains a rental housing development with 25% affordable housing units and a minimum of 25% age-restricted (senior) housing units and that 100% of the units count toward the Town's Subsidized Housing Inventory.

7. Property Management

The Successful RFP Respondent and its permitted successors and assigns (as defined in the form of Land Disposition Agreement attached hereto as Exhibit 2.1) shall

- a. Market and rent all residential units in the Project promptly upon completion of and throughout the existence of the Project.
- b. Manage and implement all legal requirements applicable to the restricted affordable and senior rental housing units.
- c. Maintain, repair and replace deteriorated components of the Project's buildings, improvements and infrastructure over time so that the Project remains a first class rental housing development within the Town.

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8. Schedule

Each RFP Respondent shall submit with its proposal its anticipated critical path time schedule for major Project milestones (including such matters as execution of the Land Disposition Agreement, completion of due diligence, design, permitting, financing, closing, construction, marketing and rental) so that the Work shall be commenced and completed, and the units marketed, rented and occupied as soon as commercially reasonably possible. The schedule shall, at a minimum, conform to and include the information set forth in Exhibit 1.3.

9. Enforcement of Covenants

Title to the Property will be conveyed subject to specific covenants on behalf of the Successful RFP Respondent to (a) commence construction of the Project within the construction commencement deadline in the Land Disposition Agreement; (b) complete construction of the Project within the construction completion deadline in the Land Disposition Agreement using commercially reasonable efforts; (c) use the Property solely for residential rental housing and accessory uses allowed by Section 2504.1.2 of the REHOD (Exhibit 3.1) and as provided in this RFP; and (d) maintain the Project over time in first class condition. These covenants shall be enforceable as set forth in the Land Disposition Agreement and a capital reserve account shall be established and funded to maintain the property as required therein.

Without limitation, in the event that the Successful RFP Respondent fails to timely commence construction as provided above, the Town shall have the option to repurchase the Property pursuant to the terms of a Repurchase Agreement to be entered into between the parties and recorded at the time of closing. The proposed form of Repurchase Agreement is attached hereto as Exhibit 2.5.

In the event that the Successful RFP Respondent fails to timely complete construction, to use the Property solely for residential rental housing and accessory uses, or to diligently maintain the Project, the Town shall have the rights and remedies set forth in the Land Disposition Agreement and the Deed.

F. Submission Requirements

Each RFP Respondent must submit the following information and documents (completed and executed as applicable). Failure to provide any of the required documents may result in a determination that the Proposal is non-responsive. Numbered tabs should match numbered items in the following table, and should appear in the order given.

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

Tab	Contents	Exhibit
	Cover Letter confirming enclosure of all required information and documents	
1.	Completed and signed Proposal Form	Exhibit 1.1
2.	Completed and signed Price Summary Form including a Pro Forma for the Project and Statement of Estimated Tax Revenues substantially in the form attached hereto setting forth a detailed breakdown of the projected revenues and costs (<i>attached in a separate sealed envelope labeled as set forth above</i>)	Exhibit 1.2
3.	Completed and signed Certificate of Non-Collusion	Exhibit 1.4
4.	Completed and signed Disclosure of Beneficial Interest Form as required by M.G.L. c. 7C, § 38	Exhibit 1.5
5.	Completed and signed Non-Delinquency Statement required by M.G.L. c. 60, § 77B	Exhibit 1.6
6.	Completed and signed Commitment for payment in lieu of taxes calculated in accordance with M.G.L. c. 44, § 63A	Exhibit 1.7
7.	Certification as to Payment of Taxes	Exhibit 1.8
8.	Completed and signed Evidence of Authorization for the RFP Respondent's signatory to the RFP (e.g. Corporate Resolution or equivalent depending on form of entity)	Exhibit 1.9
9.	RFP Respondent's Statement of Qualifications including a statement/evidence of the RFP Respondent's: <ul style="list-style-type: none"> • Business and years of relevant experience • Project Team, including Developer, Architect, primary Engineers and General Contractor • Comparable Projects (by size, type, complexity, location, development costs, affordable/senior components, or other relevant metrics) <ul style="list-style-type: none"> ○ Provide photographs or other visual representations of completed comparable projects where possible • Financial stability and financial capacity to complete the Project • Disclosure of any material facts undermining the RFP Respondent's ability to finance and complete the Project in a timely manner (e.g. relevant litigation, liens, foreclosures, bankruptcies, or other significant impediments) • Other information to document the RFP Respondent's capabilities and qualifications for the Project 	
10	Resume of each of the RFP Respondent's key employees and team member for this Project	

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Tab	Contents	Exhibit
11.	Letters of Reference: Three letters of reference (from representatives of independent entities such as municipalities, subsidizing agencies, lenders, attorneys, or other professionals knowledgeable of the RFP Respondent) based on projects of similar size, type and scope.	
12.	Conceptual Site Plan, Schematic Architectural Drawings, and Building Elevations: <ul style="list-style-type: none"> • Narrative description of the RFP Respondent's Proposal • Preliminary conceptual site development plan showing the site boundaries; the locations and outlines of proposed buildings, streets, drives, parking areas, walks, and paved areas; preliminary location and sizes of on-site sewage and storm-water control facilities; general landscaping; other planned improvements to the Property; and open areas within the site • Preliminary, schematic, scaled, architectural drawings showing, for each building, typical floor plans, typical elevations, construction type, exterior finishes, and other main architectural features, common areas and amenities • Perspective drawing looking from the entry of the access road at Route 20, northwest into the Project 	
13.	A tabulation of proposed units in each building by type (market, affordable; age-restricted, non-age-restricted), number of bedrooms, floor area, average unit sizes and rents, and a brief description of unit amenities. If an RFP Respondent proposes less than 80% age restricted units, the RFP Respondent must include an explanation as to how its proposal will be planned and executed to comply with the federal Fair Housing Act.	
14	The proposed Scope of Work for any on-site environmental and engineering investigations which the RFP Respondent proposes to conduct on or beneath the Property during the Due Diligence Period under the Land Disposition Agreement	
15	A list of each governmental permit and approval the RFP Respondent reasonably anticipates is required for the Project (including without limitation whether MEPA review is likely to be required for the Project), the name of the issuing authority, and the proposed time frame for obtaining the governmental permits and approvals	
16.	The RFP Respondent's proposed critical path time schedule for the Project conforming to Section E.8 above	Exhibit 1.3
17.	Demonstration that the proposal meets the Comparative	Exhibit 1.10

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Tab	Contents	Exhibit
	Evaluation Criteria in the form of a completed Exhibit 1.10 in which the RFP Respondent demonstrates (with reference to supporting documentation as applicable) how the RFP Respondent's Proposal meets or exceeds the comparative evaluation criteria of the RFP	
18	<p>List of Exceptions (If Any) to Land Disposition Agreement and its Exhibits:</p> <p>If a prospective RFP Respondent takes exception to any provision(s) of the proposed Land Disposition Agreement (Exhibit 2.1), Escrow Agreement (Exhibit 2.2), Right of Entry and License Agreement (Exhibit 2.3), Reserved Easement Agreement (Exhibit 2.4), or Repurchase Agreement (RFP Exhibit 2.5), the RFP Respondent must identify with specificity the provision to which exception is taken, the basis for the exception, and the RFP Respondent's proposed alternative language or provision with respect to that exception. To do so, the RFP Respondent must include with its RFP Response a redlined copy of the proposed Land Disposition Agreement or Exhibits 2.2, 2.3, 2.4, or 2.5 (as applicable) indicating the changes requested by the RFP Respondent. Any exceptions or changes not so identified in the RFP Response will be deemed waived.</p> <p>If a prospective RFP Respondent takes no exception the proposed Land Disposition Agreement or to Exhibits 2.2, 2.3, 2.4, and 2.5, the RFP Respondent must so indicate in its RFP Response.</p> <p>Note: The Board of Selectmen retains the discretion whether or not to accept, modify, or reject any such proposed exceptions or changes to the final Land Disposition Agreement and its Exhibits. See RFP Section D above.</p>	<p>Exhibit 2.1 Exhibit 2.2 Exhibit 2.3 Exhibit 2.4 Exhibit 2.5</p>
19	Demonstration of the RFP Respondent's Strategy for ensuring that 100% of the units in the Project count toward the Town's Subsidized Housing Inventory	
20.	A Certified Check payable to the Town of Wayland in the amount of \$10,000 to be (a) forfeited to the Town in the event the RFP Respondent is awarded the Project but fails or refuses to execute the required Land Disposition Agreement within the time set forth in the Notice of Award, or (b) applied to the required deposit under the Land Disposition Agreement in the event the RFP Respondent is awarded the Project and timely executes the required Land Disposition Agreement, or (c) returned to the RFP Respondent in the event the Town rejects all proposals or rejects	

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Tab	Contents	Exhibit
	the RFP Respondent's Proposal.	

Updated originals of forms 3-7 shall be executed and delivered by the Successful RFP Respondent at Closing and as a pre-condition thereto.

G. Evaluation Criteria

The Town will review all proposals received by the filing deadline in accordance with the procedure in Section C and in accordance with the following Minimum Threshold Criteria and Comparative Evaluation Criteria:

1. Minimum Threshold Criteria

To be responsive to this RFP, an RFP Respondent must submit a Response meeting the following minimum threshold criteria:

- a. The Proposal must be complete and conform to all submission requirements set forth in this RFP and any Addendum to this RFP issued before the submission deadline.
- b. The Proposal must be timely submitted.

To be responsible under this RFP, an RFP Respondent:

- a. Must demonstrate through the information and documents submitted with its RFP Response that the RFP Respondent has the capability, integrity and reliability to acquire the Property and perform the Project under the RFP and the Land Disposition Agreement (Exhibit 2.1).
- b. Must have prior experience in completing similar projects.

2. Comparative Evaluation Criteria

Each proposal meeting the minimum threshold criteria will be evaluated and rated on the basis of the following comparative evaluation criteria. Where qualitative distinctions are appropriate to draw among proposals within the same tier, the evaluators will utilize the following numerical designations to assist with drawing those qualitative distinctions (with the higher number representing the higher qualitative evaluation on that criterion): Highly Advantageous (10 through 8); Advantageous (7 through 5), Passable/Not Advantageous (4 through 3) and Unacceptable (2-0).

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a. **Comparable Experience & Financial Strength**

- A Highly Advantageous rating will be given to a proposal that in the judgment of the evaluators identifies a highly qualified RFP Respondent and highly experienced Project Team (including developer, designers, engineers, builder) with (a) extensive experience with comparable residential and rental projects, (b) an exceptional record of successfully completing similar residential and rental projects on schedule and within budget, and (c) top caliber principals and senior staff assigned to the Project Team based on the resumes and references provided and (d) exceptional financial strength, committed financial partners and demonstrated capacity to undertake and complete the Project.
- An Advantageous rating will be given to a proposal that in the judgment of the evaluators identifies a qualified RFP Respondent and experienced Project Team with (a) relevant experience with comparable residential and rental projects, (b) a record of successfully completing residential and rental projects, and (c) experienced personnel staff assigned to the Project based on the resumes and references provided and (d) reasonable and demonstrated financial strength to undertake the Project.
- A Passable/Not Advantageous rating will be given to a proposal that in the judgment of the evaluators identifies merely a passable RFP Respondent, Project Team, financial strength and capacity to undertake and complete the Project (above Unacceptable and below Advantageous).
- An Unacceptable rating will be given to a proposal that in the judgment of the evaluators fails to identify a qualified RFP Respondent, experienced Project Team, reasonable and demonstrated financial strength and capacity to undertake the Project.

b. **Quality of Design and Construction.**

Each of the categories (1) Site Planning and Design, (2) Architectural Design, (3) Quality of Materials and (4) Design of the Project and as a gateway in relationship to the larger Wayland community shall each be evaluated with the qualitative review criteria as follows:

- A Highly Advantageous rating will be given to a proposal that in the judgment of the evaluators meets and exceeds the qualitative design requirements of the RFP; presents superior merit in terms of

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architectural features, unit designs and amenities, and the quality of proposed construction; and carefully integrates the development of the Property as a gateway feature to the Town.

- An Advantageous rating will be given to a proposal that in the judgment of the evaluators complies with the design requirements of the RFP and presents an acceptable quality of building and unit design and construction.
- A Passable/Not Advantageous rating will be given to a proposal that in the judgment of the evaluators identifies merely passable design and quality (above Unacceptable and below Advantageous).
- An Unacceptable rating will be given to a proposal that in the judgment of the evaluators fails to meet the design requirements of the RFP and presents an unacceptable design or quality of buildings, units, amenities, layout or construction.

c. Quality of Community

Each of the categories (1) Unit Amenities, Planning and Design, (2) Common Area Amenities, Planning and Design and (3) Community Planning (including the Project in its relationship to the larger Wayland community) shall each be evaluated with the qualitative review criteria as follows:

- A Highly Advantageous rating will be given to a proposal that in the judgment of the evaluators meets and exceeds the qualitative design requirements of the RFP; presents superior merit in terms of unit designs and amenities, common area design and amenities, and quality of community for residents, internally and as part of the larger Wayland community.
- An Advantageous rating will be given to a proposal that in the judgment of the evaluators complies with the design requirements of the RFP and presents an acceptable quality of unit, common area and community amenities.
- A Passable/Not Advantageous rating will be given to a proposal that in the judgment of the evaluators identifies merely passable design and quality of community (above Unacceptable and below Advantageous).
- An Unacceptable rating will be given to a proposal that in the judgment of the evaluators fails to meet the design requirements of the RFP and

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presents an unacceptable design or quality of units, amenities, or community.

d. **Feasibility of Proposed Project.**

- A Highly Advantageous rating will be given to a proposal that in the judgment of the evaluators is highly feasible based on an analysis of the pro forma, the demonstrated ability to resolve financial, environmental and permitting issues as they may arise, the likely acceptability of the proposed Project to regulators, lenders and funders, and the likelihood of providing or obtaining proposed financing for Project costs and expenses, and the reasonableness of the pro forma.
- An Advantageous rating will be given to a proposal that in the judgment of the evaluators is feasible based on an analysis of these factors.
- A Passable/Not Advantageous rating will be given to a proposal that in the judgment of the evaluators may or may not be feasible based on an analysis of these factors (above Unacceptable and below Advantageous).
- An Unacceptable rating will be given to a proposal that in the judgment of the evaluators is not feasible based on an analysis of these factors.

e. **Range of Housing Opportunities.**

- A Highly Advantageous rating will be given to a proposal that in the judgment of the evaluators will meet or exceeds the affordability and senior housing requirements established by the RFP, the REHOD (Exhibit 3.1) and the River's Edge Design Guidelines (Exhibit 5.2) (collectively the "Affordability and Senior Housing Requirements") and will result in a higher number in the range of 150-190 new rental housing units which are counted toward the Town's Subsidized Housing Inventory.
- An Advantageous rating will be given to a proposal that in the judgment of the evaluators will meet the Affordability and Senior Housing Requirements, and will result in a lower number in the range of 150-190 new rental housing units which are counted toward the Town's Subsidized Housing Inventory.

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- A Passable/Not Advantageous rating will be given to a proposal that in the judgment of the evaluators may result in fewer than 150 new rental housing units which are counted toward the Town's Subsidized Housing Inventory (above Unacceptable and below Advantageous).
- An Unacceptable rating will be given to a proposal that in the judgment of the evaluators fails to meet the Affordability and Senior Housing Requirements and/or which fails to identify a proven strategy for 100% of the new rental housing units to be counted toward the Town's Subsidized Housing Inventory.

f. **Proposed Development Schedule.**

- A Highly Advantageous rating will be given to a proposal that in the judgment of the evaluators incorporates an expedited and achievable critical path time schedule for the Project.
- An Advantageous rating will be given to a proposal that in the judgment of the evaluators incorporates a prompt and feasible critical path time schedule for the Project.
- A Passable/Not Advantageous rating will be given to a proposal that in the judgment of the evaluators incorporates a protracted but feasible critical path time schedule for the Project.
- An Unacceptable rating will be given to a proposal that in the judgment of the evaluators incorporates a dilatory or infeasible critical path time schedule for the Project.

All other things being equal, a Project with a shorter, more achievable development schedule will receive a more advantageous rating on this criterion than a Project with a longer, more questionable development schedule.

g. **Interviews (If Conducted)**

- A Highly Advantageous rating will be given to a proposal based on the interview, when, in the judgment of the evaluators, the Project Team in attendance demonstrated highly professional team leadership, detailed knowledge of the RFP requirements and the Property Information, and a sound and proven strategy and methodology for overcoming impediments and achieving success on the Project.
- An Advantageous rating will be given to a proposal based on the interview, when, in the judgment of the evaluators, the Project Team in

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attendance demonstrated professional team leadership, working knowledge of the RFP requirements and the Property Information, and a workable strategy and methodology for overcoming impediments and achieving success on the Project.

- A Passable/Not Advantageous rating will be given to a proposal based on the interview, when, in the judgment of the evaluators, the Project Team in attendance demonstrated passable team leadership, a passing knowledge of the RFP requirements and the Property Information, and a potential but unproven strategy and methodology for overcoming impediments and achieving success on the Project.
- An Unacceptable rating will be given to a proposal based on the interview, when, in the judgment of the evaluators, the Project Team in attendance failed to demonstrate sufficient team leadership, even a passing knowledge of the RFP requirements and the Property Information, or a modicum of strategy and methodology for overcoming impediments and achieving success on the Project.

h. Preliminary Ranking

After evaluating all proposals on the foregoing factors, the evaluators will arrive at a preliminary recommended ranking of the proposals relative to the other proposals based upon the above criteria. A proposal which achieves “Highly Advantageous” and/or “Advantageous” rankings in several categories will not necessarily be disqualified simply because it received a Passable/Not Advantageous or an “Unacceptable” ranking in one or more other categories if, in the judgment of the evaluators, the proposal on the whole is “Advantageous” or “Highly Advantageous” to the Town.

i. Total Financial Benefits to the Town

After completing the preliminary recommended ranking of the proposals relative to each other as above, the evaluators will open all price proposals; separately rank the proposals in order based on price, on anticipated local real estate tax revenues, and on other financial benefits to the Town; and calculate the total financial benefits to the Town from each proposal based on a combination of price, anticipated local real estate tax revenues, and other financial benefits to the Town. The total financial benefits to the Town alone will not be the determining factor for the award of the RFP to an RFP Respondent. Rather, the evaluators will group the responses into four categories based on total financial benefits to the Town as follows:

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- A Highly Advantageous rating will be given to a proposal that in the judgment of the evaluators provides total financial benefits to the Town well above the average of all proposals.
- An Advantageous rating will be given to a proposal that in the judgment of the evaluators provides total financial benefits to the Town that are above the average of all proposals.
- A Passable/Not Advantageous rating will be given to a proposal that in the judgment of the evaluators provides total financial benefits to the Town that are moderately below average to average for all proposals (above Unacceptable and below Advantageous).
- An Unacceptable rating will be given to a proposal that in the judgment of the evaluators provides total financial benefits to the Town that are well below the average of all proposals.

j. **Final Ranking**

After arriving at the four categories of price rankings, the evaluators will arrive at a final recommended ranking of the proposals relative to the other proposals taking price into account. All other things being equal, the evaluators may increase the ranking of a proposal that is Highly Advantageous on price and decrease the ranking of a proposal that is Unacceptable on price.

The Selectmen will then make a final determination as to which proposal is most advantageous to the Town taking all factors including price into account. The Selectmen's determination may differ from the recommendations provided by the Committee, and the Selectmen's discretion in this regard shall be final.

The Notice of Award, if any, will be made by the Town based upon the Wayland Board of Selectmen's determination of the most advantageous proposal from a responsible and responsive RFP Respondent, taking into consideration all evaluation criteria set forth in the RFP.

H. EXHIBITS

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EXHIBIT 1.1

PROPOSAL FORM

Disposition of Municipal Real Estate – River's Edge Property

TOWN OF WAYLAND
c/o Town Manager
Town Building
41 Cochituate Road
Wayland, Massachusetts 01778

**On behalf of the Person or Business Submitting the Proposal (“the “RFP Respondent”),
having been duly authorized, I represent that:**

The name and address of the RFP Respondent are:

The name, address, email address, and business phone of the RFP Respondent's principal contact person for all matters concerning this RFP are:

The RFP Respondent acknowledges receipt of the following Addenda to the RFP:

Addendum _____ dated _____

Addendum _____ dated _____

The RFP Respondent constitutes the following type of entity with the following principals (use separate sheet if necessary):

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If a corporation, the State of Incorporation and the officers and directors are:

If a limited liability company, the state of organization and the manager and members are:

If a partnership or a limited partnership, the state of organization and the general partners are:

If a trust, name of trust, the state of organization, the trustees and the Registry book and page for the recorded trust instrument are:

If an other form of person or entity, specify the type of entity, state of organization and the and its principals:

The following Town of Wayland officials and employees have a financial interest in the RFP Respondent or are related (by blood or marriage) to any of the partners, officers, directors, trustees, managers or employees of the RFP Respondent:

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On behalf of the RFP Respondent, having been duly authorized, I represent and agree that:

1. The RFP Respondent is one of the following (specify yes or no to each):
 - A public agency (____)
 - A non-profit organization (____)
 - A limited dividend organization (____)
 - A private party that shall form a limited dividend organization for purposes of the acquisition and development of the Property (____) or
 - None of the above (____).

