

## **Development Agreement**

This Development Agreement dated as of this \_\_\_ day of \_\_\_\_\_, 2020 (this “Agreement”) by and between the Town of Princeton, a Massachusetts municipality having a usual place of business at 6 Town Hall Drive, Princeton, MA 01541 (the “Town”), acting by and through its Board of Selectmen (the “Board”), and XXX, a natural person having a usual place of business at XXX and a licensed contractor, MA License No. \_\_\_\_\_ (the “Developer”)

Witnesseth That:

Whereas, the Town is the owner of a historically significant building known as “Mechanics Hall,” which is situated on a parcel of land consisting of approximately 0.306 acre, more or less, located at 104 Main Street (Route 140), Princeton, Massachusetts 01541 (the land and all buildings thereon hereinafter referred to as the “Premises”); and

Whereas, under Article 7 of the Warrant for the Annual Town Meeting of the Town for 2018, the Board was authorized to sell and convey the Premises upon such terms and conditions as the Board deemed appropriate; and

Whereas, on or about June 17, 2019, the Town issued a request for proposals for the purchase and redevelopment of the Premises, a copy of which is attached hereto as Exhibit “A” (the “RFP”); and

Whereas, on or about June 17 and July 7, 2019, the Developer submitted a proposal in response to the RFP, a copy of which is attached hereto as Exhibit “B” (the “Proposal”); and

Whereas, the Board determined that the Proposal was in the best interest of the Town; and

Whereas, the parties mutually desire that the Premises be conveyed to and developed by the Developer consistent with the provisions of the RFP and the Proposal, but subject in all events to the terms and conditions set forth below;

Now, therefore, in consideration of the recitations set forth above and the mutual promises set forth below, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, hereby covenant and agree as follows:

A. Conveyance.

1. Incorporation by Reference. The RFP and the Proposal are hereby incorporated herein by this reference. To whatever extent the terms and conditions of either may be inconsistent with those set forth in this Agreement, the terms and conditions of this Agreement shall apply and govern. The provisions of this clause shall survive the delivery of the deed and any termination of this Agreement.

2. Closing. The Premises are to be conveyed by a good and sufficient quitclaim deed running to the Developer, or to the nominee designated by the Developer by written notice to the Town at least seven days before the deed is to be delivered as herein provided, and said deed shall convey a good and clear record and marketable title thereto, free from encumbrances, except:

- a. provisions of existing buildings and zoning laws;
- b. such taxes for the then current year as are not due and payable on the date of the delivery of such deed;
- c. any liens for municipal betterments assessed prior to delivery of the deed; and
- d. any easement, restriction or reservation of record.

It is understood and agreed that in 2018 the Town widened Route 140 by taking a small amount of land from the Premises and incorporating the same into the public way. The deed from the Town to the Developer shall recite widening, acknowledge the diminution of the Premises, and shall be subject to the said expansion of the public way. Such deed is to be delivered at the office of the Developer's lender's attorney, unless otherwise agreed upon in writing, at 10 a.m. on \_\_\_\_\_, 2020 (the "Closing"). It is agreed that time is of the essence of this Agreement. The purchase price shall be One Thousand and Ninety-Nine Dollars (\$1,099.00).