2. Within 30 days from receipt of the Notice of Award, or such further time as Town may agree in writing, the RFP Respondent will execute the Land Disposition Agreement (Exhibit 2.1), Escrow Agreement (Exhibit 2.2), Right of Entry and License Agreement (Exhibit 2.3), Reserved Easement Agreement (Exhibit 2.4), and Repurchase Agreement (RFP Exhibit 2.5), each in the form attached to the RFP with such amendments thereto as are reflected in the above Addenda (if any) to the RFP or as may otherwise be approved by the Town's Board of Selectmen in accordance with the procedures set forth in the RFP.

3. This Proposal will remain subject to acceptance by the Town of Wayland ("Town") for 180 days after the date of submission of proposals or for such additional time as the Town and the RFP Respondent may agree in writing.

4. The RFP Respondent has enclosed with its proposal a Certified Check payable to the Town of Wayland in the amount of \$10,000. The RFP Respondent understands and agrees that this Certified Check shall be (a) deposited by the Town to general revenues and the \$10,000 amount shall be forfeited to the Town by the RFP Respondent in the event the RFP Respondent receives the Notice of Award for the Project from the Town but fails or refuses to execute the required Land Disposition Agreement and the other documents identified in Section 2 above within 30 days from receipt of the Notice of Award, or (b) deposited by the Town and applied toward the required deposit under Section 2.2 of the Land Disposition Agreement in the event the RFP Respondent receives the Notice of Award for the Project from the Town and timely executes the required Land Disposition Agreement and the other documents identified in Section 2 above, or (c) returned to the RFP Respondent in the event the Town rejects all proposals or rejects the RFP Respondent's Proposal.

Signature

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Name of Person Signing

Title

Name of Business

Address

Date

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EXHIBIT 1.2

**Price Summary Form, Project Pro Forma, and
Statement of Estimated Tax Revenue**

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EXHIBIT 1.2

**PRICE SUMMARY FORM, PROJECT PRO FORMA, AND
STATEMENT OF ESTIMATED TAX REVENUES**

Disposition of Municipal Real Estate – River's Edge Property

TOWN OF WAYLAND

Town Building

41 Cochituate Road

Wayland, Massachusetts 01778

Name of RFP Respondent: _____

PURCHASE PRICE – BASE CASE

The RFP Respondent (as Buyer) agrees to pay to the Town of Wayland (as Seller) the following purchase price for the purchase of the Property identified in the RFP ("Purchase Price"):¹²

Base Case	Purchase Price
Base Case Purchase Price	

Under the Base Case, the RFP Respondent shall purchase the Property and be solely responsible for all costs and expenses of the Project including without limitation all costs and expenses for the RFP Respondent to undertake and complete the Demolition Work concerning the former Wayland/Sudbury Septage Facility, to design and construct the Water Main Extension to connect the Project to the public water supply, and to design and construct the On-Site Package Treatment Plant. The RFP Respondent's contractor's or engineering estimate of its costs and expenses for each of these three items is as follows (each an "Estimate"):

Item	Estimate
Demolition Work concerning the former Wayland/Sudbury Septage Facility (Contractor's Estimate)	
Water Main Extension (Engineering Estimate)	
On-Site Package Treatment Plant (Engineering Estimate)	

Under the Base Case, in addition to the Purchase Price, the RFP Respondent agrees to pay to the Town:

¹² Capitalized terms are defined below or are defined in the RFP.

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- A. The difference (if greater than \$0.00) between (i) the above Estimate of the costs and expenses for the Demolition Work concerning the former the Wayland/Sudbury Septage Facility and (ii) the actual costs and expenses incurred for the Demolition Work concerning the former the Wayland/Sudbury Septage Facility accounted for in accordance with RFP Section E.3;
- B. All applicable and lawful taxes, betterments, assessments, connection fees and annual use rates (*i.e.* for public water) assessed by the Town to the Property in accordance with Massachusetts law; and
- C. All closing costs and other charges to be assessed to the Buyer in accordance with the Land Disposition Agreement to be executed with the Town and the RFP Respondent.

Attached hereto as Addendum 1 is the RFP Respondent's Pro Forma for the Project (Base Case). [Please complete in the form attached].

Attached hereto as Addendum 2 is the RFP Respondent's Statement of Estimated Tax Revenues (Base Case). [Please complete in the form attached].

ALTERNATIVES – AT TOWN'S OPTION

In an effort to expedite the Project and assist its connection to public water and public sewer, the RFP identifies three alternatives to the Base Case, each contingent on State funding being provided to the Town and each at the Town's sole and exclusive option. The RFP Respondent must identify its proposed Purchase Price for the Property for each of the three alternatives as follows:

1. Purchase Price – Alternative 1 (As to Public Water):

Alternative 1 is the same as the Base Case except that, at Town's sole and exclusive option and contingent on State funding, the Town may enter into a separate agreement with the RFP Respondent whereby the Town (rather than the RFP Respondent) will design and construct the Water Main Extension.

Alternative	Purchase Price
Alternative 1 Purchase Price	

2. Purchase Price – Alternative 2 (As to Public Sewer):

Alternative 2 is the same as the Base Case except that, in lieu of the RFP Respondent constructing the On-Site Package Treatment Plant, at the Town's sole and exclusive option and subject to a separate agreement among the Town, the RFP Respondent and the Wayland Wastewater Management District Commission established pursuant to Chapter 461 of the

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Acts of 1996 as amended by Chapter 374 of the Acts of 2006 ("WWMDC"), (a) the Town or WWMDC will design and construct the Sewer Extension to connect the Property to and from the Municipal Wastewater Facility; (b) the Property shall be conveyed subject to the Reserved Leaching Field Easement for the benefit of the Town and WWMDC; (c) subject to applicable procurement requirements and contingent on State funding, the Town, WWMDC and/or the RFP Respondent shall construct the Reserved Easement Improvements to the Town's or WWMDC's specifications within the Reserved Leaching Field Easement Area, and (d) the RFP Respondent shall pay to the Town or the WWMDC as applicable all lawful sewer betterments, assessments, connection fees and annual use rates for connection to and use of the public sewer.

Alternative	Purchase Price
Alternative 2 Purchase Price	

3. Purchase Price – Alternative 3 (As to Public Water and Public Sewer):

Alternative 3 combines Alternatives 1 and 2. Alternative 3 is at the Town's sole and exclusive option, contingent on State funding, and subject to the separate agreements referenced in Alternatives 1 and 2.

Alternative	Purchase Price
Alternative 3 Purchase Price	

AUTHORIZED SIGNATURE

This Proposal will remain subject to acceptance by the Town of Wayland for 180 days after the date of submission of proposals or for such additional time as the Town and the RFP Respondent may agree in writing.

Signature

Name of Person Signing

Title

Date

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**ADDENDUM 1 TO PRICE SUMMARY FORM:
PROJECT PRO FORMA**

Name of RFP Respondent: _____

**OPERATING PRO FORMA
FIRST FULL OPERATING YEAR:**

Project Revenues						
Market Units						
# Units	Type	Avg Size	Total SF	Mo Rent	Rent psf/yr	Annual Revenues
	Studio			\$	\$	\$
	1-BR			\$	\$	\$
	2-BR			\$	\$	\$
	3-BR			\$	\$	\$
				<i>Average</i>		
				\$	\$	\$
Affordable Units						
# Units	Type	Avg Size	Total SF	Mo Rent	Rent psf/yr	Annual Revenues
	Studio			\$	\$	\$
	1-BR			\$	\$	\$
	2-BR			\$	\$	\$
	3-BR			\$	\$	\$
				<i>Average</i>		
				\$	\$	\$
Total Market + Affordable Units						
				<i>Average</i>		
				\$	\$	\$
Plus: Miscellaneous Income (tenant fees)						\$
Gross Revenues						\$
Less: 5% vacancy						\$
Effective Gross Income					Revenue/unit	
					\$	

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Operating Expenses		
	Per unit cost	Expenses
Administrative	\$	\$
Marketing & Leasing	\$	\$
Repairs & Maintenance	\$	\$
Payroll (Maintenance & Manager Staff)	\$	\$
Property Management Fee	\$	\$
Insurance	\$	\$
Utilities	\$	\$
Other:	\$	\$
Real Estate Taxes (see attached)	\$	\$
Total Expenses	\$	\$
Expenses as % of Effective Gross Income		%

	Per unit	Total
NET OPERATING INCOME	\$	\$

	Per unit	Total
PROPERTY VALUE 5.0% cap rate	\$	\$

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

ADDENDUM 2 TO PRICE SUMMARY FORM:

STATEMENT OF ESTIMATED TAX REVENUES (BASE CASE)

Name of RFP Respondent: _____

Project Revenues	
Gross Revenues (from Pro Forma)	\$
Less: 5% vacancy	\$
Effective Gross Income	\$

Operating Expenses	30%	\$
---------------------------	-----	----

NET OPERATING INCOME	\$
-----------------------------	----

Estimated Property Assessment	8.0% cap rate	\$
--------------------------------------	---------------	----

Estimated Taxes based on FY2015 Tax Rate	\$18.35	\$
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RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 1.3
PROJECT SCHEDULE

River's Edge, Wayland MA

Name of RFP Respondent: _____

The RFP Respondent proposes to commence and complete the Project in accordance with the following critical path time schedule:

Note: Town's required dates are included in the list below. The RFP Respondent can reorder and add to the steps below as it considers appropriate. The RFP Respondent must include proposed milestones for all items below.

- The RFP Respondent will execute the Land Disposition Agreement within 30 days from the Notice of Award from the Town.
- The RFP Respondent will complete all Due Diligence Investigations within 60 days after the execution of the Land Disposition Agreement.
- The RFP Respondent will file for all necessary governmental permits and approvals within ___ days after the execution of the Land Disposition Agreement.
- The RFP Respondent will use its best efforts to obtain all necessary governmental permits and approvals within ___ days after the execution of the Land Disposition Agreement (not including any time necessary to resolve any third party appeals).
- The RFP Respondent will secure any necessary financing for the Project within ___ days after the execution of the Land Disposition Agreement.
- The RFP Respondent will close on the acquisition of the Property within ___ days after the issuance of a Building Permit for the Project.
- The RFP Respondent will commence construction within **ninety (90) days** after Closing.
- The Successful RFP Respondent shall complete the construction of the Project not later than **eighteen (18) months** after Closing.

Absent delays caused by third party appeals or other matters beyond the reasonable control of the RFP Respondent, the RFP Respondent anticipates that the critical path time schedule from

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execution of the Land Disposition Agreement until completion of construction will be _____ months.

The RFP Respondent proposes to track the critical path time schedule for the Project using _____ software.

Optional: The RFP Respondent has attached hereto the initial proposed critical path time schedule for the Project prepared in the format of that software program.

Signature

Name of Person Signing

Title

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 1.4

CERTIFICATE OF NON-COLLUSION

The undersigned certifies under penalties of perjury that the bid or proposal submitted relative to this project is in all respects bona fide, fair and made without collusion or fraud with any other person, joint venture, partnership, corporation or other business or legal entity.

Signature

Name (Person signing Proposal)

(Company)

(Date)

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EXHIBIT 1.5

Disclosure of Beneficial Interest Form

**DISCLOSURE STATEMENT FOR TRANSACTION WITH A PUBLIC AGENCY
CONCERNING REAL PROPERTY M.G.L. c. 7C, s. 38 (formerly M.G.L. c. 7, s. 40J)**

The undersigned party to a real property transaction with a public agency hereby discloses and certifies, under pains and penalties of perjury, the following information as required by law:

- (1) REAL PROPERTY:
- (2) TYPE OF TRANSACTION, AGREEMENT, or DOCUMENT:
- (3) PUBLIC AGENCY PARTICIPATING in TRANSACTION:
- (4) DISCLOSING PARTY'S NAME AND TYPE OF ENTITY (IF NOT AN INDIVIDUAL):
- (5) ROLE OF DISCLOSING PARTY (Check appropriate role):

_____ <i>Lessor/Landlord</i>	_____ <i>Lessee/Tenant</i>
_____ <i>Seller/Grantor</i>	_____ <i>Buyer/Grantee</i>
_____ Other (Please describe): _____	

- (6) The names and addresses of all persons and individuals who have or will have a direct or indirect beneficial interest in the real property excluding only 1) a stockholder of a corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation or 2) an owner of a time share that has an interest in a leasehold condominium meeting all of the conditions specified in M.G.L. c. 7C, s. 38, are hereby disclosed as follows (attach additional pages if necessary):

NAME

RESIDENCE

- (7) None of the above- named persons is an employee of the Division of Capital Asset Management and Maintenance or an official elected to public office in the Commonwealth of Massachusetts, except as listed below (insert "none" if none):

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- (8) The individual signing this statement on behalf of the above-named party acknowledges that he/she has read the following provisions of Chapter 7C, Section 38 (formerly Chapter 7, Section 40J) of the General Laws of Massachusetts:

No agreement to rent or to sell real property to or to rent or purchase real property from a public agency, and no renewal or extension of such agreement, shall be valid and no payment shall be made to the lessor or seller of such property unless a statement, signed, under the penalties of perjury, has been filed by the lessor, lessee, seller or purchaser, and in the case of a corporation by a duly authorized officer thereof giving the true names and addresses of all persons who have or will have a direct or indirect beneficial interest in said property with the commissioner of capital asset management and maintenance. The provisions of this section shall not apply to any stockholder of a corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation. In the case of an agreement to rent property from a public agency where the lessee's interest is held by the organization of unit owners of a leasehold condominium created under chapter one hundred and eighty-three A, and time-shares are created in the leasehold condominium under chapter one hundred and eighty-three B, the provisions of this section shall not apply to an owner of a time-share in the leasehold condominium who (i) acquires the time-share on or after a bona fide arms length transfer of such time-share made after the rental agreement with the public agency is executed and (ii) who holds less than three percent of the votes entitled to vote at the annual meeting of such organization of unit owners. A disclosure statement shall also be made in writing, under penalty of perjury, during the term of a rental agreement in case of any change of interest in such property, as provided for above, within thirty days of such change.

Any official elected to public office in the commonwealth, or any employee of the division of capital asset management and maintenance disclosing beneficial interest in real property pursuant to this section, shall identify his position as part of the disclosure statement. The commissioner shall notify the state ethics commission of such names, and shall make copies of any and all disclosure statements received available to the state ethics commission upon request.

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The commissioner shall keep a copy of each disclosure statement received available for public inspection during regular business hours.

- (9) This Disclosure Statement is hereby signed under penalties of perjury.

PRINT NAME OF DISCLOSING PARTY (from section 4, above)

AUTHORIZED SIGNATURE of DISCLOSING PARTY DATE (MM/ DD/ YYYY)

PRINT NAME & TITLE of AUTHORIZED SIGNER

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 1.6

Non-Delinquency Statement Required by M.G.L. c. 60, § 77B

I/We, the undersigned, under the pains and penalties of perjury, state that neither I/we nor any person who would gain equity in the Property that is the subject of this RFP Response has ever been convicted of a crime involving the willful and malicious setting of a fire or of a crime involving the aiding, counseling or procuring of a willful and malicious setting of a fire, or of a crime involving the fraudulent filing of a claim for fire insurance; or is delinquent in the payment of real estate taxes to the Town of Wayland, or if delinquent, that a pending application for abatement of such tax, or a pending petition before the appellate tax board or the county commissioners has been filed in good faith.

Signature

Name of Person Signing

Title

Name of Business

Address

Federal Identification Number or Social Security Number

Note: If there is to be more than one grantee of the deed for the Property, each grantee must file such statement, and no such deed shall be valid unless it contains a recitation that the board or officer granting the deed has received such statement. See M.G.L. c. 60, § 77B.

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EXHIBIT 1.7

**Commitment for Payment in Lieu of Taxes Calculated
In Accordance with M.G.L. C. 44, § 63A**

I/We, the undersigned, acknowledge that General Laws Chapter 44, Section 63A, provides as follows:

Whenever in any fiscal year a town, which term, as used in this section, shall include a city, shall sell any real estate, the board or officer executing the deed therefor in the name and behalf of the town shall, as a condition precedent to the power to deliver such deed, receive from the grantee as a payment in lieu of taxes allocable to the days ensuing in said fiscal year after the date of such deed, a sum which shall be equal to such portion of a pro forma tax computed as hereinafter provided as would be allocable to the days aforesaid if such pro forma tax were apportioned pro rata according to the number of days in such fiscal year; provided, however, that whenever the said real estate shall be sold between January second and June thirtieth of the fiscal year, the town shall also receive an additional amount equal to the entire pro forma tax computed as hereinafter provided and allocable as a payment in lieu of taxes for the next succeeding fiscal year. Such pro forma tax shall be computed by applying the town's tax rate for the fiscal year of the sale, or, if such rate is not known, the town's tax rate for the fiscal year next preceding that of the sale, to the sale price after crediting any exemption to which, if the deed had been executed and delivered on January first of such next preceding fiscal year, the grantee would have been entitled under section five of chapter fifty-nine. A recitation in the deed that there has been full compliance with the provisions of this section shall be conclusive evidence of such fact. Sums received under this section shall not be subject to section sixty-three of this chapter or to section forty-three of chapter sixty, but shall be credited as general funds of the town.

If awarded the contract for the disposition of the Property, I/we commit to make at the closing the required Payment in Lieu of Taxes calculated in accordance with General Laws Chapter 44, Section 63A.

Signature

Name of Person Signing

Title

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 1.8

CERTIFICATION AS TO PAYMENT OF TAXES

Pursuant to G.L. c.62C, § 49A, I, _____, hereby certify under the pains and penalties of perjury that _____ (RFP Respondent) has complied with all laws of the Commonwealth of Massachusetts relating to the payment of taxes and has filed all state tax returns and paid all State taxes required under law.

Date

Signature of Authorized
Representative of RFP Respondent

Federal ID Number of Contractor

Title

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 1.9

EVIDENCE OF AUTHORIZATION/CORPORATE RESOLUTION

(to be filed if Contractor is a Corporation)

I, _____, certify that I am the duly qualified Secretary of

_____ and I further certify

(Name of Corporation)

that a meeting of the Directors of said Corporation duly called and held on

_____, at which all (or a quorum) of the Directors were present and

voting, _____, holding the position of _____,

was duly authorized to execute on behalf of the Corporation the Proposal Form, Price Summary Form, Land Disposition Agreement, and related Forms, Contracts, and Agreements pertaining to RFP # 15-24 for the River's Edge Property, Wayland, MA.

I further certify that the above authority is still in effect and has not changed or modified in any respect.

By: _____
(Secretary of Corporation)

A True Copy:

Attest: _____
(Notary Public)

My Commission Expires: _____

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 1.10

**RFP Respondent's Demonstration of Compliance with RFP's
Comparative Evaluation Criteria**

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

Exhibit 1.10

RFP Respondent's Demonstration of Compliance with RFP's Comparative Evaluation Criteria

Name of RFP Respondent: _____

Instructions: Complete middle column. Attach supporting information as needed. Leave Rating column blank

<u>Comparable Evaluation Criteria</u> <u>Comparable Experience & Financial Strength</u>	<u>Respondent's Demonstration of Compliance</u>	<u>Rating</u>
<ul style="list-style-type: none"> • A Highly Advantageous rating will be given to a proposal that in the judgment of the evaluators identifies a highly qualified RFP Respondent and highly experienced Project Team (including developer, designers, engineers, builder) with (a) extensive experience with comparable residential and rental projects, (b) an exceptional record of successfully completing similar residential and rental projects on schedule and within budget, and (c) top caliber principals and senior staff assigned to the Project Team based on the resumes and references provided and (d) exceptional financial strength, committed financial partners and demonstrated capacity to undertake and complete the Project. • An Advantageous rating will be given to a proposal that in the judgment of the evaluators identifies a qualified RFP Respondent and experienced Project Team with (a) relevant experience with comparable residential and rental projects, (b) a record of successfully completing 		

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<u>Comparative Evaluation Criteria</u>	<u>Respondent's Demonstration of Compliance</u>	<u>Rating</u>
<p>residential and rental projects, and (c) experienced personnel staff assigned to the Project based on the resumes and references provided and (d) reasonable and demonstrated financial strength to undertake the Project.</p> <ul style="list-style-type: none"> • A Passable/Not Advantageous rating will be given to a proposal that in the judgment of the evaluators identifies merely a passable RFP Respondent, Project Team, financial strength and capacity to undertake and complete the Project (above Unacceptable and below Advantageous). • An Unacceptable rating will be given to a proposal that in the judgment of the evaluators fails to identify a qualified RFP Respondent, experienced Project Team, reasonable and demonstrated financial strength and capacity to undertake the Project. 		
<p><u>Quality of Design and Construction.</u></p> <p>Each of the categories (1) Site Planning and Design, (2) Architectural Design, (3) Quality of Materials and (4) Design of the Project and as a gateway in relationship to the larger Wayland community shall each be evaluated with the qualitative review criteria as follows:</p> <ul style="list-style-type: none"> • A Highly Advantageous rating will be given to a proposal that in the judgment of the evaluators meets and exceeds the qualitative design requirements of the RFP; presents 		

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<u>Comparative Evaluation Criteria</u>	<u>Respondent's Demonstration of Compliance</u>	<u>Rating</u>
<p>superior merit in terms of architectural features, unit designs and amenities, and the quality of proposed construction; and carefully integrates the development of the Property as a gateway feature to the Town.</p> <ul style="list-style-type: none"> • An Advantageous rating will be given to a proposal that in the judgment of the evaluators complies with the design requirements of the RFP and presents an acceptable quality of building and unit design and construction. • A Passable/Not Advantageous rating will be given to a proposal that in the judgment of the evaluators identifies merely passable design and quality (above Unacceptable and below Advantageous). • An Unacceptable rating will be given to a proposal that in the judgment of the evaluators fails to meet the design requirements of the RFP and presents an unacceptable design or quality of buildings, units, amenities, layout or construction 		
<p><u>Quality of Community</u></p> <p>Each of the categories (1) Unit Amenities, Planning and Design, (2) Common Area Amenities, Planning and Design and (3) Community Planning (including the Project in its relationship to the larger Wayland community) shall each be evaluated with the qualitative review criteria as follows:</p>		

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

Comparative Evaluation Criteria	Respondent's Demonstration of Compliance	Rating
<ul style="list-style-type: none"> ● A Highly Advantageous rating will be given to a proposal that in the judgment of the evaluators meets and exceeds the qualitative design requirements of the RFP; presents superior merit in terms of unit designs and amenities, common area design and amenities, and quality of community for residents, internally and as part of the larger Wayland community. ● An Advantageous rating will be given to a proposal that in the judgment of the evaluators complies with the design requirements of the RFP and presents an acceptable quality of unit, common area and community amenities. ● A Passable/Not Advantageous rating will be given to a proposal that in the judgment of the evaluators identifies merely passable design and quality of community (above Unacceptable and below Advantageous). ● An Unacceptable rating will be given to a proposal that in the judgment of the evaluators fails to meet the design requirements of the RFP and presents an unacceptable design or quality of units, amenities, or community. 		

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

Comparative Evaluation Criteria	Respondent's Demonstration of Compliance	Rating
<p><u>Feasibility of Proposed Project.</u></p> <ul style="list-style-type: none"> • A Highly Advantageous rating will be given to a proposal that in the judgment of the evaluators is highly feasible based on an analysis of the pro forma, the demonstrated ability to resolve financial, environmental and permitting issues as they may arise, the likely acceptability of the proposed Project to regulators, lenders and funders, and the likelihood of providing or obtaining proposed financing for Project costs and expenses, and the reasonableness of the pro forma. • An Advantageous rating will be given to a proposal that in the judgment of the evaluators is feasible based on an analysis of these factors. • A Passable/Not Advantageous rating will be given to a proposal that in the judgment of the evaluators may or may not be feasible based on an analysis of these factors (above Unacceptable and below Advantageous). • An Unacceptable rating will be given to a proposal that in the judgment of the evaluators is not feasible based on an analysis of these factors. 		

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<u>Comparative Evaluation Criteria</u>	<u>Respondent's Demonstration of Compliance</u>	<u>Rating</u>
<p><u>Range of Housing Opportunities.</u></p> <ul style="list-style-type: none"> • A Highly Advantageous rating will be given to a proposal that in the judgment of the evaluators will meet or exceeds the affordability and senior housing requirements established by the RFP, the REHOD (Exhibit 3.1) and the River's Edge Design Guidelines (Exhibit 5.2) (collectively the "Affordability and Senior Housing Requirements") and will result in a higher number in the range of 150-190 new rental housing units which are counted toward the Town's Subsidized Housing Inventory. • An Advantageous rating will be given to a proposal that in the judgment of the evaluators will meet the Affordability and Senior Housing Requirements, and will result in a lower number in the range of 150-190 new rental housing units which are counted toward the Town's Subsidized Housing Inventory. • A Passable/Not Advantageous rating will be given to a proposal that in the judgment of the evaluators may result in fewer than 150 new rental housing units which are counted toward the Town's Subsidized Housing Inventory (above Unacceptable and below Advantageous). • An Unacceptable rating will be given to a proposal that in the judgment of the evaluators fails to meet the Affordability and Senior Housing Requirements and/or which fails to identify a proven strategy for 100% of the 		

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Comparative Evaluation Criteria	Respondent's Demonstration of Compliance	Rating
<p>new rental housing units to be counted toward the Town's Subsidized Housing Inventory.</p> <p><u>Proposed Development Schedule.</u></p> <ul style="list-style-type: none"> ● A Highly Advantageous rating will be given to a proposal that in the judgment of the evaluators incorporates an expedited and achievable critical path time schedule for the Project. ● An Advantageous rating will be given to a proposal that in the judgment of the evaluators incorporates a prompt and feasible critical path time schedule for the Project. ● A Passable/Not Advantageous rating will be given to a proposal that in the judgment of the evaluators incorporates a protracted but feasible critical path time schedule for the Project. ● An Unacceptable rating will be given to a proposal that in the judgment of the evaluators incorporates a dilatory or infeasible critical path time schedule for the Project. <p>All other things being equal, a Project with a shorter, more achievable development schedule will receive a more advantageous rating on this criterion than a Project with a longer, more questionable development schedule.</p>		

EXHIBIT 2.1

Form of Land Disposition Agreement for the Property

Exhibit 2.1
LAND DISPOSITION
AGREEMENT

DRAFT 2/3/15

LAND DISPOSITION AGREEMENT

FOR THE

SALE AND REDEVELOPMENT OF LAND

BETWEEN

TOWN OF WAYLAND

AND

[_____]

LAND DISPOSITION AGREEMENT

This Land Disposition Agreement ("Agreement") is entered into this _____ day _____ of 201__ ("Effective Date") by and between the Town of Wayland, acting by and through its Board of Selectmen, (the "Seller"), a Massachusetts municipal corporation, having an address of 41 Cochituate Road, Wayland, MA 01778, AND [_____] (the "Buyer"), a [_____] having its business address [_____]. The Seller and the Buyer may hereinafter be collectively referred to as the "Parties" or individually as a "Party."

RECITALS

A. WHEREAS, Seller acquired the land consisting of approximately [_____] acres, commonly known as 484-490 Boston Post Road in the Town of Wayland, Middlesex County, Commonwealth of Massachusetts, shown as [_____] (the "Premises") on that certain Approval Not Required Plan entitled "_____" prepared by [_____] , dated [_____] , endorsed by the Wayland Planning Board on [_____] , and recorded with the Middlesex South Registry of Deeds (the "Registry") as Plan No. [_____] of [_____] (the "ANR Plan"), a copy of which plan is attached hereto as Exhibit A and incorporated herein by reference, by Order of Taking dated January 11, 1971 and recorded with the Registry in Book 11943, Page 420, Order of Taking dated May 15, 1978 and recorded with the Registry in Book 13443, Page 177, and Order of Taking dated November 15, 1965 and recorded with the Registry in Book 11003, Page 389;

B. WHEREAS, Seller issued a Request for Proposals for the disposition and development of the Premises for affordable housing purposes (the "RFP"), pursuant to M.G.L. c. 30B, which specified certain uses, restrictions and other requirements in connection with the sale and development of the Premises;

C. WHEREAS, Buyer's proposal for the acquisition of the Premises for Buyer's Project (as such term is hereinafter defined) was accepted by Seller;

D. WHEREAS, Buyer and Seller wish to enter into this Agreement to set forth the terms and conditions under which Seller will sell and convey and Buyer will acquire and develop the Premises, and the covenants of Buyer, for itself, its successors and assigns, to develop and maintain the Premises for the rental, senior and affordable housing purposes set forth herein.

NOW, THEREFORE, for the consideration hereinafter set forth, the parties hereto do mutually agree as follows:

AGREEMENT

ARTICLE I

PURCHASE AND DEVELOPMENT OF THE PROPERTY

1.1 Premises.

(a) The property to be conveyed by the Seller to the Buyer hereunder consists of the Premises.

(b) In addition to the Premises, Seller shall convey at the Closing (as such term is defined herein) a non-exclusive Access Easement for access to the Premises over that certain land shown as "Access Easement Area" on the ANR Plan (the "Access Road").

(c) The Premises shall be conveyed subject to, and together with: (i) all buildings, structures and improvements located thereon, if any; (ii) all easements, restrictions, agreements, and other documents of record, insofar as the same may be in force and applicable to the Premises; (iii) Seller's Reserved Easements as set forth in Section 6.3 herein; and (iv) those matters identified in Section 4.2 below.

1.2 Agreement to Sell and Purchase.

Subject to the terms and provisions of this Agreement, the Seller agrees to sell the Premises to the Buyer, and the Buyer agrees to purchase and accept the Premises from the Seller. The Seller shall convey the Premises to the Buyer as set forth in Section 4.1.

1.3 Buyer's Project.

The Buyer's development and construction of the Premises (the "Buyer's Project") shall consist of the permitting, design, and construction of _____ [number of units to be inserted based on response to RFP, but in all circumstances between 150-190 units] new rental housing units developed under the Commonwealth of Massachusetts Executive Office of Housing and Economic Development, Department of Housing and Community Development's ("DHCD") Local Initiative Program as Local Action Units, including 25% of such new rental housing units being Affordable Housing Units (as such term is defined herein) and a minimum of 25% of such new rental housing units being Age-Restricted (senior) Housing Units, and associated improvements on the Premises substantially as shown and described on Buyer's schematic design drawings submitted with Buyer's response to the RFP (the "RFP Response"), which include conceptual site plans, architectural drawings and building elevations attached hereto as Exhibit B (collectively, the "Schematic Design Plans").

Except as otherwise expressly set forth herein, the Buyer shall be solely responsible for awarding and administering all construction contracts for the construction of the Buyer's Project, and the Seller shall have no obligation to award or administer any such construction contract or any liability thereunder. The Seller shall not be responsible for making any payments to any contractors, subcontractors, agents, consultants, employees or suppliers of the Buyer.

The Buyer shall observe the requirements of all governmental approvals with respect to the construction of the Buyer's Project, and nothing in this Agreement shall be construed to alter, in any respect, any of the requirements contained in any governmental approvals with respect to the construction of the Buyer's Project, including without limitation, any and all approvals required by the Town of Wayland Planning Board (the "Planning Board"), Town of Wayland Conservation Commission (the "Conservation Commission") and the Town of Wayland Board of Health (the "Board of Health").

The Buyer shall perform and complete, or cause the performance and completion of, all of its obligations hereunder and shall conduct all operations with respect to the construction of Buyer's Project in a good, workmanlike and commercially reasonable manner, in compliance with good engineering and construction practices, using all new or suitable recycled materials, and in conformance with the standard of diligence and care normally employed by a duly qualified persons in the performance of comparable work, in accordance with generally accepted practices appropriate to the activities undertaken in the greater Boston area, and in accordance with the requirements of all applicable laws, ordinances, codes, orders, rules and regulations of all governmental authorities, agencies or departments with jurisdiction. The Buyer shall take all reasonably necessary measures to (i) minimize dust, noise and construction traffic, (ii) minimize any damage, disruption or inconvenience caused by the Buyer's Project, and (iii) make adequate provision for the safety and convenience of all persons affected thereby and to properly police same. Dust, noise and other effects of such work shall be controlled using commercially accepted methods customarily utilized in order to control deleterious effects associated with construction projects in a populated or developed area. The Buyer shall employ at all times adequate staff or consultants with the requisite experience necessary to administer and coordinate all work related to the design, engineering, acquisition, construction, installation and development of the Buyer's Project, including without limitation a licensed Massachusetts Construction Supervisor to supervise all construction on Buyer's Project and a Massachusetts Licensed Site Professional to supervise all Environmental Remediation and Environmental Mitigation on Buyer's Project (as such terms are hereinafter defined).

The Buyer shall be solely responsible for all costs and expenses of (a) the design, permitting and construction of the new buildings and improvements, the installation of all utilities and site work required for the proposed housing use, and any other measures necessary to construct and occupy the Buyer's Project in compliance with this Agreement and all applicable federal, state and local laws, ordinances, rules, regulations and codes for the proposed use, (b) all products, materials, tools, equipment, fixtures, relating thereto and (c) all contractors, subcontractors, architects, engineers, project managers, construction managers, attorneys, consultants relating thereto.

1.4 Further Consideration for Sale and Purchase of Premises.

The Buyer acknowledges that the Seller would not agree to sell the Premises to the Buyer except for: (a) the commitment of the Buyer to undertake and complete the construction of the Buyer's Project in accordance with the requirements set forth herein, (b) the commitment of the Buyer to restrict the land in perpetuity for the uses set forth herein, and (c) the Buyer's existing commitment for the financing of the Buyer's purchase.

1.5 Marketing.

Prior to Closing (as such term is defined herein),] Buyer shall not disseminate any marketing or similar materials, regardless of form or media, regarding the Seller without the prior written consent of the Seller.

1.6 No Seller's Development Obligations.

The Seller shall have no obligation for the preparation or development of the Premises for construction of the Buyer's Project.

ARTICLE II

PURCHASE PRICE AND DEPOSIT

2.1 Purchase Price

The "Purchase Price" for the Premises is _____ (\$_____). [To be determined based on the RFP Response, Base Case or applicable Alternative as described in Section B.9 of the RFP.]

The Purchase Price, less the Deposit (as defined below), shall be paid by the Buyer to the Seller at the Time of Closing (as hereinafter defined) by certified or bank check or checks drawn upon a Boston clearinghouse bank, made payable to the Seller, or to such other payee as the Seller may designate, without endorsement, or by federal wire transfer of immediately available federal funds in accordance with the Seller's instructions.

2.2 Deposit

The Buyer has made an initial non-refundable deposit with the Seller in the amount of Ten Thousand and 00/100 Dollars (\$10,000.00) (the "Initial Deposit") and, upon Buyer's execution of this Agreement, Buyer will deposit with the Seller an additional _____ (\$_____) (the "Additional Deposit," together with the Initial Deposit, the "Deposit"). [Additional Deposit shall equal 5% of Purchase Price less \$10,000 from Initial Deposit. Total amount of Deposit shall be equal to five (5) percent of the Purchase Price.]

The Deposit shall be held by [Anderson & Kreiger LLP][Buyer's title company] (the "Escrow Agent") in an interest bearing account subject to the terms of this Agreement and the terms of the Escrow Agreement attached hereto as Exhibit C and shall be duly accounted for at the time for performance of this Agreement as hereinafter defined. If this Agreement is consummated as contemplated hereunder, the Deposit (including any interest earned thereon) shall be retained by the Seller and credited against the Purchase Price at the time of the Closing. If the Closing does not occur, then interest earned on the Deposit shall be paid to the Party entitled to retain the Deposit pursuant to the terms of this Agreement.

ARTICLE III

BUYERS PRE-CONVEYANCE ACTIVITIES

3.1 Due Diligence.

Buyer shall have a period of sixty (60) days from the Effective Date to perform its due diligence of the Premises (the "Due Diligence Period"). During the Due Diligence Period, Buyer, at its sole cost and expense and subject to the terms and conditions of the Right of Entry and License Agreement between the Parties dated as of the date hereof (the "Entry Agreement"), a copy of which Entry Agreement is attached hereto as Exhibit D, may conduct environmental, engineering, architectural, surveying and similar on-site investigation and testing desired by Buyer with respect to the Premises.

The terms of the Entry Agreement are incorporated herein by reference and Buyer's obligations thereunder shall survive the Closing, delivery of the Deed or the termination of this Agreement. A default under the Entry Agreement beyond any applicable cure period shall be deemed to be a default under this Agreement, and a default under this Agreement beyond any applicable cure period shall be deemed to be a default under the Entry Agreement.

Buyer has received, reviewed and is familiar with those certain reports commissioned by the Seller set forth on Exhibit E attached hereto and made a part hereof (collectively, the "Property Information"). Seller makes no representation or warranty of any kind, nature or description whatsoever with respect to the completeness or accuracy of the information contained in the Property Information.

3.2 Condition of Land to be Conveyed.

The Seller and Buyer covenant and agree that the Premises shall be conveyed in "as is" condition, free and clear of all tenants and occupants, but subject to the Permitted Encumbrances (as such term is defined herein). Buyer shall be responsible, at Buyer's sole cost and expense for the demolition, removal, recycling and/or proper disposal of all buildings, structures, improvements, foundations, pipes, tanks, fixtures, equipment and demolition debris on or under the Premises (the "Demolition Work").

It is acknowledged between the parties that Buyer has factored the cost of the Demolition Work into the Purchase Price and has estimated said cost to be \$_____ (the "Demolition Cost Estimate"). The Parties agree that to the extent that Buyer's actual cost of the Demolition Work is less than the Demolition Cost Estimate, then the Buyer shall reimburse the Seller the amount for the difference between (i) the Demolition Cost Estimate and (ii) the actual costs of the Demolition Work. Said amount shall be paid directly to the Seller within forty-five (45) days after the completion of the Demolition Work, and Buyer shall include with said payment a detailed accounting of the costs of the Demolition Work. If the actual costs of the Demolition Work are more than estimated, then no adjustment shall be made.

The provisions of this Section 3.2 shall survive the Closing and the delivery of the Deed.

3.3 Environmental Matters.

Buyer shall be responsible for the assessment, containment, removal and/or remediation of all pre-existing releases of oil and hazardous materials at or from the Premises in accordance with General Laws Chapter 21E and the Massachusetts Contingency Plan to either a Permanent Solution with No Conditions or a Permanent Solution with such Conditions as are acceptable to the Town of Wayland Board of Selectmen (the "Environmental Remediation"). Without limiting the foregoing, Buyer shall be responsible for (i) designing, constructing and operating Buyer's Project in such a way to evaluate and eliminate the risk of methane gas or other vapor intrusion from the Sudbury landfill or otherwise into the residential buildings and units to be constructed by Buyer on the Premises as part of Buyer's Project consistent with a Permanent Solution involving No Significant Risk under General Laws Chapter 21E and the Massachusetts Contingency Plan (the "Environmental Mitigation") and (ii) designing, constructing and operating Buyer's Project in such a way to achieve a condition of No Significant Risk to the

Buyer's Project's residents as to other recognized environmental conditions such as arsenic in groundwater (e.g., by prohibiting on-site drinking water wells and irrigation wells, following the Massachusetts Department of Environmental Protection Best Management Practices for any gardening on the Premises, and the like).

Buyer, on behalf of itself and its parents, subsidiaries, affiliates, officers, directors, members, managers, predecessors, successors, contractors, subcontractors, assigns, agents, and representatives shall and hereby does release, defend, indemnify and hold harmless Seller and its boards, commissions, officials, employees, agents and representatives from and against any and all claims, damages, liabilities, losses, penalties, costs, expenses and fees (including without limitation reasonable legal fees and expert fees) arising out of or relating to the condition of the Premises, any release of oil or hazardous materials to, at or from the Premises, the Demolition Work, Buyer's Project, the Environmental Remediation, the Environmental Mitigation, and all other activities necessary, proper or incidental to the development and use of the Premises for Buyer's Project.

The provisions of this Section 3.3 shall survive the Closing and the delivery of the Deed.

3.4 Title Review.

Buyer shall have a period of thirty (30) days from the Effective Date to perform its title review (the "Title Review Period") of the Premises at Buyer's sole cost and expense and to notify the Seller of its objections to any encumbrances or liens, other than the Permitted Encumbrances as defined in Section 4.2 ("Buyer's Title Objections"), by a written notice (the "Title Objections Notice"). If Buyer has not delivered the Title Objections Notice by 5:00 p.m. on the last day of the Title Review Period, Buyer shall be deemed to have waived its objections to all matters of title, other than those first arising after the date of Buyer's title commitment for the Premises (or if the Buyer does not obtain a title commitment, then the date of this Agreement), and shall accept title to the Premises, subject to such matters, at the Closing (as hereinafter defined).