3. Title and Possession. Full possession of the Premises free of all tenants and occupants is to be delivered at the time of the Closing, the Premises to be then free of the Town's possessions and in substantially the same condition as they were at the time of the execution hereof, reasonable use and wear and tear excepted. If the Town shall be unable to give title or to make conveyance, or to deliver possession of the Premises, all as herein stipulated, or if at the time of the delivery of the deed the Premises do not conform with the provisions hereof, the Town shall use reasonable efforts to remove any defect in title, or to deliver possession as provided herein, or to make the Premises conform to the provisions hereof, as the case may be, in which event the Town shall give written notice thereof to the Developer at or before the time for performance hereunder, and thereupon the time for performance hereof shall be extended for a period of thirty (30) days. Reasonable efforts shall not require the expenditure by the Town of more than two thousand dollars (\$2,000), including reasonable attorneys' fees and costs. If at the expiration of the extended time the Town shall have failed so to remove any defects in title, deliver possession, or make the Premises conform, as the case may be, all as herein agreed, then, at the Developer's option, all obligations of the parties hereto shall cease and this Agreement shall be void without recourse to the parties hereto. If the Town shall not be able to deliver possession of and title to the Premises as herein provided, then the Developer shall have the election at either the original or any extended time for performance to accept such title and possession as the Town can deliver. The acceptance of a deed by the Developer, or his nominee as the case may be, shall be a full performance in discharge and release of every agreement and obligation herein contained or expressed, except such as are, by the terms hereof, to be performed after the delivery of said deed. The provisions of this clause shall survive the delivery of the deed and any termination of this Agreement.

4. Historic Preservation Restriction. At the Closing, forthwith following the delivery to the Developer of the Town's deed to the Premises, the parties shall execute and the Developer shall deliver to the Town a written historic preservation restriction substantially in the form attached hereto as Exhibit "C" (the "Restriction"), provided that the Restriction may contain such other or different terms and conditions as may be required by the Massachusetts Historical Commission, which shall be a signatory thereto. The Developer agrees to record the Restriction with the Worcester Registry of Deeds immediately after recording the said deed and prior to recording any mortgage or other lien instrument with respect to the Premises, it being understood that the Restriction shall take precedence over any and all encumbrances. The provisions of this clause shall survive the delivery of the deed and any termination of this Agreement.

5. Closing Costs. The Developer shall bear all costs relating to the Closing, including without limitation the cost of recording the deed, Restriction, municipal lien certificate and any other document which may be recorded in connection with the Closing. The parties acknowledge that no excise stamp tax will be due under G.L. c. 64D, § 1 because the transferor is a municipality.

6. Disclosure Form. The Developer shall complete and sign the disclosure form required by G.L. c. 7C, § 38 (formerly c. 7, § 40J) and deliver the same to the Town at or before the Closing, which form shall be filed thereafter with the Commonwealth of Massachusetts by counsel for the Town pursuant to such statute.

7. REBA Standards. Any matter or practice arising under or relating to this Agreement which is the subject of a title standard or a practice standard of the Massachusetts Real Estate Bar Association in effect on the date of this Agreement shall be covered by such title standard or practice standard to the extent applicable. The provisions of this clause shall survive the delivery of the deed and any termination of this Agreement.

B. Restoration.

8. Developer's Responsibility. The Developer shall be solely responsible for the restoration of the Premises consistent with the terms of the Restriction.

a. The Developer shall bear all costs and expenses of the restoration and development of the Premises, including without limitation, renovation of the existing building, the design and construction of site improvements, the installation of all onsite utilities and property work required for the proposed use, and any other measures necessary to renovate and occupy the Premises in compliance with this Agreement, the RFP, the Proposal and all applicable federal, state and local laws, bylaws, rules, regulations and codes for the proposed use. The Developer shall, at its sole cost and expense, obtain all necessary permits, approvals and licenses from governmental authorities, including the Town, required for the restoration and re-use of the Premises.

b. The Developer shall not engage in "land banking", i.e., unreasonable

delay of the development of the Premises. The Developer shall begin and complete the Project, as defined below, in an expeditious and timely manner, and in all events in conformity with the approved Project Schedule, also set forth below, unless the Town agrees in writing to an amendment thereof. In the event that the Developer fails to commence the Project or substantially complete the Project within the timeframe required by the Project Schedule, the Town shall provide written notice of breach to the Developer. In the event that the Developer does not cure said breach within thirty (30) calendar days after its receipt of that notice, or fails to commence work towards such a cure and prosecute such work with reasonable diligence after such notice toward completion, then the Town shall have the right to seek damages and/or injunctive relief from a court of competent jurisdiction, it being agreed that time is of the essence and that the damage to the Town from the failure to perform by the Developer will cause great and potentially irreparable damage to the public interest.

c. The Developer may not assign, transfer, sublet, convey or otherwise dispose of this Agreement or its interest in the Premises, to any other person or entity without the written consent of the Town.

d. The Developer shall not grant any covenants, easements, or other restrictions with respect to the Premises to any person or entity without the prior, written approval of the Board.