Within ten (10) business days after the Seller's receipt of the Title Objection Notice ("Cure Election Period"), the Seller shall notify Buyer in writing as to whether the Seller elects to use reasonable efforts to cure any or all of Buyer's Title Objections ("Title Cure Notice"). Reasonable efforts shall not require the expenditure of more than [one and one-half percent (1.5%) of the Purchase Price] (\$_____) by Seller (exclusive of the payment of voluntary monetary liens but inclusive of reasonable attorney's fees) (the "Cure Amount"). If the Seller elects not to cure Buyer's Title Objections, Buyer shall have ten (10) days from Buyer's receipt of the Seller's Title Cure Notice to notify the Seller in writing that Buyer elects to proceed or to terminate this Agreement ("Election Notice"). If Buyer elects to proceed or fails to give the Election Notice, Buyer shall be deemed to have waived its objections to all matters of title and shall accept title to the Premises, subject to such matters set forth on the Title Objection Notice, at the time of the Closing.

If the Seller fails to give the Title Cure Notice, the Seller shall be deemed to have elected not to cure Buyer's Title Objections. If Seller elects or is deemed to have elected not to attempt to cure any one or more of Buyer's Title Objections and Buyer has elected to terminate the

Agreement in the Election Notice, this Agreement shall be terminated and the Additional Deposit shall be returned to Buyer without further recourse to either Party, subject to Buyer's obligations under the Entry Agreement.

3.5 Buyer's Objections - Due Diligence. If Buyer, acting in good faith, discovers during its due diligence any new, different, significant and material conditions not disclosed in the Property Information or in the RFP, it may, on or before 5:00 p.m. on the last day of the Due Diligence Period, serve written notice upon the Seller, which notice shall provide a detailed description of the basis for Buyer's objections ("Buyer's Objections"). Upon receipt of notice of Buyer's Objections, the Seller shall have the option, but not the obligation, by providing written notice to Buyer, to either: (i) take any and all action necessary in the Seller's discretion to cure Buyer's Objections within a reasonable period of time after Seller's receipt of notice of Buyer's Objections, which period of time shall be agreed upon by the Parties in writing but shall under no circumstances be shorter than forty-five (45) days or longer than one hundred eighty (180) days (the "Remedial Period"); or (ii) to terminate this Agreement, in which event the Additional Deposit shall be returned to Buyer, and this Agreement shall terminate without further recourse to either Party, subject to Buyer's obligations under the Entry Agreement. In the event of such termination, Buyer shall provide Seller with all reports and data generated as a result of Buyer's due diligence. If Seller elects to cure Buyer's Objections in accordance with this paragraph, the Closing shall automatically be extended to forty-five (45) days from the expiration of the Remedial Period, or such other time period as the Parties may agree to. If at the expiration of the Remedial Period, as the same may be extended, the Seller has not remediated Buyer's Objections to a solution which would not prevent or substantially interfere with Buyer's development, construction, marketing and/or rental of residential housing on the Premises, Buyer, as its sole and exclusive remedy, may terminate this Agreement by sending written notice to the Seller, within five (5) business days of the expiration of the Remedial Period, in which event this Agreement shall terminate and the Additional Deposit (as defined herein), shall be returned to Buyer without further recourse to either Party, subject to Buyer's obligations under the Entry Agreement. In the event of such termination, Buyer shall provide Seller with all reports and data generated as a result of Buyer's due diligence. If Seller does not receive written notice from Buyer of Buyer's intent to terminate this Agreement within five (5) business days of the expiration of the Remedial Period, Buyer shall be deemed to have waived its right to terminate this Agreement under this section and shall be obligated to purchase the Premises subject to all uncured Buyer's Objections in accordance with this Agreement.

3.6 The Seller's ReviewGeneral.

- (i) The Buyer's application for site plan approval to the Planning Board shall contain schematic design drawings, which include conceptual site plans, architectural drawings and building elevations that are substantially similar to the Schematic Design Plans. The Buyer covenants and agrees that it shall not materially alter the Schematic Design Plans during the site plan approval process or otherwise unless required by the Planning Board.
- (ii) In the event that the Schematic Design Plans are materially altered because of a requirement by the Planning Board or by law, the Buyer shall

promptly submit such material changes to the Seller for its review, but not for its approval.

(b) The Buyer acknowledges and agrees that the Schematic Design Plans must be in conformity with (i) the requirements of the Wayland Zoning Bylaw relative to the River's Edge Housing Overlay District, a copy of which is attached hereto as Exhibit F (the "REHOD Requirements"), (ii) the River's Edge Design Guidelines, a copy of which is attached hereto as Exhibit G (the "Design Guidelines") and (iii) Legal Requirements (as such term is hereinafter defined). The Buyer also acknowledges and agrees that the Planning Board may impose conditions on its site plan approval, including without limitation, conditioning its approval on the Buyer's Project conforming to the Design Guidelines irrespective of whether the REHOD Requirements permit or otherwise allow for the imposition of any conditions by the Planning Board.

(c) The Buyer shall provide the Seller with three (3) hard copies and an electronic copy of the Schematic Design Plans (in a form acceptable to the Seller's Engineering Department) approved by the Seller and the Planning Board.

The provisions of this Section 3.6 shall survive the Closing and the delivery of the Deed.

3.7 Project Permitting.

(a) The Buyer shall be solely responsible for applying for and obtaining any and all governmental permits and approvals required by law for the construction of Buyer's Project (the "Approvals"), prior to the Time of Closing (as such term is defined herein). Buyer shall use diligent and good faith efforts to obtain the Approvals for the construction of Buyer's Project by the Time of Closing. In no event will Buyer be deemed to have used diligent efforts to obtain the Approvals unless the Buyer submits completed applications for the Approvals in the timeframes provided in the schedule attached hereto as Exhibit H. If, despite such diligent efforts, the Buyer is unable to obtain final (beyond all appeals and appeal periods) Approvals prior to the Time of Closing, Buyer may elect, in its sole discretion, to (i) proceed to Closing the transaction contemplated herein on the Closing Date or (ii) extend the Time of Closing by three (3) months (the "First Extension Period"). If Buyer elects to extend the Time of Closing, Buyer shall pay to Escrow Agent a nonrefundable additional deposit payment in the amount of [____] [one and one half percent (1 ½%) of the Purchase Price] (the "First Extension Deposit"). If, as of the last day of the First Extension Period, Buyer has still not obtained final Approvals, Buyer shall again have the option to (i) proceed to Closing or (ii) extend the Time of Closing by three (3) additional months (the "Second Extension Period"). If Buyer elects to extend the Time of Closing through the last day of the Second Extension Period, Buyer shall pay to Escrow Agent a nonrefundable additional deposit payment in the amount of [____] [three and one half percent (3 ½%) of the Purchase Price] (the "Second Extension Deposit", together with the First Extension Deposit, the "Extension Deposits"). If after the Second Extension Period the Buyer still has not received its Approvals Buyer can elect to proceed to the Closing. If Buyer does not elect to proceed to the Closing, then (i) it shall be a default of the Buyer under this Agreement and the Seller, in its sole and absolute discretion, shall have the right to

terminate without further recourse to either party and (ii) the Deposit, including the Extension Deposits, shall be paid to Seller by Escrow Agent. If this Agreement is consummated as contemplated hereunder, the Extension Deposits shall be credited against the Purchase Price at the time of the Closing.

(b) If prior to the Closing Date, Buyer has been granted the Approvals, but any of the Approvals have been appealed by a third party pursuant to an administrative appeal process or to a court of competent jurisdiction, Buyer shall have the right to elect to extend the Time of Closing until the Appeal Extension Deadline (as such term is defined herein) without an obligation to pay the Extension Deposits. During any such extension of the Closing Date, Buyer shall (i) diligently prosecute any such appeal until the issuance of a final un-appealed decision by a court of competent jurisdiction, (ii) provide a monthly status update to Seller of the appeal, and, upon Seller's request, provide copies of all court or other filings made by the Buyer or any other party to the appeal, and (iii) deposit with Escrow Agent a nonrefundable additional deposit payment in the amount of \$5,000 for each three month period from the Closing Date until the Appeal Extension Deadline (as such term is hereinafter defined) (each payment, an "Appeal Deposit"). The Appeal Deposit shall be retained by the Seller and credited against the Purchase Price at the time of the Closing. If the Closing has not occurred by the date that is twenty-four (24) months after the Effective Date (the "Appeal Extension Deadline"), irrespective of whether any Approvals are outstanding or still subject to appeal, then it shall be a default of the Buyer under this Agreement and the Seller may terminate this Agreement and retain the Deposit and any Appeal Deposit. Any extension of the Closing Date under this Section 3.7(b) shall run simultaneously with the First Extension Period and Second Extension Period, if applicable, such that the Buyer shall not be permitted any extension periods after the Appeal Extension Deadline.

ARTICLE IV **CONVEYANCE OF THE PREMISES.**

4.1 Closing.

The Seller shall convey the Premises to the Buyer at the offices of the Seller, at 10:00 a.m. on the date that is six (6) months after the Effective Date, unless another date and time is otherwise agreed upon in writing between the parties (such time, as the same may be extended pursuant to this Agreement, being referred to as the "Time of Closing", "Closing" or the "Closing Date").

4.2 Title.

The Premises is to be conveyed by a good and sufficient quitclaim deed (the "Deed") running to the Buyer. The Deed shall convey title to the Premises, subject to the following (the "Permitted Encumbrances"):

(a) Applicable laws, orders and regulations of any federal, state, or local governmental authority, including, without limitation, building, zoning, and environmental laws (the "Legal Requirements");

- (b) All easements, restrictions, agreements, rights of first refusal, repurchase agreements, and other documents of record, insofar as the same may be in force and applicable to the Premises;
- (c) All matters which would be disclosed by a personal inspection or an instrument survey of the Premises;
- (d) All matters created or caused by Buyer;
- (e) A perpetual affordable housing restriction substantially in the form of DHCD's "Local Initiative Program Regulatory Agreement and Declaration of Restrictive Covenants for Rental Project Local Action Units", with such revisions thereto as the Seller, in consultation with DHCD, may approve, which meets the requirements of M.G.L. c. 184 and which shall run with the land and have priority over other encumbrances created by Buyer, including without limitation any mortgage securing the acquisition of the Premises or the construction of Buyer's Project, to ensure that Buyer's Project remains a rental housing development with 25% affordable housing units and a minimum of 25% age-restricted (senior) housing units and that 100% of the units count toward the Town of Wayland's Subsidized Housing Inventory (the "Affordable Housing Restriction");
- (f) The provisions of this Agreement;
- (g) The Seller's Reserved Easement (as defined below);
- (h) The Repurchase Agreement (as defined below) that will be recorded at the time of the conveyance referenced in Section 7.2 below.

4.3 Closing Costs.

- (a) The Seller will pay the following costs at the Time of Closing:
 - (i) the fees and disbursements of the Seller's counsel; and
 - (ii) all real estate transfer, stamp or documentary taxes, if any.
- (b) The Buyer will pay the following costs of closing this transaction:
 - (i) the fees and disbursements of the Buyer's counsel;
 - (ii) the cost of title, including a title commitment, owner's title insurance policies and all endorsements the Buyer may request; and
 - (iii) a payment in lieu of taxes, at Closing, in an amount determined by Seller in accordance with M.G.L. c. 44, sec. 63A.
- (c) Recording fees and adjustments, if any, shall be paid in accordance with Massachusetts custom.

(d) All costs incurred by the Seller in connection with the RFP and the disposition of the Property, including (a) all costs listed on Exhibit Q to the RFP plus (b) any additional such costs through Closing, in accordance with the Buyer's Price Summary Form in its RFP Response.

4.4 Conditions Precedent to Closing.

(a) Without the express written permission from the Seller, Buyer (and its successors and assigns) shall not file an application for a comprehensive permit for Buyer's Project pursuant to M.G.L. c. 40B, §§ 20-23. If and to the extent required to ensure that 100% of the units in Buyer's Project are eligible for inclusion in DHCD's Subsidized Housing Inventory for the Town as Local Initiative Program Units or under another affordable housing subsidy program, the Board of Selectmen may so consent. However, under no circumstances shall the Buyer (or its successors and assigns) seek to waive the requirement for Site Plan Approval from the Planning Board under the requirements of the Wayland Zoning Bylaw relative to the River's Edge Housing Overlay District or to obtain that Site Plan Approval from the Board of Appeals under a comprehensive permit for Buyer's Project. In addition, the Buyer (and its successors and assigns) shall not seek a waiver from any other provision of the Wayland Zoning Bylaw relative to the River's Edge Housing Overlay District without the express written permission of the Seller. This provision shall survive the Closing and run with the land.

(b) Buyer has furnished the Seller with (i) evidence satisfactory to the Seller of a binding commitment from a lender for financing of the construction of Buyer's Project, (ii) evidence of equity or commitment of equity and any other financings or fundings required to complete Buyer's Project, (iii) evidence that Buyer's contractor has obtained a payment and performance bond in an amount equal to the full construction cost (or provides evidence they are capable of providing such bond, and otherwise meets the bonding requirements of Buyer's lender for the project) and (iv) evidence that Buyer has satisfied or is capable of satisfying any other conditions contained in such commitment(s); and

(c) Buyer has furnished to the Seller a duly executed disclosure of beneficial interests in real property pursuant to M.G.L. c. 7C, Section 38 in the form attached hereto as Exhibit I.

4.5 Closing Deliveries.

(a) At the Time of Closing, the Seller shall deliver the following documents, fully executed, in a form reasonably acceptable to the Buyer's counsel and title insurance company:

(i) the Deed duly executed and acknowledged by the Seller containing the following statement: "In connection with the conveyance hereby made, there has been full compliance with the provisions of Section 63A of Chapter 44 of the Massachusetts General Laws.";

- (ii) a duly executed certificate to the effect that the representations and warranties made by the Seller in this Agreement are true and correct at the Time of Closing;
 - (iii) any easements reserved by Seller referred to in this Agreement, duly executed and acknowledged by the Seller or otherwise incorporated into the Deed;
 - (iv) reasonable and customary affidavits executed by the Seller regarding mechanics' and materialmens' liens and parties in possession as required by the title company;
 - (v) a so-called FIRPTA affidavit executed by the Seller as to its non-foreign status within the meaning of Sections 1445 or 7701 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder;
 - (vi) a duly executed settlement statement;
 - (vii) a duly executed Repurchase Agreement; and
 - (viii) a duly executed Access Easement for the Access Road.
- (b) At the Time of Closing, the Buyer shall deliver the following documents, fully executed, in a form reasonably acceptable to the Seller:
- (i) a current certificate of legal existence and good standing from the Commonwealth of Massachusetts and evidence of Buyer's qualification to conduct business in Massachusetts;
 - (ii) a duly executed certificate to the effect that the representations and warranties made by the Buyer in this Agreement are true and correct at the Time of Closing;
 - (iii) a certificate of the Secretary or Assistant Secretary of the Buyer evidencing the corporate, or other appropriate, authority of the officer or manager executing any documents delivered by the Buyer in connection with the purchase of the Premises;
 - (iv) such documents to evidence proof of Buyer's source of equity as set forth in Section 1.4 of this Agreement;
 - (v) a duly executed settlement statement;
 - (vi) a duly executed Affordable Housing Restriction executed by the Department of Housing and Community Development;
 - (vii) a duly executed Repurchase Agreement;

(viii) such other documents, certificates, or agreements as may be necessary to consummate the transaction contemplated by this Agreement; and

(ix) the Purchase Price and the Buyer's share of all closing expenses.

4.6 Default; Damages.

If prior to the Closing the Buyer shall fail to fulfill the Buyer's agreements and/or obligations hereunder in any material respect within applicable cure periods, the Seller may terminate this Agreement upon notice to Buyer. In the event of such termination, the Seller shall retain the Deposit and the Buyer shall: (a) restore the Premises to substantially the same condition as the Premises was prior to entering into this Agreement, as required under this Agreement and the Entry Agreement, unless otherwise agreed to in writing by the Seller and (b) fulfill all obligations of Buyer under Section 10.1 of this Agreement. In the event that Buyer fails to fulfill Buyer's agreements and/or obligations hereunder after the Closing, Seller shall be entitled to (i) all rights and remedies available under the law and (ii) elect to exercise its right to repurchase the Premises in accordance with the Repurchase Agreement, in which event, the Seller shall be entitled to specific performance to compel the delivery of a deed thereunder. In the event that this Agreement is terminated, the Entry Agreement shall be deemed to be automatically terminated at the same time.

If the Seller shall fail to fulfill the Seller's agreements and/or obligations hereunder, and the sale contemplated hereby is not consummated because of default by the Seller in its obligation to sell the Premises in accordance with the terms of this Agreement, then the Buyer may, as its sole and exclusive remedy at law or in equity: (a) terminate this Agreement by giving written notice thereof to Seller, in which event the Additional Deposit will promptly be returned to the Buyer and the Parties shall have no further obligations to each other except for the Buyer's obligations under the Entry Agreement (except for the provisions that expressly survive termination thereof); (b) waive such default and consummate the transactions contemplated hereby in accordance with the terms of this Agreement; or (c) seek specific performance.

In no event shall Seller be responsible to Buyer for the cost of any improvements Buyer may have made to the Premises or for the costs of any studies, reports, or tests performed by the Buyer except as otherwise provided in the Repurchase Agreement.

In no event shall Seller be liable to Buyer for any indirect, special, punitive, multiple, incidental or consequential damages, however caused, including, but not limited to, lost profits, lost revenue, work interruption, or any other form of such damages. In no event shall any of the elected or appointed officials of Seller or any of Seller's employees or volunteers be personally liable whatsoever with respect to this Agreement.

A default under the Entry Agreement beyond any applicable cure period shall be deemed to be a default under this Agreement, and a default under this Agreement beyond any applicable cure period shall be deemed to be a default under the Entry Agreement.

The provisions of this Section 4.6 shall survive the Closing and the delivery of the Deed.

4.7 Condemnation.

If prior to the Time of Closing any proceeding shall be commenced or consummated for the taking of all or any part of the Premises pursuant to the power of eminent domain or otherwise which would: (a) in the Buyer's reasonable judgment substantially and materially affect or interfere with the Buyer's access to or use and development of the Premises for Buyer's Project; or (b) make the Premises non-conforming under applicable laws, the Buyer shall have the right, exercisable by giving written notice to the Seller within ten (10) days after receiving written notice of such taking, to either: (a) terminate this Agreement; or (b) accept the Premises in its then condition, without any abatement or reduction in the Purchase Price, and receive an assignment of all of the Seller's rights to any claims and condemnation awards payable by reason of such taking. If the Buyer elects to proceed under clause (b) above, the Seller shall not compromise, settle or adjust any claims to such award without the Buyer's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed.

4.8 Extension.

If at the Time of Closing the Seller shall be unable to convey title or to make conveyance, or to deliver possession of the Premises in accordance with the terms hereof, then the Seller shall use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make the Premises conform to the provisions hereof, or to satisfy such conditions precedent, and thereupon the Time of Closing shall be automatically extended for a period of ninety (90) days; provided, however, that the Seller shall not be obligated to spend more than the Cure Amount in the exercise of reasonable efforts to cure such defects or to otherwise deliver the Premises. The Seller may satisfy any voluntary liens or encumbrances at Closing out of the proceeds otherwise payable to Seller.

If at the extended Time of Closing the Seller shall have failed to cure any defects in title, deliver possession, or make the Premises conform, then (a) at the election of the Buyer this Agreement may be terminated without recourse to either party hereto and the Additional Deposit shall be returned to the Buyer subject to the Buyer's obligations to restore the Premises to substantially the same condition it was at the time of entering into this Agreement and the Entry Agreement as well as Buyer's obligations under the Entry Agreement; or (b) the Buyer may accept such title as the Seller can deliver to the Premises in its then condition and to pay therefor the Purchase Price without deduction, in which case the Seller shall convey such title to the Buyer.

4.9 Real Estate Taxes.

Seller represents and warrants that the Premises are exempt from local real estate taxes as of the date of this Agreement. Seller's performance hereunder is conditioned upon Buyer making a payment in lieu of taxes, at Closing, in an amount determined by Seller in accordance with M.G.L. c. 44, sec. 63A.

In accordance with G.L. c. 62C, § 49A, Buyer certifies, under the pains and penalties of perjury, that Buyer has complied with all laws of the Commonwealth of Massachusetts relating

to the payment of taxes. Such certification shall be made again and executed as of the Time of Closing.

The obligation to pay the real estate taxes shall run with and bind the Premises as a matter of record.

ARTICLE V **RESTRICTIONS ON DEVELOPMENT AND USE**

5.1 Restrictions on Use.

Buyer agrees that the Deed for the Premises shall contain agreements on behalf of the Buyer that it will devote Buyer's Project only to and in accordance with the uses specified below (unless otherwise agreed by Seller and Buyer) and approved by the Planning Board:

- (a) Buyer's Project shall consist of between 150 and 190 residential units;
- (b) One hundred percent (100%) of the units shall be rental units;
- (c) At least 25% of the units shall be 55+ age-restricted units ("Age-Restricted Housing Units");
- (d) A least 25% of the units shall be affordable units for occupancy by persons or households whose aggregate family income does not exceed 80% of the median gross income for the area, as established by the United States Department of Housing and Urban Development ("Affordable Housing Units");
- (e) The affordable units shall be distributed proportionally (by type, size, and location) between and among the age-restricted and non-age-restricted units;
- (f) One hundred percent (100%) of all of the units constructed as Buyer's Project shall be eligible for and counted toward the Town of Wayland's Subsidized Housing Inventory established and administered by DHCD, or its successor; and
- (g) Local preference for the leasing of affordable units shall be provided to the maximum extent allowed by legal requirements.

ARTICLE VI **UTILITIES**

6.1 Utilities - General.

Attached hereto as Exhibit J is a utility location plan showing the record location of all utilities located within the Premises ("Utility Location Plan"). The information provided on the Utility Location Plan was compiled by the Seller from available record documents to the Seller. The Seller does not warrant the location or descriptive information provided or that all active and/or abandoned utilities are shown on the Utility Location Plan.

It is understood and agreed that the Buyer shall undertake and complete, at the Buyer's sole cost and expense, the capping, filling, removal, and disposal of all the existing abandoned utilities located on and/or under the Premises, as the Buyer may deem necessary after the Time of Closing. Seller shall not be responsible for moving or filling with concrete any abandoned, underground utility lines, pipes and/or conduits.

6.2 Utility Services.

The Buyer shall be solely responsible for any utility relocation, upgrades and/or modifications for all utilities to the Premises, including, without limitation, natural gas, electric, communications, storm water, or water as may be necessary. Buyer acknowledges that there is no public sewer serving the Premises and Buyer is solely responsible for obtaining all necessary Approvals for the designing, constructing, operating and maintaining an on-site package treatment plant and associated piping, leaching fields and infrastructure for Buyer's Project. Buyer also acknowledges that there is no public water supply service the Premises. Buyer shall be responsible for (a) obtaining all necessary governmental permits and approvals to connect the Premises to the Wayland water supply, and (b) designing and constructing all necessary water mains, extensions, connections and infrastructure to connect the Premises to the public water supply and to serve Buyer's Project.

6.3 Relocation, Connection and Upgrading of Active Utilities.

Seller, at its election, may reserve for no consideration an easement or easements over, across, on, under, or otherwise, the Premises for the continued maintenance and operation of any utilities and storm water drainage and other water pipes to either the Premises or other parts of Wayland, provided that the location of such utilities and pipes does not materially interfere with the Buyer's operation and use of the Premises for Buyer's Project (the "Reserved Easements"). Any such easement shall be substantially in the form attached hereto as Exhibit K (the "Reserved Easement Agreement") (except for any easement for a Reserved Leaching Field Easement Area, which shall be in accordance with the written agreement referred to in Section B.9.b of the RFP).¹

The Buyer shall, at its sole cost and expense, be responsible for any costs associated with connecting to the existing utilities and/or the cost of upgrading such utilities, if necessary, and the construction of all on-Premises storm water collection systems, subject to the following conditions:

- (i) the specifications (the "Specifications") for the removal, relocation, connection and construction of any active utilities (the "Relocation Work") shall be prepared by the Buyer and shall be subject to the final review and approval of the Seller's Public Works Department. The Buyer shall not be permitted to proceed with any Relocation Work without the prior written approval of the

¹ If the Town receives state funding and elects to proceed with one of the alternate waste water alternatives described in Section B.9 of the RFP, this Agreement will be modified to include, among other things, reserving to the Town the Reserved Leaching Field Easement Area, in a location on the Premises approved by the Town, which shall be a Reserved Easement (as defined above), and provisions addressing the construction of the Reserved Leaching Field Easement Improvements.

Seller's Public Works Department, which approval shall not be unreasonably withheld. The proposed relocation points and/or areas shall in no way impact and/or interfere with the future development, enjoyment and/or use of any adjacent parcel.

(ii) the Buyer agrees that removal and relocation of the active utilities conducted by or on behalf of the Buyer shall be conducted in strict accordance with the Specifications;

(iii) the Relocation Work shall be subject to the inspection by representatives of the Seller, at any time without prior notice to the Buyer;

(iv) proposed grading cannot create a situation where any active utilities are either too deep, so as to create an obstacle to the Seller's ability to repair and/or maintain, or too shallow, so as to provide inadequate cover; and

(v) the Buyer shall provide "As-Built" plans for each phase of utilities work as completed. The As-Built plans shall be prepared and stamped by a Registered Land Surveyor licensed in Massachusetts and shall show the horizontal and vertical location of all Premises improvements, all new or relocated utilities, and all existing utilities to be retained. The As-Built plans shall be provided in hard copy and digital format, in a form acceptable to the Seller's Engineering Department and compatible with the Seller's existing Geographical Information System.

Any work performed under subsections (i) through (v) above that is not in strict accordance with the Specifications and/or all applicable federal, state, and local laws, rules, codes, or regulations shall be immediately remedied and repaired at the sole cost of the Buyer and/or its contractor, or in the alternative by the Seller, in the event the Buyer fails for any reason to cure such defects after written notice thereof, in which case the Buyer shall be solely responsible for all of the Seller's costs incurred in connection with curing such defect.

The provisions of this Article VI shall survive the Closing and the delivery of the Deed.

ARTICLE VII

POST CONVEYANCE ACTIVITIES AND COVENANTS

7.1 Covenants Relating to the Timing, Use and Maintenance of Buyer's Project.

(a) Subject only to delays caused solely by Force Majeure, the Buyer shall Commence (as defined herein) construction of the Buyer's Project in accordance with the Schematic Design Plans by a date that is ninety (90) days after the Closing ("Buyer's Project Commencement Date"). Construction of the Buyer's Project shall be deemed to "Commence" upon the date that (i) a building permit for Buyer's Project is issued by the Town of Wayland Building Inspector and (ii) the Buyer commences and diligently undertakes construction of the Buyer's Project.

(b) Subject only to delays caused solely by Force Majeure, the Buyer hereby covenants and agrees to Complete (as defined herein) construction of the Buyer's Project by a date which is eighteen (18) months after the Closing ("Buyer's Project Completion Date"). The Buyer's Project shall be deemed completed upon the date that: (i) the Town of Wayland Building Inspector has issued a temporary or permanent certificate of occupancy for the Buyer's Project, including without limitation, all of the rental housing units the Buyer is obligated to construct pursuant to the terms hereof; (ii) the Buyer's Project can be used for its intended purpose as evidenced by a certification of substantial completion, in accordance with the approved Schematic Design Plans issued by the Buyer's architect or designer, as applicable, and contractor on AIA Document G-702 subject only to a punch list of items remaining to be completed of minor nature of construction, decoration, painting, and millwork; (iii) the Buyer's Project is free of debris and construction materials, is in usable condition; and (iv) all landscaping is completed and planted, except for such work that cannot be completed due to seasonal conditions. Upon satisfaction of this Section 7.1 and written request by the Buyer, the Seller shall issue a Certificate of Compliance to the Buyer in a form suitable for recording with the Registry.

(c) The Buyer hereby covenants and agrees to use the Premises solely for residential rental housing in accordance with the Affordable Housing Restriction and for accessory uses allowed by Section 2504.1.2 of the REHOD Requirements.

(d) The Buyer hereby covenants and agrees that there shall be no drinking water wells or irrigation wells installed on the Premises.

(e) The Buyer hereby covenants and agrees to maintain the Buyer's Project in first class condition, including maintaining, repairing and replacing deteriorated components of the buildings, improvements and infrastructure constructed as part of the Buyer's Project. At the Time of Closing, the Buyer shall establish and fund a capital reserve account for the sole purpose of funding capital improvements and capital repairs and maintenance to the Premises as required herein. The Buyer shall provide to Seller on an annual basis (or more frequently if requested by Seller) statements of accounting for said reserve account.

For purposes of this Agreement, "Force Majeure" shall mean a delay or stoppage due to strikes, civil riots, war, invasion, fire or other casualty, acts of God, adverse weather conditions not reasonably anticipated and resulting in a declared state of emergency, act or failure to act of quasi-governmental or governmental authorities or other causes beyond the reasonable control of the party required to make performance, but specifically excluding financial constraints of such party.

7.2 Repurchase Right.

In the event that the Buyer fails to commence the Buyer's Project by the Buyer's Project Commencement Date, subject only to delays caused solely by Force Majeure, the Seller shall have the option, exercisable at the Seller's sole discretion, to repurchase all or any portion of the Premises pursuant to the terms of the Repurchase Agreement to be entered into between the

Parties (the “Repurchase Agreement”) and recorded at the time of the initial conveyance with the Middlesex South District Registry of Deeds. The Buyer and the Seller have agreed upon the Repurchase Agreement attached hereto as Exhibit L, which shall be executed and recorded at the Time of Closing.

7.3 Assignment.

After the Closing and prior to the Buyer’s Project Commencement Date, Buyer covenants not make or suffer to be made any assignment, lease or any other manner of transfer of its interest in the Premises or portion thereof or in this Agreement, except for (i) leasing of rental units in the Premises to future occupants thereof or (ii) to any person or entity which directly or indirectly controls, is controlled by or is under common ownership with Buyer as of the date of this Agreement provided such assignee expressly assumes Buyer’s obligations under this Agreement in writing and Seller receives a copy of such assumption, unless it shall have complied with the following conditions:

- (a) The transferee shall have been approved as such in writing by the Seller;
- (b) The transferee or transferees, by valid instrument in writing satisfactory to Seller, shall have expressly assumed for themselves and their successors and assigns, and directly to and for the benefit of the Seller, all obligations of any person or persons, including Buyer, to being, complete and or maintain and operate, as applicable, Buyer’s Project and all obligations of the Buyer provided for in this Agreement. Notwithstanding the foregoing, the fact that any transferee of, or any other successor interest whatsoever to the Premises, or any part thereof, shall for whatever reason, not have assumed such obligations or so agreed, shall not (unless and only to the extent otherwise specifically provided in this Agreement or agreed to in writing by Seller) relieve or except such transferee or successor of or from obligations, conditions, or restrictions, or deprive or limit the Seller of or with respect to any rights or limitations or controls with respect to the Premises or the construction of Buyer’s Project; it being the intent of this, together with other provisions of this Agreement that, to the fullest extent permitted by law and equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement, no transfer of or change, with respect to ownership, possession or control, shall operate legally or practically to deprive or limit Seller of or with respect to any rights or remedies or controls provided in or resulting from this Agreement with respect to the Premises and the construction of Buyer’s Project that Seller would have, had there been no such transfer or change.
- (c) There has been submitted to Seller for review and the Seller has approved, in its sole discretion, or has not objected to in writing stating the reason for its objections within ten (10) business days of delivery to Seller, all instruments and other legal documents involved in effecting transfer.
- (d) Buyer and its transferee or transferees shall comply with such other reasonable conditions as Seller may find desirable in order to achieve and safeguard the purposes of this Agreement.

In the event of any violation by such a transferee of any obligation assumed or required to be assumed under this Section, which violation shall occur prior to receipt of the Certificate of Compliance, Buyer shall be responsible, jointly and severally with the transferee, for curing or effecting the cure of such violation. If Buyer shall fail or refuse to effect such cure, Seller may institute such actions or proceedings against the transferee and/or Buyer as Seller deems appropriate, including actions and proceedings to compel specific performance. Payment of all costs and expenses which may be incurred by Seller in instituting and prosecuting such action or proceedings shall be paid by Buyer.

The provisions of this Article VII shall survive the Closing and the delivery of the Deed.

ARTICLE VIII

INSURANCE REQUIREMENTS DURING CONSTRUCTION

8.1 Insurance Requirements During Construction Period.

The Buyer shall, at all times prior to the final completion of the Buyer's Project, maintain and deliver to the Seller evidence of and keep in full force and effect, or cause the general contractor(s) for the Buyer's Project to maintain, either directly or through subcontractors, and to deliver to the Seller evidence of and keep in full force and effect a policy of Builder's Risk insurance in an amount equal to the amount of the general construction contract for the construction of Buyer's Project. The policy shall (i) list Seller as an additional insured, (ii) be issued by companies licensed or approved by the Commonwealth's Insurance Commissioner and rated A-VII or better in the most recent edition of Best's Insurance Guide with respect to primary levels of coverage and (iii) be issued and delivered in accordance with Massachusetts law and regulations.

Promptly upon execution of this Agreement by the Buyer, the Buyer shall deliver to the Seller a copy of the required policy and endorsements thereto on forms which are acceptable to the Seller.

The insurance policy required by this Section 8.1 shall contain an endorsement providing that written notice shall be given to the Seller at least thirty (30) calendar days prior to termination, cancellation or reduction of coverage in the policy.

The insurance coverage required herein may be effected under blanket insurance policies; provided, however, that (a) such policies are written on a per-occurrence basis, (b) such policies comply in all other respects with the provisions of this Article VIII, and (c) the protection afforded under any such policy shall be no less than that which would be available under a separate policy relating only to this Agreement. If any coverage required by this Agreement is provided under blanket insurance policies, promptly upon execution of this Agreement and annually thereafter, the Seller shall be provided with a list of the projects covered by such blanket insurance policies, the dollar amount of each project covered and such other information as the Seller may reasonably request to enable it to evaluate whether the requirements of this article have been met, or, in the alternative, any such policy shall include a dedicated limit applicable solely to Buyer's Project.

The foregoing requirements as to the types and limits of insurance coverage to be maintained by the Buyer are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Buyer under this Agreement or constitute a representation or warranty by the Seller that the coverage provided by such insurance is adequate for purposes of the Buyer or for any other purpose other than the protection of the interests of the Seller and its members. The Seller shall have the right to waive the levels of coverage and types of insurance required hereunder.

ARTICLE IX

REPRESENTATIONS, WARRANTIES AND COVENANTS

9.1 Representations, Warranties and Covenants of the Buyer.

- (a) **Organization.** The Buyer is duly organized and validly existing under the laws of the Commonwealth of Massachusetts, is authorized to do business in the Commonwealth, is in compliance with the laws of the Commonwealth, and has the power and authority to own its properties and assets and to carry on its business in the Commonwealth as now being conducted and as hereby contemplated.
- (b) **Authority.** The Buyer has the power and authority to enter into this Agreement, and has taken all action necessary to cause this Agreement to be executed and delivered, and this Agreement has been duly and validly executed and delivered by the Buyer.
- (c) **Binding Obligation.** This Agreement is a legal, valid and binding obligation of the Buyer, enforceable against the Buyer in accordance with its terms, except as enforceability may be subject to the exercise of judicial discretion in accordance with general equitable principles and to applicable bankruptcy, insolvency, reorganization, moratorium and other laws for the relief of debtors heretofore or hereafter enacted to the extent that the same may be constitutionally applied.
- (d) **Compliance with Laws.** In the permitting, design, acquisition and construction of the Buyer's Project, the Buyer has complied and will comply with the provisions of this Agreement and all applicable building, zoning, land use, environmental protection, sanitary and safety laws, rules and regulations, and all applicable grant, reimbursement and insurance requirements, and will not permit a nuisance thereon; but it shall not be a breach of this subsection if the Buyer fails to comply with such laws, rules, regulations and requirements (other than Chapter 21E of the Massachusetts General Laws, as amended) during any period in which the Buyer is diligently and in good faith contesting the validity thereof. The Buyer shall not with knowledge commit, suffer or permit any act to be done in, upon or to the Premises in violation of any law, ordinance, rule, regulation or order of any governmental authority.
- (e) **Litigation.** There are no pending or, to the best of the Buyer's knowledge, threatened actions, suits, or proceedings before any court, arbitrator or governmental or administrative body or Seller which may materially adversely affect the properties, business or condition, financial or otherwise, of the Buyer or its ability to perform its obligations under this Agreement.

(f) No Conflicts. Neither the execution, delivery or performance of this Agreement nor compliance herewith (i) conflicts or will conflict with or results or will result in a breach of or constitutes or will constitute a default under (1) the [Operating Agreement] of the Buyer, (2) to the best of the Buyer's knowledge, any law or any order, writ, injunction or decree of any court or governmental authority; or (3) any agreement or instrument to which the Buyer is a party or by which it is bound or (ii) results in the creation or imposition of any lien, charge or encumbrance upon its property pursuant to any such agreement or instrument.

(g) No Approvals Required. No authorization, consent, or approval of any governmental authority (including courts) is required for the execution and delivery by the Buyer of this Agreement or the performance of its obligations hereunder.

(h) Completion of Buyer's Project. The Buyer will complete the Buyer's Project in accordance with the terms this Agreement and within the timeframes set forth in this Agreement.

(i) Buyer's Source of Equity. Buyer currently has, or has satisfactory access to, equity funds sufficient in the reasonable judgment of the Buyer, to acquire and develop the Premises. At the date of execution of this Agreement and again prior to the Closing, the Buyer shall provide a detailed written statement to Seller enumerating the sources and planned uses of such funds to complete Buyer's Project.

9.2 Representations of the Seller.

(a) Authority. The Seller has the power and authority to enter into this Agreement, and has taken all action necessary to cause this Agreement to be executed and delivered, and this Agreement has been duly and validly executed and delivered by the Seller.

(b) Binding Obligation. This Agreement is a legal, valid and binding obligation of the Seller, enforceable against the Seller in accordance with its terms, except as enforceability may be subject to the exercise of judicial discretion in accordance with general equitable principles and to applicable bankruptcy, insolvency, reorganization, moratorium and other laws for the relief of debtors heretofore or hereafter enacted to the extent that the same may be constitutionally applied.

(c) No Material Litigation. To the knowledge of the Seller, there are no actions, suits or proceedings pending or threatened, against or affecting the Seller or the Premises which, if determined adversely to the Seller, would materially adversely affect its ability to perform its obligations hereunder.

(d) No Conflicts. To the knowledge of the Seller, neither the execution, delivery or performance of this Agreement nor compliance herewith (i) conflicts or will conflict with or results or will result in a breach of or constitutes or will constitute a default under (1) the charter of the Seller, (2) any law or any order, writ, injunction or decree of any court or governmental authority; or (3) any agreement or instrument to which the Seller is a party or by which it is bound or (ii) results in the creation or imposition of any lien, charge or encumbrance upon its property pursuant to any such agreement or instrument.

(e) FIRPTA. The Seller is not a “foreign person” as defined in Section 1445 of the Code.

9.3 Brokers.

The Seller and the Buyer represent and warrant to each other that no brokerage fee or real estate commission is or shall be due or owing in connection with this transaction, and the Seller and the Buyer’s hereby agree to indemnify and hold the other harmless from any and all claims of any broker or agent based on action or alleged action of the other.

The provisions of this Article IX shall survive the Closing and delivery of the Deed.

ARTICLE X
INDEMNIFICATION

10.1 Indemnification; Remedies of Buyer.

(a) The Buyer, regardless of any agreement to maintain insurance, will indemnify and defend the Seller, and its officers, directors, employees, agents, committees, representatives and boards (collectively, the “Indemnitees”) and hold the Indemnitees harmless from and against actual losses sustained by an Indemnitee on account of any and all claims arising out of (1) the design, engineering and construction of the Buyer’s Project by the Buyer or any of its consultants, engineers, advisors, contractors, subcontractors or suppliers; (2) the Buyer’s nonpayment under any contract between the Buyer and its consultants, engineers, advisors, contractors, subcontractors and suppliers, or any claims of persons employed by the Buyer or its agents to construct the Buyer’s Project; (3) any accident, injury or damage to any person occurring on the Premises or as a result of the Buyer’s Project during the construction thereof but only to the extent that such accident, injury or damage was not caused by the negligent or intentionally tortuous act or omission of the Seller; (4) any default in the Buyer’s obligations under this Agreement; (5) the Property Information; and (6) all matters set forth in Section 3.3 hereof. In case any action or proceeding is brought against the Indemnitees, by reason of any such claim, the Buyer will defend the same at its expense upon notice from any Indemnitee with counsel chosen by Buyer subject to the reasonable approval of the Seller. The Seller and the Indemnitees will cooperate with the Buyer, at the expense of the Buyer, in connection therewith and will do nothing to compromise any defense. The Seller has the option, but not the obligation, of retaining separate counsel at its sole cost and expense for any purpose. Retention of such separate counsel by the Seller shall not relieve Buyer of the obligation to defend hereunder.