The provisions of this clause shall survive the delivery of the deed.

9. Project and Project Schedule. The “Project” consists of the Developer’s completing each and all of the following elements of the restoration, renovation and remodeling of the Premises. No element of the Project shall be deemed complete unless and until final approval is given thereto by the appropriate inspecting authority of the Town (e.g., the Building Inspector, Plumbing Inspector, Electrical Inspector, Board of Health, etc.) The “Project Schedule” consists of the deadlines set forth below for each and all of the elements of the Project.

a. Septic System. The Developer shall submit a stamped, engineered septic design plan to the Town’s Board of Health by \_\_\_\_\_, 2020 and shall install and obtain a certificate of compliance from the Board of Health with respect to such system by June 30, 2020.

b. Well. The Developer shall raise the well head above ground level. The well shall be fully approved by the Board of Health by \_\_\_\_\_, 2020.

c. Structural Frame. The Developer shall dig and install new footings in the basement; replace all wooden support columns with steel, concrete-filled lally columns and springfield plates; repair all flooring and floor joists that have been compromised by water or other damage; add a new concrete wall and footings to

the rear section of the building that was appended to the original hall; remove the existing stairs between the first floor and the basement; and install a new entrance and stairs from the left rear side of the building to the basement. All such work shall be completed and approved by the Building Inspector by \_\_\_\_\_, 2020.

d. Plumbing. The Developer shall remove all existing water pipes and drains except the main stack that vents through the roof; remodel both first floor bathrooms, making them both handicapped-accessible; install a half-bathroom on the second floor; install the plumbing for a small kitchen on the second floor; and install new water heaters on each of the first and second floors. All such work shall be completed and approved by the Plumbing Inspector by \_\_\_\_\_, 2020.

e. Heating System. The Developer shall remove the existing heating system and duct work in their entirety and replace them with a heating system that is acceptable in concept to the Board. The Developer shall furnish plans for a new heating system to the Board by \_\_\_\_\_, 2019 and install a system approved by the Board and by the Building or Plumbing Inspector \_\_\_\_\_, 2020.

f. Electrical System. The Developer shall remove all existing knob and tube wiring from the Premises; install a new 200-amp electrical service with three (3) meter sockets, one for each of the basement, the first floor and the second floor; install a new electrical panel on each floor; and install new emergency lighting with exit signs and a hardwired smoke and carbon monoxide alarm system throughout the building. All such work shall be completed and approved by the Electrical Inspector by \_\_\_\_\_, 2020.

g. Insulation. The Developer shall install “blown-in” insulation in order to minimize the demolition of internal walls and woodwork. All such work shall be completed and approved by the Building Inspector by \_\_\_\_\_, 2020.

h. Windows. The Developer shall replace the existing, single-pane glass windows with new, energy-efficient windows similar in style, in the opinion of the Board, to the existing windows. All such work shall be completed and approved by the Building Inspector by \_\_\_\_\_, 2020.

i. Exterior. The Developer shall prepare all siding to be painted, apply a coat of primer and a coat of white paint; restore the lettering on the front of the building; re-install the flag pole on the upper front gable; make the side door handicapped-accessible; remove the tree and shrubs from the left side of the Premises; paint the emergency stairs to the second floor; install a new exit door for the first floor and a new ingress and egress door to the basement, both on the left rear side of the building; and install new bituminous concrete pavement in front of and on the right side of the building. All such work shall be completed and approved by the Building Inspector by \_\_\_\_\_, 2020.

j. Floors and Interior Trim. The Developer shall restore all floors and interior trim as much as possible to their original appearance and condition. All such work shall be completed and approved by the Building Inspector by \_\_\_\_\_, 2020.