(b) Notwithstanding any contrary provision in this Agreement, the Seller shall have the right to take any action not prohibited by law or make any decision not prohibited by law with respect to proceedings for indemnity against the liability of the Indemnitees. The Seller may enforce its rights, including any and all rights available to Seller under law or equity, under this Agreement by legal proceedings.

The provisions of this Article X shall survive the Closing and delivery of the Deed.

ARTICLE XI
MISCELLANEOUS

11.1 Notices.

All notices required or permitted to be given hereunder shall be in writing and delivered by hand, by recognized national overnight courier service, or mailed postage prepaid, by registered or certified mail, addressed as follows:

If to Buyer:

with a copy to:

If to Seller: Town of Wayland
Wayland Town Building
41 Cochituate Road
Wayland, MA 01778

with a copy to: Stephen D. Anderson
Anderson & Kregier LLP
One Canal Park, Suite 200
Cambridge, MA 02141

and Mark. J. Lanza
Town Counsel
41 Cochituate Road
Wayland, MA 01778

or in the case of either party to such other address as shall be designated by written notice given to the other party. Any such notice shall be deemed given when so delivered by hand or one (1) day after when deposited with a nationally recognized overnight courier service or three days after deposit with the U.S. Postal Service, except that where under this Agreement any time period is specified to commence from notice, such time period shall not be deemed to commence until, according to applicable records of the courier service or U.S. Postal Service, delivery of such notice was first attempted. Notices which are given by either party may be given by the attorney for such party without the signature of such party.

11.2 Non-Offer.

The submission of a draft of this Agreement or a summary of some or all of its provisions does not constitute an offer to buy or to sell the Premises, it being understood and agreed that neither the Buyer nor the Seller shall be legally obligated with respect to the purchase or sale of the Premises on account of such submission unless and until this Agreement has been fully executed by both the Buyer and the Seller and a fully executed copy has been delivered.

11.3 Survivability of Covenants.

The acceptance of the Deed by the Buyer or the nominee designated by the Buyer, as the case may be, shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except for the provisions which are not capable of having been performed on or before the Time of Closing or which by their terms survive delivery of the Deed. Any covenants or provisions in this Agreement which by their terms should survive delivery of the Deed shall be deemed to survive said delivery.

11.4 Complete Agreement.

This Agreement and all Exhibits attached hereto constitute the entire Agreement between the parties hereto and no oral statements made by anyone with regard to the transaction which is the subject of this Agreement shall be construed as a part hereof unless the same is incorporated herein by writing.

11.5 Severability.

If any provision of this Agreement or application to any party or circumstances shall be determined by a final, unappealed ruling of any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Agreement shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the fullest extent permitted by law. In the place of such invalid or unenforceable provision, there shall be substituted a similar, but valid and enforceable provision that comports to the findings of the aforesaid court and most nearly accomplishes the original intent of the parties.

11.6 Time of Essence.

Time is of the essence under this Agreement.

11.7 Counterparts.

This Agreement may be executed and delivered in any number of counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument.

11.8 Recording.

Seller, at its sole option and expense, may elect to record this Agreement with the Registry.

11.9 Successors Bound.

This Agreement shall be binding upon and shall inure to the benefit of the Seller and the Buyer and their successors, including any successors in title, and permitted assigns.

11.10 General.

This instrument is to be construed as a Massachusetts contract, sets forth the entire contract between the parties and may be canceled, modified or amended only by a written

instrument executed by both the Seller and the Buyer. Both Parties have actively participated in the drafting and negotiation of this Agreement, and any ambiguity herein shall not be construed against either Party as drafter.

11.11 Captions.

The captions in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Agreement or the scope or content of any of its provisions.

11.12 List of Exhibits.

- EXHIBIT A – Plan of Land/Premises**
- EXHIBIT B – Buyer’s Project**
- EXHIBIT C – Escrow Agreement**
- EXHIBIT D – Right of Entry Agreement**
- EXHIBIT E – Property Information**
- EXHIBIT F – REHOD Requirements**
- EXHIBIT G – Design Guidelines**
- EXHIBIT H – Approvals**
- EXHIBIT I – Disclosure of Beneficial Interest**
- EXHIBIT J – Utility Location Plan**
- EXHIBIT K – Reserve Easement Agreement**
- EXHIBIT L – Repurchase Agreement**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement under seal as of the day and year first above written.

SELLER:

TOWN OF WAYLAND

By: _____
Name:
Title:

BUYER:

[_____]

By: _____
Name:
Title:

EXHIBIT A

Plan of Land/Premises

EXHIBIT B
Buyer's Project

EXHIBIT C
Escrow Agreement

EXHIBIT D
Entry Agreement

EXHIBIT E
Property Information

EXHIBIT F
REHOD Requirements

EXHIBIT G
Design Guidelines

EXHIBIT H

Approvals

EXHIBIT I

Disclosure of Beneficial Interest

Exhibit J
Utility Location Plan

Exhibit K
Reserved Easement Agreement

EXHIBIT L

Repurchase Agreement

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 2.2

Form of Escrow Agreement

ESCROW AGREEMENT

WHEREAS, the Town of Wayland, acting on behalf of its Board of Selectmen ("Seller"), as seller, and _____ ("Buyer"), as buyer, entered into that certain Land Disposition Agreement dated as of _____, 2015 (the "Agreement") for the real property commonly known as 484-490 Boston Post Road (the "Property");

WHEREAS, prior entering into the Land Disposition Agreement, Buyer made an initial non-refundable deposit with Seller in the amount of Ten Thousand and 00/100 Dollars (\$10,000.00) in connection with its response to that certain Request for Proposal for the disposition and development of the Property for affordable housing purposes (the "Initial Deposit");

WHEREAS, the Agreement calls for the deposit of _____ (\$_____) of the purchase price (the "Additional Deposit") to be placed in escrow;

WHEREAS, the Agreement also provides for additional sums of money to be deposited by Buyer after execution of the Agreement to secure extensions of the Closing Date (as such term is defined in the Agreement) (the "Extension Deposits" and "Appeal Deposits"), together with the Initial Deposit and the Additional Deposit, the "Escrow Sum").

NOW THEREFORE, in exchange for the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to escrow the Escrow Sum as follows:

1. Buyer, Seller and the Escrow Agent agree to comply with the terms of the Agreement and this Escrow Agreement related to the Escrow Sum for the purposes hereof and acknowledge and agree that the terms of the Agreement shall govern disbursement of the Escrow Sum, subject to the terms provided herein..
2. The Escrow Sum shall be retained by the Escrow Agent, and it shall be held in accordance with the terms set forth below:
 - a) In the event of a dispute relating to the Escrow Sum, the Escrow Agent shall retain all or any portion of the Escrow Sum pending the receipt of written instructions agreed to and signed by Seller and Buyer or receipt of a court order directing the distribution of the Escrow Sum after all appeals therefrom have been taken or appeals periods relating thereto have expired. In the alternative, the Escrow Agent may resign at any time by transferring the Escrow Sum to a successor escrow agent reasonably acceptable to Seller and Buyer, which successor agrees in writing to act as escrow agent.
 - b) Buyer and Seller jointly and severally agree to indemnify and hold the Escrow Agent harmless for any and all costs and expenses, including reasonable attorney's fees, incurred in connection with any dispute concerning the Escrow Sum.

- c) The duties and responsibilities of the Escrow Agent shall be limited to those expressly set forth herein and in the Agreement, and the Escrow Agent shall not be subject to, nor obligated to recognize, any other agreement between, or direction or instructions of, any or all of the parties hereto.
 - d) The Escrow Agent, in its sole discretion, may institute legal proceedings of any kind, including, but not limited to, a legal proceeding in any court of competent jurisdiction, to determine the obligations of the parties hereunder and to deposit the Escrow Sum in such court; and upon such deposit and institution of legal proceedings, the duties of the Escrow Agent shall be fully terminated and the Escrow Agent shall be fully discharged from all such duties. The Escrow Agent shall not be required to institute or defend any administrative, arbitral, judicial or other action or legal process involving any matter referred to herein which in any manner affects it or its duties or liabilities hereunder unless and until it has received full indemnity as it shall in its sole discretion require against any and all claims, liabilities, judgments, attorneys' fees and other costs and expenses of any and every kind in relation thereto.
 - e) In taking any action hereunder, the Escrow Agent shall be protected and may rely upon any notice, paper or document or signature believed by it to be genuine or upon any evidence deemed by it to be sufficient. In no event shall the Escrow Agent be liable for any act performed or omitted to be performed by it hereunder in the absence of gross negligence or willful misconduct, and in no event shall it be liable or responsible for any failure of any banking institution in which the Escrow Sum is deposited to pay such Escrow Sum at the Escrow Agent's direction.
 - f) The Escrow Agent shall not be under a duty to give the property held hereunder a greater degree of care than the Escrow Agent gives its own similar property.
 - g) The rights and immunities of the Escrow Agent hereunder shall apply equally to its partners, of counsel, associates, employees, affiliates and agents.
 - h) Seller and Buyer agree that Anderson & Kreiger LLP's status as Escrow Agent shall not affect its ability to act as Seller's counsel in the event a dispute arises regarding the Escrow Sum, or any other dispute under this Escrow Agreement or with respect to the sale of the Property, and Seller and Buyer hereby waive any current or future conflict of interest which may result from the same.
 - i) This Agreement sets forth exclusively the duties of Escrow Agent with respect to any and all matters pertinent hereto and no implied duties or obligations shall be read into this Escrow Agreement against Escrow Agent.
3. The Escrow Sum will be deposited in Escrow Agent's interest-bearing account.
 4. The Buyer and Seller agree to promptly deliver a completed Form W-9 to Escrow Agent within three (3) business days of execution of this Escrow Agreement.
 5. Any capitalized terms that are not specifically defined herein shall have the meanings attributed to them in the Agreement.

This document is executed under seal as of this __ day of _____.

SELLER:

TOWN OF WAYLAND

By: _____

Name:

Title:

BUYER:

[_____]

By: _____

Name:

Title:

ANDERSON & KREIGER LLP, as Escrow Agent

By:

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 2.3

**Form of Right of Entry Agreement
(for the Successful RFP Respondent's Due Diligence Investigations after Execution of
the LDA and prior to Closing)**

RIGHT OF ENTRY AND LICENSE AGREEMENT

This RIGHT OF ENTRY AND LICENSE AGREEMENT (this "Agreement") dated as of _____, 2015, is made and entered into by and between the TOWN OF WAYLAND, acting by and through its Board of Selectmen, a Massachusetts municipal corporation, having an address of 41 Cochituate Road, Wayland, MA 01778 (the "Licensor") and _____, a _____ having an address of _____ (the "Licensee").

BACKGROUND

- A. The Licensor is the owner of certain land in the Town of Wayland described on Attachment A hereto (the "Licensed Premises").
- B. The Licensor issued a Request for Proposals for the disposition and development of the Licensed Premises for affordable housing purposes (the "RFP"), pursuant to M.G.L. c. 30B.
- C. The Licensee's proposal in response to the RFP for the acquisition of the Licensed Premises was accepted by the Licensor.
- D. Licensor and Licensee have, on or about the date hereof, entered into a Land Disposition Agreement (the "LDA") for the sale and purchase of the Premises.
- E. Pursuant to the LDA, Licensor and Licensee are entering into this Agreement to facilitate and govern Licensee's access to the Licensed Premises to perform certain tasks set forth in the work plan to be provided by the Licensee and approved by Licensor hereunder (the "Work Plan").

AGREEMENTS

NOW, THEREFORE, in consideration of the mutual promises set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

I. Grant of License, Terms, Purpose and Use.

1.1 The Licensor hereby grants a right of entry and license to the Licensee to use the Licensed Premises for the sole purposes set forth herein and in the Work Plan (the "Licensed Activities"), subject to the terms and conditions set forth herein.

1.2 The right of entry and use of the Licensed Premises is specifically granted to the Licensee, its contractors, consultants, agents, and employees, collectively referred to herein as the "Licensee," solely for the implementation and completion of the tasks set forth in the Work Plan and for no other purposes. Said rights may not be assigned by the Licensee without the prior written consent of the Licensor, which consent may be withheld for any reason or for no reason, at Licensor's sole and absolute discretion. In the event that the Licensee assigns its rights

under this Agreement to another party with Licensor's approval, the Licensee shall remain liable for its obligations and duties contained herein.

1.3 The right of entry and use of the Licensed Premises by the Licensee hereunder shall be exercised beginning as of the date the Licensor approves in writing the Work Plan, such approval not be unreasonably withheld, conditioned or delayed (but subject to other terms of this Agreement) and such rights shall terminate on [**Insert last day of Due Diligence Period in LDA**], unless extended or earlier terminated by the parties hereto. The parties acknowledge and confirm the rights being granted hereunder are a license and no greater rights in the Licensed Premises are being granted hereunder. The parties acknowledge and confirm that neither this Agreement nor the license granted hereunder shall be construed to create or vest in the Licensee any easement, estate or legal interest in the Licensed Premises but only the limited right of possession on the terms herein described.

1.4 The Licensed Premises and the activities undertaken thereon by the Licensee shall be subject to inspection by representatives of the Licensor at any time, and from time to time, without prior notice.

1.5 The rights of the Licensee granted hereunder shall be exercised solely for the purposes set forth in this Agreement, and for no other purposes.

II. Terms, Costs and Restoration.

2.1 Licensee shall perform all Licensed Activities, including without limitation all work under the Work Plan and all geotechnical and environmental site investigations, strictly in compliance with the provisions of this Section II.

2.2 The Licensee shall be solely responsible for all costs and expenses associated with the exercise of the rights granted under this Agreement, including without limitation any costs associated with obtaining any permits, licenses or similar approvals necessary to undertake and/or complete the work contemplated herein.

2.3 The Licensee shall provide immediate notification to Licensor of any release or threat of release of oil or hazardous materials discovered during Licensee's Activities, including without limitation its work under the Work Plan and its geotechnical or environmental site investigations, that is not already disclosed in any of the environmental reports or other materials provided to the Licensee from the Licensor in connection with the RFP.

2.4 In no event shall the Licensee perform any subsurface investigations or invasive testing of the Licensed Premises, or install any soil or groundwater monitoring wells or test pits on the Licensed Premises, without the Licensor's prior written approval, which approval may be withheld by Licensor for any reason or for no reason, at Licensor's sole and absolute discretion. If such approval is granted, Licensee shall be solely responsible for decommissioning and removing all such wells and test pits in accordance with the Massachusetts Department of Environmental Protection (DEP) guidelines. Following the completion of Licensee's geotechnical and environmental site investigations, the Licensee shall remove all materials, groundwater monitoring wells, equipment and machinery and other items brought on to the Licensed Premises by the Licensee and shall restore the Licensed Premises to substantially the

same condition it was in prior to the exercise by the Licensee of the rights granted hereunder. In the event the Licensee in writing waives any right to terminate the LDA and unconditionally confirms that it will close on the purchase of the Licensed Premises in its as is condition and in accordance with the LDA, the Licensor may in writing waive the Licensee's obligation to restore the Licensed Premises and remove the groundwater monitoring wells. Otherwise, the Licensor shall deduct from any funds of the Licensee held on deposit by the Licensor in connection with this Agreement, the RFP or the LDA any amounts expended by the Licensor to restore the Licensed Premises, including without limitation, to decommission and remove any groundwater wells installed by the Licensee on the Licensed Premises. The Licensee shall coordinate any removal and/or relocation of existing groundwater monitoring wells with the Licensor.

2.5 Licensee shall provide to Licensor copies of all reports and plans generated as a result of Licensee's work under the Work Plan, including without limitation all geotechnical and environmental site investigations by the Licensee, within ten (10) days of completion; provided, however, that if any such work or investigations discovers any imminent hazard, Licensee shall immediately notify Licensor thereof. Licensee shall not report any release or threat of release of oil or hazardous materials reflected in such reports or plans, or otherwise identified during any Licensed Activities under this Agreement, to any government agency unless Licensee reasonably determines that it has a legal obligation to report such any release or threat of release of oil or hazardous materials to a government agency and Licensee has first notified the Licensor of the release or threat of release of oil or hazardous materials prior to making such report.

2.6 All materials resulting from any Licensed Activities under this Agreement, including without limitation (if Licensor grants Licensee permission to perform subsurface investigations or invasive testing of the Licensed Premises) all samples and any materials that may contain oil or hazardous materials that result from any Licensed Activities at the Licensed Premises shall become the property and responsibility of the Licensee, and shall be properly managed, transported and disposed of. At no time will Licensor assume or retain any responsibility or liability for the disposal of such materials and the removal of such materials from the Licensed Premises will remain the sole obligation of the Licensee, except to the extent that any liability arising out of the disposal or removal of such materials is the result of the gross negligence, willful misconduct or breach of contract of the Licensor or its agents.

III. Insurance and Indemnification.

3.1 Licensee shall carry and shall cause any contractor, consultant or agent engaged by it to perform the Licensed Activities at the Licensed Premises to maintain, at no cost to the Licensor, insurance in amounts as set forth below and with companies licensed to do business in the Commonwealth of Massachusetts, having an A.M. Best Company rating of "A-,VII" or better and otherwise satisfactory to Licensor at Licensee's or such contractor's, consultant's or agent's own cost and expense as the case may be, to protect against claims under any Worker's Compensation Act; against claims for damages because of bodily injury including sickness, disease or death; against claims for damages because of injury to or destruction of tangible property; against claims for damages because of personal injury, economic loss or other covered conditions; and against claims arising out of the performance of professional services caused by errors, omissions or negligent acts for which Licensee or any such contractor, consultant or agent engaged may be legally liable.

- (a) Commercial general liability, including coverage for bodily injury, personal injury, property damages and completed operations coverage in the minimum amount of \$1,000,000 per occurrence and \$2,000,000 in the aggregate;
- (b) Automobile liability coverage for owned, hired and non-owned vehicles in the minimum amount of \$1,000,000 per occurrence combined single limit;
- (c) Workers' compensation for all its employees, as required by statute, with employers' liability of \$500,000.00 or more including \$100,000 accident and \$100,000 disease;
- (d) Umbrella Liability having limits of \$5,000,000 per occurrence and \$5,000,000 aggregate; and
- (e) Professional liability coverage of at least \$1,000,000 per claim for any Licensed Site Professional, Professional Engineer, and other professional performing professional services as part of the Licensed Activities.

Prior to exercising any rights hereunder or entering the Licensed Premises, the Licensee shall furnish the Licensors with certificates of insurance showing that Licensee has complied with this Section, which certificates shall name Licensors as Additional Insured for the insurance required under (a), (b), and (d), above, and all such policies shall contain a provision providing that written notification of cancellation of the insurance policies required hereunder shall be given to Licensors and Licensee thirty (30) days prior to such cancellation.

3.2 To the fullest extent permitted by law, the Licensee shall defend, indemnify and hold the Licensors, its agents, subcontractors, boards, officials, and employees harmless from and against any and all claims, defense costs, including attorneys' fees, damages and other liabilities, including, but not limited to, bodily injury, damage to property and personal injury, arising out of or relating to acts or omissions of the Licensee or its agents, employees or contractors in performing the Licensed Activities or any other inspections, tests or other work in, on or about the Licensed Premises.

3.3 The Licensee shall be responsible for any releases of oil or hazardous materials caused by the Licensee or its agents, employees, consultants or contractors, and the Licensee will be responsible for environmental conditions Licensee or its agents, employees, consultants or contractors create at the Licensed Premises while acting pursuant to this Agreement, including without limitation the exacerbation of any existing environmental conditions at the Licensed Premises.

3.4 The Licensors may rely upon, use or disseminate any information, test results or reports generated or provided by the Licensee or its agents, employees, consultants or contractors pursuant to the work contemplated herein without the prior written consent of the Licensee.

IV. Conduct.

4.1 During the exercise of rights hereby granted, the Licensee shall at all times take, and shall cause its agents, employees, consultants and contractors at all times to take, reasonable

steps to conduct itself and themselves so as not to cause waste or damage to the Licensed Premises, and the Licensee and its agents, contractors and assigns shall not in any way interfere with operations of the Licensor. The Licensee shall observe and obey all applicable federal, state, and local laws, statutes, ordinances, rules and regulations in the conduct of its activities hereunder, and shall observe and comply with all licensing requirements provided by the Licensor, or as may be contained in the Work Plan. The Licensee shall notify the Licensor immediately upon the violation of any such law, statute, ordinance, regulation, or requirement, upon the release or threatened release of any oil or hazardous material as said terms are defined in Chapter 21 E of the Massachusetts General Laws or the Massachusetts Contingency Plan promulgated pursuant thereto.

4.2 Unless otherwise provided in the Work Plan, the Licensee shall submit to the Licensor for the Licensor's approval a schedule of activities to be conducted under this Agreement prior to the exercise of Licensee's rights hereunder.

4.3 All notices required or permitted to be given hereunder shall be in writing and delivered by hand, by recognized national overnight courier service, or mailed postage prepaid, by registered or certified mail, addressed as follows:

If to Licensee: [_____]

with a copy to: [_____]

If to Licensor: Town of Wayland
c/o Town Administrator
Wayland Town Building
41 Cochituate Road
Wayland, MA 01778

with a copy to: Stephen D. Anderson
Anderson & Kregier LLP
One Canal Park, Suite 200
Cambridge, MA 02141

and Mark. J. Lanza
Town Counsel
41 Cochituate Road
Wayland, MA 01778

or in the case of either party to such other address as shall be designated by written notice given to the other party. Any such notice shall be deemed given when so delivered by hand or one (1) day after when deposited with a nationally recognized overnight courier service or three days after deposit with the U.S. Postal Service, except that where under this Agreement any time period is specified to commence from notice, such time period shall not be deemed to commence until, according to applicable records of the courier service or U.S. Postal Service, delivery of such notice was first attempted. Notices which are given by either party may be given by the attorney for such party without the signature of such party.

V. Miscellaneous.

5.1 All provisions of this Agreement assigning obligations and allocating responsibility or liability between the Licensee and the Licensor shall survive the completion of the work set forth in the Work Plan and the expiration of this Agreement.

5.2 This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

5.3 This Agreement represents the entire and integrated agreement between the Licensor and the Licensee and supersedes and replaces all terms and conditions of any prior agreements, arrangements, negotiations, or representations, written or oral, with respect to the subject matter hereof.

5.4 If any provision of this Agreement is declared or found to be illegal, unenforceable, or void, then both parties shall be relieved of all obligations under that provision. The remainder of this Agreement shall remain enforceable to the fullest extent permitted by law.

5.5 Any modification or amendment to this Agreement shall be in writing and duly executed by both parties hereto to be effective.

5.6 In the event that either party materially breaches this Agreement, the non-breaching party shall have the right to unilaterally terminate the Agreement by serving a written notice of termination upon the breaching party via certified mail.

5.7 The Licensee will not place any liens or permit any liens to be placed upon the Licensed Premises related to the work contemplated herein and shall immediately discharge any such liens.

[SIGNATURE PAGE FOLLOWS]

EXECUTED under seal as of the date first written above.

LICENSOR:

TOWN OF WAYLAND

By: _____

Name:

Title:

LICENSEE:

[_____]

By:

Name:

Title:

Attachment A

Licensed Premises

Attachment B

Work Plan

(Attach Work Plan if finalized at time of execution of Agreement)

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 2.4

Form of Reserved Easement Agreement

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 2.5

Form of Repurchase Agreement

EXHIBIT 2.5
REPURCHASE
AGREEMENT

RECORD AND RETURN TO:
[]

~ Recording Information Area ~

REPURCHASE AGREEMENT

This Repurchase Agreement (the "Agreement") is entered into as of the ___ day of _____, 2015 between the **Town of Wayland, acting by and through its Board of Selectmen**, a Massachusetts municipal corporation, having an address of 41 Cochituate Road, Wayland, MA 01778 (the "Town"), and _____, a _____ having a principal place of business located at _____ ("Buyer").

RECITALS:

WHEREAS, the Town sold to Buyer and Buyer purchased from the Town, pursuant to the terms of a Land Disposition Agreement entered into between the Town and the Buyer dated _____, 2015 (the "Disposition Agreement") and a deed recorded simultaneously herewith, land containing approximately [] acres, commonly known as 484-490 Boston Post Road in the Town of Wayland, Middlesex County, Commonwealth of Massachusetts (the "Premises"), shown as [] on that certain Approval Not Required Plan entitled "_____" prepared by [], dated [], endorsed by the Wayland Planning Board on [], and recorded with the Middlesex South Registry of Deeds (the "Registry") as Plan No. [] of [] (the "ANR Plan"); and

WHEREAS, Buyer intends to develop and construct _____ [number of units to be inserted] new rental housing units (the "Project"), including (i) at least twenty-five percent (25%) of such new rental housing units being affordable units for occupancy by persons or households whose aggregate family income does not exceed eighty percent (80%) of the median gross income for the area, as established by the United States Department of Housing and Urban Development and (ii) at least twenty-five percent (25%) of such new rental housing units being age-restricted (senior) units, and associated improvements on the Premises in accordance with those certain plans approved by the Town of Wayland Planning Board (the "Schematic Design Plans"); and

WHEREAS, the parties desire to set forth their understanding regarding Buyer's construction of the Project on the Premises and the Town's rights in connection therewith in the event Buyer fails to use commercially reasonable efforts to diligently commence construction of

Property address: 484-490 Boston Post Road, Wayland, Middlesex County, Massachusetts

the Project by [_____, ____], a date which is ninety (90) days after the closing under the Disposition Agreement (the "Commencement Deadline"), subject to the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the Recitals set forth above, which are incorporated in and made a part of this Agreement, and in consideration of the mutual covenants and agreements herein contained, the Town and the Buyer agree as follows:

1. Obligation to Commence Construction of the Premises. Subject only to delays caused solely by Force Majeure (as such term is defined herein), Buyer shall promptly Commence (as such term is defined herein) construction of the Project in accordance with the Schematic Design Plans by the Commencement Deadline. Construction of the Project shall be deemed to "Commence" upon the date that (i) a building permit for Buyer's Project is issued by the Town of Wayland Building Inspector and (ii) the Buyer commences and diligently undertakes construction of the Buyer's Project.

2. The Town's Repurchase Right.

(a) The failure of the Buyer to comply with the obligations set forth in Section 1 of this Agreement shall constitute an event of default ("Default") hereunder.

(b) The Buyer shall have sixty (60) days after receipt of a written notice of default submitted to Buyer by the Town with respect to a Default under Section 1 of this Agreement (the "Cure Period") to cure such Default to the reasonable satisfaction of the Town, provided, however, that such Cure Period shall be reasonably extended for up to an additional sixty (60) days (the "Cure Period Extension Deadline") if the cure of such Default cannot be completed within the Cure Period and Buyer has timely commenced to cure such Default and thereafter diligently completes the cure.

(c) If, after the expiration of the Cure Period, or if applicable, the Cure Period Extension Deadline, the Default remains uncured, the Town shall have the option, but not the obligation, to repurchase the Premises and all improvements thereon, including the Project (the "Repurchase Right"), by notifying Buyer in writing within fifteen (15) days after the expiration of the Cure Period or, if applicable, the Cure Period Extension Deadline of the Town's election to repurchase the Premises for the Repurchase Price, as hereinafter computed.

(d) In the event that the Town exercises its Repurchase Right, the closing shall occur on such a date that is no earlier than sixty (60) days and no later than one hundred eighty (180) days after the Town exercises its option to repurchase (the "Closing Date").

(e) At or prior to the Closing Date:

(i) Buyer shall convey to the Town (or its designee) by good, clear, record and marketable title to the Premises by Quitclaim Deed all of its right, title, and interest in the Premises and all improvements thereon, free and clear of all liens and encumbrances, except those approved in writing by the Town thirty (30) days

prior to the Closing Date and those in existence as of the date of Buyer's purchase of the Premises;

(ii) the Town shall pay to Buyer the Repurchase Price, in cash or by certified check or bank check or by wire transfer of funds; and

(iii) recording fees and adjustments, if any, shall be paid in accordance with Massachusetts custom.

(f) On or prior to the Closing Date, the Buyer shall assign to the Town (or its designee) all of its rights, title and interest in all plans, improvements, warranties, permits, approvals and the like (to the extent the same are assignable), with all fees and expenses related to such work due and payable for the work completed and permits issued as of the Closing Date, to be paid by Buyer in full.

(g) For purposes of this Agreement, the term "Repurchase Price" shall mean the Purchase Price paid by Buyer for the Premises, as defined in Section 2.1 of the Disposition Agreement.

3. Force Majeure. The duties of the Buyer to observe or perform any of the provisions of this Agreement (except the payment of money and the cure of a Default by the Cure Period Extension Deadline) shall be excused and extended for a period equal to the period of prevention, delay or stoppage due to strikes, civil riots, war, invasion, fire or other casualty, acts of God, adverse weather conditions not reasonably anticipated and resulting in a declared state of emergency, act or failure to act of quasi-governmental or governmental authorities or other causes beyond the reasonable control of Buyer ("Force Majeure"). Buyer shall provide the Town with written notice at the time it becomes aware of any Force Majeure event, and Buyer shall take all steps that are reasonably necessary under the circumstances to mitigate the effects of such Force Majeure. Financial inability shall not be deemed a ground of Force Majeure.

4. Miscellaneous.

(a) Notices. All notices required or permitted to be given hereunder shall be in writing and delivered by hand, by recognized national overnight courier service, or mailed first class postage prepaid, by registered or certified mail, to the following addresses:

If to Buyer: [_____]

with a copy to: [_____]

If to the Town: Town of Wayland
Wayland Town Building
41 Cochituate Road
Wayland, MA 01778
Attention:

with a copy to: Stephen D. Anderson
Anderson & Kregier LLP

One Canal Park, Suite 200
Cambridge, MA 02141

and

Mark. J. Lanza
Town Counsel
41 Cochituate Road
Wayland, MA 01778

Each party shall be responsible for notifying the other party of any change of address.

(b) The provisions of this Agreement are not intended to create, nor shall they in any way be interpreted to create, a joint venture, a partnership, or any other similar relationship between the parties.

(c) The captions heading the various sections of this Agreement are for convenience and identification purposes only, and they shall not be deemed to limit or define the contents of their respective sections.

(d) The recitals set forth in this Agreement and all exhibits attached to this Agreement are incorporated in and made part of this Agreement.

(e) Except as otherwise expressly provided in this Agreement, no delay or omission by either of the parties in exercising any right or power accruing upon the other party's non-compliance with or failure to perform any of the provisions of this Agreement shall impair or be construed to be a waiver of any such right or power.

(f) The parties hereto acknowledge and agree that this Agreement has been negotiated at arm's length and between parties equally sophisticated and knowledgeable in the matters dealt with in this Agreement. Accordingly, any rule of law or legal decision that would require interpretation of any ambiguities in this Agreement against the party that has drafted it, or in favor of the non-drafting party, is not applicable and is waived. The provisions of this Agreement shall not be construed strictly or in favor of or against any party hereto but rather shall be interpreted in a reasonable manner to effect the intent of the parties as set forth in this Agreement.

(g) This Agreement shall be binding upon and inure to the benefit of the Town and the Buyer and their respective successors and permitted assigns subject to the provisions of this Agreement. Neither party may assign its rights or obligations hereunder without the prior written consent of the other party hereto, which may be granted or withheld in such other party's sole discretion.

(h) This Agreement may be executed in several counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

(i) Amendments, modifications, supplements or changes to this Agreement shall be in writing, signed by both parties.

(j) If any provision of this Agreement or application to any party or circumstances shall be determined by a final, unappealed ruling of any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Agreement shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the fullest extent permitted by law. In the place of such invalid or unenforceable provision, there shall be substituted a like, but valid and enforceable provision that comports to the findings of the aforesaid court and most nearly accomplishes the original intent of the parties.

(k) This Agreement shall be recorded in the Middlesex South District Registry of Deeds with the parties dividing the cost of such recordation equally between the parties.

(l) Each party shall, without charge, at any time and from time to time hereafter, within fifteen (15) days after receipt of written request of the other, certify by written instrument, duly executed and acknowledged, to any mortgagee or purchaser, or proposed mortgagee or proposed purchaser, or any other person, firm or corporation specified in such request:

(i) whether this Agreement has been supplemented or amended, and, if so, the substance and manner of the supplement or amendment;

(ii) whether any default exists under this Agreement, and, if so, a description of each default;

(iii) whether any offsets, counterclaims or defenses exist on the part of the responding party with respect to the obligations under this Agreement, and, if so, the nature and amount of such offsets, counterclaims or defenses; and

(iv) such other matters as may be reasonably requested.

Any such certificate may be relied upon by the addressee, and said addressee may rely on same to the extent of estopping the party providing the certificate from asserting a claim or defense inconsistent with the facts therein to the extent relied upon by the addressee without knowledge of the facts to the contrary, and the contents of such certificate shall be binding on the party executing the same to such extent.

(m) This Agreement shall be governed by the laws of the Commonwealth of Massachusetts.

[Signatures to appear on next page.]

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

TOWN OF WAYLAND

By: _____
Name:
Title:

[_____]

By: _____
Name:
Title:

COMMONWEALTH OF MASSACHUSETTS

_____, ss

On this ____ day of _____, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____ (identify the type of evidence), to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she/he signed it voluntarily for its stated purpose as _____ of the Town of Wayland.

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

_____, ss

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

Notary Public
My Commission Expires:

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 2.6

Form of Release for Site Visit

EXHIBIT 2.4
Release -
Site Visit

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

RELEASE OF LIABILITY

The undersigned visitor ("Visitor") voluntarily provides this Release of Liability ("Release") to the Town of Wayland (the "Town") on this ___ day of _____, 2015.

WHEREAS, The Town has agreed to provide Visitor with access to the Town's property located at 484-490 Boston Post Road, Wayland, Massachusetts (the "Town Property") for the purpose of Visitor inspecting the Town Property in connection with a potential response to Town Request for Proposals # 15-24.

NOW THEREFORE, in consideration for the Town providing the Visitor with such access, Visitor states and agrees as follows:

1. Visitor acknowledges that physically accessing the Town Property involves the risk of bodily injury to or damage to personal property of the Visitor.
2. Visitor agrees that Visitor has assumed all risk of such access and that the Visitor will not sue the Town or otherwise make any claim against the Town on account of any bodily injury, property damage or otherwise resulting from that access.
3. Visitor on behalf of himself or herself and on behalf of his or her heirs, executors, administrators, trustees, beneficiaries, employers, employees, agents, successors and assigns hereby releases the Town of Wayland and its boards, commissions, committees, employees, agents, attorneys, insurers, successors and assigns from any claims, damages, injuries, causes of action arising out of or relating to such access to the Town Property.
4. Visitor agrees to be solely responsible for his or her own safety and to take every precaution to provide for his or her own safety and well-being while accessing the Town Property. Visitor acknowledges that Visitor is not required to access the Town Property.

I have read this Release and sign it voluntarily and of my own free will.

VISITOR:

DATE: _____, 2015

Name:

Title:

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 3.1

**Certified Copy of Article 15 adopted at the 2014 Wayland Annual Town Meeting
To "Amend Zoning Bylaw Chapter 198: Rivers Edge Housing
Overlay Zoning District," with attached map of Rivers Edge Housing
Overlay Zoning District**

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 3.2

**Certified Copy of Article 16 adopted at the 2014 Wayland Annual Town Meeting
To "Transfer and Dispose of Septage Facility Land and Adjacent
Town-Owned Land on Boston Post Road" with attached Map**

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 4.1

Approval Not Required Plan dated _____, endorsed by the Wayland Planning Board on _____, recorded in the Registry as Plan No. _____ of _____

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 4.2

Wayland Assessors' Map 22 showing numbered Parcels 22-3, 22-6 and 22-7

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 4.3

Order of Taking dated January 11, 1971 and recorded with the Middlesex South Registry of Deeds in Book 11943, Page 420, together with the plan recorded in the Registry as Plan Number 27 of 1971

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 4.4

Order of Taking dated May 15, 1978 and recorded with the Middlesex South Registry of Deeds in Book 13443, Page 177, together with the plan recorded in the Registry as Plan Number 482 of 1978

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 4.5

Order of Taking dated November 15, 1965 and recorded with the Middlesex South Registry of Deeds in Book 11003, Page 389, together with the plan recorded in the Registry as Plan Number 1582 of 1965

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 4.6

**Surplus Declaration and Transfer of Custody pursuant to M.G.L. c. 40, § 15A
By the Wayland Department of Public Works dated _____**

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 5.1

Appraisal Report dated _____

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 5.2

River's Edge Design Guidelines

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 5.3

List of Town Consultants

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 5.4

Tata & Howard Perk Tests

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 5.5

Site Plan with Site Limits and Zoning

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 6.1

**Tighe & Bond Phase I Environmental Site Assessment and a Limited Phase II
Investigation dated October 2012**

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 6.2

Wayland Board of Health Site Assignment dated February 9, 1979

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 6.3

Wayland Board of Health Permit to Operate Sanitary Landfill dated June 16, 1980

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 6.4

**Request for Presumptive Approval pursuant to 310 CMR 19.029(3) and 19.034
submitted to the Massachusetts Department of Environmental Protection and the
Wayland Board of Health in light of former Site Assignment of a portion of the
Property**

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 7.1

Abbreviated Notice of Resource Area Delineation (“ANRAD”) filed with Wayland Conservation Commission Seeking Order of Resource Area Delineation (“ONRAD”)

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 7.2

**Design Requirement Guidelines for Riverfront Issued by the Wayland
Conservation Commission for Design Guidance prior to ORAD Issuance**

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 8.1

Water Connection Fees and Rates

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 8.2

Sewer Connection Fees and Rates

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 8.3

Utilities Plan

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 9.1

**DHCD's Form of "Local Initiative Program Regulatory Agreement and Declaration
of Restrictive Covenants for Rental Project, Local Action Units"**

RFP # 15-24 - RIVER'S EDGE PROPERTY, WAYLAND, MA

EXHIBIT 10.1

Wayland Historical Commission Dated _____ as to Historical Significance

WORKING DRAFT - COMMENTS WELCOME

Please submit comments to waylandedc@comcast.net
or to Sarkis Sarkisian, Town Planner ssarkisian@wayland.ma.us

v12 3/5/15
Approved by REAC

**RIVER'S EDGE
DESIGN GUIDELINES**

PURPOSE:

These guidelines supplement the RFP for proposed multi-family housing at the River's Edge Wayland. Please refer to the River's Edge Housing Overlay District (REHOD) zoning for the site, as well as building and zoning regulations for local requirements for design and construction of new buildings in Wayland. The Design Guidelines Plan (the "Guidelines Plan"), attached as Appendix A, is hereby included as a visual guide for the River's Edge Housing Overlay District zoning and many of the River's Edge Design Guidelines below.

The intent of these guidelines is to direct new multi-family housing construction at the River's Edge site such that:

1. The designer must consider forms, shapes, textures, and functions that are compatible with the general character and design styles of the Town and with the natural surroundings of the site.
2. The primary architectural styles that exist in Wayland Center include original farm structures, New England Greek Revival, Colonial Revival, neo-Colonial, Cape Cod Cottage, and Bungalow. River's Edge Wayland should not aim to directly copy historical styles of Wayland Center's existing residential single-family housing, but it is preferable to be identified as "traditional" or "classical" in character to be congruent with both Wayland and the site's natural riverfront environs.

Arts and crafts, shingle style or Adirondack/Berkshire design and/or detailing are suggested to link the natural environs and traditional character. Modern design and style elements may be proposed with quality design and details, particularly those which may meet Green Building criteria, however fully modern design is not encouraged, as it is inconsistent with the overall character of Wayland. Standard "suburban garden apartment" cookie-cutter design is discouraged.

3. The primary goal of any design is that the buildings' functionality and form are suited to the natural environs of the River's Edge site and that the architecture is welcoming and inviting. The project should have a sense of destination, and sense of place, in and among the buildings. Buildings are encouraged to be of different but complementary designs and/or colors to provide visual interest for the project as a whole.
4. The materials, products, and finishes should be of lasting quality. They should be chosen for contextual suitability, quality and durability.

Note the attached design (Appendix B) is just one sample design that meets the River's Edge Design Guidelines in terms of scale and articulation that a proponent might propose for the site, but is not meant to be an absolute layout or design requirement.

1. GENERAL REQUIREMENTS:

- a. Proposed buildings shall be no higher than three occupied residential floors and 45 feet in height, measured from average exterior grade to the highest roof point, with three exceptions as shown on the Guidelines Plan, specifically:
 - i. maximum 35 feet in height within 100 feet of the Route 20 roadway (with the preferred intent that any building façade facing Route 20 shall "step down", so that even if a first building facing Route 20 starts beyond 100 feet of the Route 20 roadway, that the maximum height for the first 25 foot depth of the building will be 35 feet), and
 - ii. maximum four occupied residential floors and 58 feet in height in the northwest quadrant of the site (see REHOD zoning map)
 - iii. for those areas along the north of the site abutting wetland areas where subsurface parking is recommended but where grading of excess soils may be difficult, the average grade for buildings adjacent to the wetlands may be defined as grading along the front (south) and sides (east/west) of the building only (*i.e. excluding the north side, so that the parking level may be partially visible from the back but not from other facades. See Parking Section 9a for more detail.*)
- b. Rooflines shall be in proportion and consistent with the architectural style of the project. Rooflines shall vary in height and detail with the use of dormers, shed dormers, step downs and other articulation as may be appropriate to provide visual interest for the project.
- c. Common, central green spaces shall be provided, including walking paths and seating areas. Resident gathering areas such as grill areas, outdoor fireplaces and patios are strongly encouraged.
- d. Massing, detailing, materials and colors shall be considered for visual appeal for drivers and by those enjoying the natural beauty of the Sudbury River, as well as serve as a suitable attractive statement for entrance to the Town of Wayland from the west.

2. FACADES

- a. All elevations should be detailed and treated as important, including the side and rear elevations of all buildings.

- b. Any façade length should not exceed 40'-50' without articulation or change of plane of a minimum of 8".
- c. All elevations should be fenestrated. Bay windows or similar protruding window elements are encouraged to help break up the massing of facades and increase visual interest inside and out.
- d. Architectural details to reduce the scale and improve visual interest should be incorporated into the design to add interest to the design and coherence within the streetscape. These details include, but are not limited to:
 - i. Rake boards
 - ii. Cornice lines
 - iii. Corner boards
 - iv. Columns or turned posts, of appropriate proportions and detailing
 - v. Pilasters
 - vi. Pediments or other decorative entranceways.

Details should be used as appropriate to the building construction type.

- a. If siding is used, it should be wood, fiber cement, polyash or similar siding. Aluminum, E.I.F.S. and vinyl siding are prohibited. Long expanses of clapboard are recommended to be broken up with arts and crafts / shingle style detailing
- b. Siding should begin not more than 24" from ground/landscaping to avoid any large exposed areas of cast concrete foundations.
- c. If brick is used, it should be no larger than a small standard modular unit size (e.g. 3-5/8" x 2-1/4" x 8" or similar). Stone veneer or brick is encouraged at lower elevations.
- d. Variation of detailing is encouraged for first floors, versus second/third floors, versus fourth floors to help break down the scale of the façade walls. Such detailing shall be created within a recognizable hierarchy of the overall design, not simply variation for variation's sake.

3. MATERIALS

- a. Brick, wood siding, fiber cement, polyash or similar siding, wood shingle, stone, cultured stone or other natural materials are acceptable on the front, rear, and side elevations. Vinyl, E.I.F.S. and aluminum siding are prohibited.
- b. Roofs:
 - i. Shingles shall be dimensional, architectural grade fiberglass shingles.
 - ii. Shingles must have a minimum thirty (30) year warranty; forty (40) year warranty is preferred.

- iii. Flat roofs shall be minimized but otherwise may be EPDM, TPO or tar and gravel.

4. COLORS

- a. Colors are preferred to be chosen in a natural earthtone palette to complement the woodland, river and wetland surroundings, avoiding bright non-natural colors and pastels.

5. ENTRANCES / CONNECTIONS / PRIVATE OUTDOOR SPACE

- a. Front porches and/or covered entrances protruding from the front façade plane are preferred on all buildings to help break down the scale of the buildings.
- b. Age-restricted buildings are encouraged to feature covered drop-off entrances or structural awnings for weather-protected resident access, and covered walkways if possible between buildings to encourage pedestrian access between buildings.
- c. Private outdoor patio/balcony/Juliette balcony space shall be provided for not less than 50% of the apartments.
- d. Juliette balconies are preferred for a cleaner look to the façade, but are not required per se. To the extent full balconies are included at the election of the developer, open air rather than recessed balconies are preferred for the majority of balconies. Full balconies shall be well integrated into the design form, avoiding the appearance of "tack on" structures. Balcony rails are preferred to be earthtone or black in color to minimize visual impact.

6. WINDOWS

- a. Windows and doors should reflect the style of the building itself in scale, proportion and style. Windows are encouraged to be earthtone in trim color (green, brown, tan) to match the natural setting and earthtone façade colors, in lieu of stark white or light ivory.
- b. All window casings should be built out to give dimensionality to the façade and not be flush with the plane of the façade.
- c. Windows should contain muntins in a general proportion that is appropriate to give texture to the buildings, and should be simulated divided light.
- e. Wood windows, with the exterior clad in either aluminum or vinyl, or aluminum windows, are preferred. Fiberglass windows are allowed; vinyl windows are not allowed unless they are highly energy efficient and with similar detail and profile to other windows described herein.

7. DOORS

- a. Main entrances must feature swing doors, not sliding glass doors or otherwise commercial or hospitality storefront entries with glass extending to the ground.
- b. Emergency egress doors shall be detailed on the exterior to meet the overall design detailing.
- c. Flush doors are not preferred and should only be used as secondary or egress only doors.

8. ROOFS

- a. Interest should be added to the roofs and rooflines with height and plane changes, and possibly dormers or other articulation.
- b. Roofs should be consistent with the architectural design of the project. Peaked roofs are recommended, and shall be peaked with a minimum pitch of 6:12 and maximum pitch of 12:12, and overall height and massing consistent with the facades heights and lengths of its building, but in no case higher than 15' from bottom to top of roof. If peaked roofs are utilized, any flat roof areas shall be allowed as needed for mechanical equipment, as long as such areas are minimized, not visually prominent and/or which may be hidden behind adjacent rooflines.
- c. Rooflines are encouraged to vary at a minimum, and if possible within the overall design, are encouraged to incorporate part or all of the uppermost floor behind the roof, such as with dormers, gables or even mansard roof, to help minimize the lower façade heights of the buildings.
- d. There should be a cornice line and it should be of a wide proportion and built out to give dimension to the transition from the roof to the façade.
- e. Shingles must conform to the NSRA Committee approved color list which are subdued tones in the weathered gray, weathered brown, gray-brown, and moss green ranges.
- f. Visible roof elements and other roof elements and penetrations should be finished to match adjacent roof color.
- g. Rooftop mechanical equipment shall be placed to minimize their visibility to the maximum extent possible, especially from prominent views (southwest, south and southeast).
- h. South-facing roofs are encouraged to be solar panel ready.

9. PARKING

- a. A minimum of 40 parking spaces shall be provided internal to the residential buildings. As described above in Section 1.a.ii, internal parking is encouraged at the north side of the site, and in particular any north single-level parking exterior wall may be partially exposed (up to 6'), in order to accommodate grading adjacent to wetlands and also to allow natural ventilation of the parking level. Landscaping shall be located

along the wall to soften the appearance of any exposed area of the wall, and ventilation openings shall be detailed to minimize their appearance.

- b. The remaining parking spaces may be surface spaces. Surface parking spaces shall be shielded from view from adjacent roadways using soft and hard (low stone wall) landscaping.
- c. Ramps or entrances to internal parking shall not be visible from adjacent roadways.
- d. Expanses of parking are to be broken by landscaping islands, at least 1 per 10 spaces or per 85 lineal feet of parking.
- e. No independent enclosed garage/parking structures are allowed. Non-enclosed covered parking (with solar panels encouraged), complementary to the overall design intent, and not visible from Route 20, may be allowed.

10. UTILITIES / SUPPORTING INFRASTRUCTURE

- a. All utilities distribution on site shall be installed underground.
- b. Headhouses, pull stations or other ancillary structures for utilities shall be located for minimal visual effect, partially or fully recessed if possible, and otherwise masked with landscaping as may be possible.
- c. All service entrances, dumpsters and loading facilities (if any) should be located at the rear of buildings and/or at facades not readily visible from roadways to the east and south. Such uses should be screened from view with solid fencing, wall and/or landscaping from public streets and parking areas.
- d. Equipment (such as air conditioning units or exhaust fans) should be located on rooftops as much as possible, to avoid visual or aural disruption at and around the buildings.

11. TOPOGRAPHY

- a. All excess soils currently stockpiled on site will be screened and reused on site. Excess soils in particular will be utilized to minimize the appearance of any underground parking.
- b. The height of the prominent southwest corner of the site will be maintained to retain the topographic variety on site. Internal parking is preferred to be located at those areas which can utilize the change in grade to help mask the ground-level or subsurface parking level.
- c. Retaining walls shall be minimized when working with the topography of the site. Any retaining walls shall be stone or stone façade. Split-face or other block assembly wall construction is discouraged.

12. LANDSCAPING AND EXTERIOR ELEMENTS

- a. The project and quality of landscape along Route 20 should recognize the prominence of this site as the "front door" to Wayland while traveling west to east along Route 20.
- b. A minimum of 10-20% of site must be reserved for open space. Open space shall be defined as: The portion of a lot not covered by buildings, garages or other accessory buildings or structures, canopies, off-street parking areas, maneuvering aisles, loading areas or driveways. The portions of a lot devoted to lawn; landscaping; swimming pools constructed at or below grade; at grade terraces, patios, walks, tennis or other play courts; and woodland or wetland shall be considered as open space. Open space shall be free of automotive traffic, or parking.
- c. Walking paths are encouraged within and around the perimeter of the site. Paths shall integrate pedestrian access to the Landfill Access Road (and potential future connection to River Road via the DPW access road) and anticipate connection to the upcoming bike path across Route 20 from the site.
- d. Raised, lined planting beds for tenant use are encouraged, where and if possible.
- e. Recreation, play areas, outdoor activity and seating areas are encouraged, where possible.
- f. Trees and shrubs shall be planted to soften views of building foundations. Expanses of longer façade walls should also be softened through the use of landscaping.
- g. Landscaping shall be planted to buffer but not block views of the proposed development from the street. Buffer landscaping shall be a mix of native and non-native Evergreen trees and deciduous trees to provide a variety of seasonal tree cover, as well as understory shrubs and perennial plantings to complement tree species. For all plantings, species indigenous to surrounding areas are encouraged.
- h. Trees
 - i. If a shade tree (such as hardwood maple, oak, elm or similar) is used, it should have a minimum trunk size of three (3) inches in diameter upon installation, as measured six (6) inches above the established ground level. Evergreens should be 8-10' minimum, with larger sizes included so heights will vary and appear more natural.
 - ii. Ornamental trees (such as pear, cherry, plum, dogwood, crab apple, lilac or similar) may also be used to complement the larger shade tree varieties.
 - iii. Particularly along the Landfill Access Road, a row of large-height-species trees (similar in species or eventual height as those currently located on the opposite side of the roadway along the

river boundary) shall be planted to create a future attractive tree-canopy-lined roadway.

- iv. Existing trees which are in good condition at the southwest corner of the site shall be preserved as possible to maintain mature tree growth.
- c. Acceptable fence/wall styles:
 - i. Decorative low-profile (4' or less) stone walls are encouraged as a New England design element to complement and be inherent to the landscape treatment.
 - ii. Dumpster or other ancillary use enclosures shall be natural wood or stained wood solid fence and shall be of sufficient height to mask such uses.
 - iii. Natural wood basket weave fences, vinyl fencing (especially white), concrete block walls, chain link fences, and snow fencing are not acceptable.
- d. Railings:
 - i. All railings must be of cedar, redwood or cypress, or black or natural-tone wrought iron, or vinyl in dark/natural wood tones. Pressure-treated and/or painted wood is not permitted.
 - ii. All posts must be finished with a cap detail.

13. SIGNAGE

- a. Project signage at the Route 20 entrance shall be integrated with surrounding landscape and shall be no taller than 15' in height and 40 square feet in area. A second sign shall be allowed at the landfill access road entrance, no taller than 10' in height and 30 square feet in area.
- b. Signage shall be of natural material (or natural material appearance) and shall be externally, indirectly illuminated; lighting fixtures to illuminate such signage shall be masked so that the lamp is not visible.
- c. Temporary signage after construction is not allowed. Leasing availability signage is only allowed when limited in nature and designed as a natural appendage to the main Route 20 entrance signage (e.g. a hanging shingle of consistent design and quality below the main entrance sign).

14. LIGHTING

The project design is encouraged to be to be Dark Sky compliant, to reduce light pollution to the natural environment surrounding the property. If this is not feasible due to security or safety concerns, please note where applicable. Specific requirements are as follows:

- a. Lighting should serve only to illuminate entries and signage, adjacent pedestrian and parking areas or to highlight significant architectural

elements such as a main entry. Continuous illumination of a building façade in its entirety, whether with cove lighting or up-lighting is discouraged.

- b. All parking lot fixtures should be down light and full cut-off such that the fixture head is opaque at a minimum to the bottom of the bulb to minimize light pollution both to residents on site and to the surrounding area.
- c. Free-standing fixtures should be coordinated in appearance with building-mounted fixtures.
- d. Security lighting should be concealed from view to the extent possible.
- e. Site lighting is to be held to no more than one footcandle unless otherwise recommended.

15. GREEN COMMUNITY

- a. Wayland has voted itself a green community and has adopted the "stretch code", an appendix to the MA Building Code. All designs must comply with stretch code requirements for energy- and resource-efficient materials, insulation, lighting, mechanical and building systems.
- b. Beyond the stretch code, proponents are encouraged to incorporate green design principles and materials in building design, for example
 - i. Design the building systems to minimize the consumption of energy.
 - 1. Solar panels and/or the use of solar energy from future nearby panels is encouraged.
 - 2. Geothermal heating and air conditioning is encouraged to be considered as a long-term cost-saving and energy-efficient HVAC system.
 - ii. Design the buildings and specify system components to minimize the consumption of water.
 - 1. Energy efficient and water-efficient appliances and plumbing fixtures shall be utilized
 - 2. Roof run-off shall be harvested in rainwater cistern(s) for re-use for irrigation.
- c. The following are sustainable design suggestions for landscape design, with particular sensitivity to the site's adjacency to the Sudbury River.
 - i. Choose low-maintenance plants that:
 - 1. Once established, do not require regular watering
 - 2. Are pest and disease resistant, thus requiring no or only minimal pesticides (where any and all must be in

compliance with Conservation Commission requirements within wetlands and riverfront zones).

3. Are correctly matched to their lighting and micro-climate requirements
4. Minimize turn grass lawns and use species which require less water and pesticides/fertilizer
 - ii. Use organic fertilizers on an ongoing basis
 - iii. Minimize water use beyond normal rainfall. Irrigation should be planned for a permanent condition; the first year following substantial completion, plantings should be irrigated as needed only to allow the plantings to become established, after such time, sprinklers should be run manually if at all to maintain lawns only.
 - iv. Materials and techniques to reduce storm water runoff thus allowing rain water to percolate into the ground are encouraged. Examples include permeable paving, bio-swales and rain gardens.

16. UNIT TYPES

- a. Not less than 25% of the units shall be 55+ age-restricted, per the REHOD
- b. Per the REHOD zoning, 25% of all units shall be affordable for those meeting 80% AMI criteria. These affordable units shall be distributed proportionally between the age-restricted and non-age-restricted units.
- c. The residential unit mix on site should be substantially similar to the following unit mix:

<u>55+ Age Restricted</u>		<u>Non-Age Restricted</u>	
5%	Studios (avg 600 sf)	0%	Studios
50%	1 BR (avg 700-750 sf) & 1BR+Den (avg 850sf)	40%	1 BR (avg 700-750 sf) & 1BR + Den (avg 900 sf)
45%	2BR (avg 900-1000 sf)	55%	2 BR (avg 1000 sf)
		5%	2BR+ Den (avg 1250 sf)

Alternatively, the project may have a higher percentage of one bedroom units in either or both categories. Unit sizes are suggested and may range across different unit layouts.

- d. Affordable units shall be a representation of the range of market-rate unit sizes, types and locations so that the affordable units are distributed among (and indistinguishable from) market-rate units.
- e. Amenities are encouraged to be shared between age-restricted and non-age-restricted buildings as possible.

- f. Per the zoning overlay, up to 25% of the age-restricted units may be assisted living units, as long as such assisted living units qualify as rental affordable (either affordable or market-rate) units per DHCD guidelines. Otherwise, all age-restricted units shall be independent senior housing units.

17. COMMON INTERIOR SPACES:

The project will provide at a minimum typical common areas including health/fitness facilities and meeting room(s). Common interior areas are encouraged to be located within the footprint of one or more of the residential buildings, adjacent or near to entrances and/or lobbies -- as opposed to in a separate structure or in back-of-house locations -- to encourage their everyday use and utility for as many residents as possible.

Developers are encouraged to provide creative amenity and common area spaces, to support the wide range of interests that residents may have and to engender community among residents. Specialized uses such as movie theater, shared office/incubator/conference space, kitchen/cooking/ dining space, or even a screen porch with TV's for summer Red Sox games are examples of creative amenities. Developers shall describe all amenity and common areas to be provided for residents. Other suggestions for site-specific creative amenities could include:

- a. **Panorama Common Room.** A resident common room of approximately 1500 sf is suggested to be provided on the top floor of the upper most building at the southwest corner of the site, with panoramic views to the east and possibly south.

Access shall be readily accessible from the main floor entrance and elevator of the building, or an otherwise readily accessible secondary door, such that the room can be used by residents on a common-area basis, as well as non-residents on an event-by-event basis to help introduce and integrate the project into the community. The Town of Wayland would be allowed the use of the room for two events per year at no cost to the Town (aside from any food service or special services), with the intent of helping introduce groups of Wayland residents to the project.

- b. **Diner or Café.** A diner or café open to both residents and the public, is strongly encouraged, to weave the project into the fabric of the overall Wayland community and to provide walkable amenity to residents on site.

The diner would offer at a minimum breakfast and lunch service, and ideally dinner service on weekends if possible. The diner or café would be readily accessible and visible from the Transfer Station Access Road and Route 20 entrance, perhaps at the southeast corner of the site. Ideally the diner or café will be accessible from inside the building or immediately adjacent to a lobby, so that residents do not have to exit the building to enter the diner/café. Outdoor seating is encouraged. Parking may be shared with the guest parking on site.

- c. **Pub or Pub Service.** The community benefits of a friendly neighborhood pub are many, and a pub social setting is encouraged. For example, in a prominently located common room, the design of a u-shaped or curved bar with 12-16 stools is encouraged, such that a caterer or other food service professional could "hold bar" once or twice per week for residents. Depending upon the discretion of residents and management, a pub space could be proposed as part of the diner/café which may be open to the public.

18. OPERATIONAL/COMMUNITY DESIGN ELEMENTS

- a. Proponents are encouraged to integrate ZipCars or other shared vehicle usage into the parking plan. This is to encourage sustainability as well as provide options for seniors and others to reduce their automobile ownership/operating costs.
- b. A goal of the project is to be linked with MWRTA and other regional transit where possible. Proponent will coordinate with the Town of Wayland and MWRTA as needed.
- c. [Optional – please include discussion if concept is appropriate for the Proponent’s Project] Proponents are encouraged to operate a shuttle bus between the site and Town Center to facilitate pedestrian access to this walkable community nearby, and to reduce traffic trips on Route 20. Note the shuttle bus could possibly be coordinated with the The Coolidge at Sudbury senior housing project at Landham Road.
- d. Proponents are encouraged to provide reasonable storage on site, potentially even on each residential floor for residents to readily store excess personal possessions, given the efficient suggested size of the apartments.
- e. [Optional – please include discussion if concept is appropriate for the Proponent’s Project] Proponents are encouraged to consider, as may be allowed by law, and as may be practicable and perceived as a benefit by future residents, to allow limited sub-leasing by tenants, specifically for residents’ leasing of their furnished spaces while they are out of town, via an acceptable, reputable clearing house such as Airbnb (www.airbnb.com), VRBO (www.vrbo.com) or HomeAway (www.homeaway.com). By allowing seniors and others the ability to create value from their apartment while they are not using it (for a limited duration each year), benefits are three-fold: first, it provides useful income for seniors or residents who may be on limited incomes; second, it provides cost-effective housing options for visiting relatives and guests of Wayland families and residents, which is highly convenient and also has the merit of financially helping out fellow Waylanders; and third, it provides an opportunity for Wayland residents to actively "try out" River’s Edge as a potential housing option.
- f. [Optional – please include discussion if concept is appropriate for the Proponent’s Project] Proponents are encouraged to consider allowing, and even possibly facilitating, shared leases for residents who split time

between Wayland and for example Florida or Cape Cod. This could significantly reduce housing costs for residents who want to, but might not otherwise be able to afford to, maintain a part-time presence in Wayland.