With respect to all elements of the Project, the Developer shall submit detailed plans (including site plans, parking plans and construction plans) to the Board for review, discussion and approval prior to construction, and shall not engage in any work unless and until such work has been specifically approved by vote of the Board, provided that such approval shall not be unreasonably withheld, conditioned or delayed. The provisions of this clause shall survive the delivery of the deed.

C. Use and Maintenance.

10. Lease to Tenants. The Developer shall use the Premises as commercial rental space. Anticipated uses include the lease of retail space to vendors and office space to doctors and chiropractors on the first floor and the lease of professional office space on the second floor. The provisions of this clause shall survive the delivery of the deed.

11. Conformity to Law. The Developer shall not use the Premises, or permit the Premises to be used, for any purpose or in any way that is prohibited by any applicable law, statute, regulation or bylaw. Nothing herein shall obligate the Town, or any of its public bodies, to grant any permit, special permit, variance, license or approval with respect to the Premises. The provisions of this clause shall survive the delivery of the deed.

12. Duty to Maintain. The Developer shall at all times, from and after the Closing until the Premises is conveyed to another with the permission of the Board, be solely responsible for the maintenance and good repair of the Premises. Without limiting the generality of the foregoing, the Developer shall not permit either the interior or the exterior of the Premises to deteriorate, but rather shall repair, re-paint and otherwise keep the Premises in good repair to the reasonable satisfaction of the Board following the renovation work described above as the "Project." The provisions of this clause shall survive the delivery of the deed.

D. General.

13. Representations and Warranties.

a. The Developer acknowledges that the Developer has been given full and ample opportunity to inspect the Premises; that the Town has no responsibility for any failure of the Developer to exercise fully such inspection rights; that, except as may be expressly set forth in this Agreement, the Town has made no statements and no warranties or representations, express or implied, regarding the Premises or any other matter on which the Developer has relied in connection with the Developer's decision to purchase the Premises; that except as otherwise expressly provided in this Agreement, the Premises are being conveyed "AS IS, WHERE IS," WITHOUT REPRESENTATIONS OR WARRANTIES BY THE

TOWN; and that it is the understanding of the parties that the entire agreement of the parties with respect to the transaction which is the subject of this Agreement is fully and completely set forth in this Agreement. The provisions of this clause shall survive the delivery of the deed and any termination of this Agreement.

b. The Town does not represent or warrant that it has good, clear or marketable title to the Premises; or that the Premises may be used for any particular purpose; or that the Premises complies with any applicable laws, statutes, codes, regulations or other legal requirements; or that the Premises will be assessed for purposes of real estate taxes on the basis of the price at which the Premises are sold; or that any permits or approvals required for the consummation of the Developer's plans will be available. The provisions of this clause shall survive the delivery of the deed and any termination of this Agreement.

c. The Developer represents that his anticipated funding for the Project is from the following sources: \_\_\_\_\_.  
The provisions of this clause shall survive the delivery of the deed and any termination of this Agreement.

d. The parties each warrant and represent to the other that they have not dealt with any broker or finder in connection with the purchase and sale of the Premises or in connection with this Agreement and they each agree to hold the other harmless and indemnify the other from any loss, cost, damage and expense, including reasonable attorneys' fees incurred by the other, by reason of a claim against it for a commission or finder's fee as a result of their having dealt with any party as a broker in connection herewith. The provisions of this clause shall survive the delivery of the deed and any termination of the Agreement.

14. Conditions. A condition of the Town's obligations hereunder shall be that the Developer shall have paid in full all taxes and other amounts owed to the Town and/or the Princeton Municipal Light Department.

15. Indemnification. The Developer shall indemnify and hold harmless the Town and each and all of its officials, officers, employees, agents, servants and representatives (the "Indemnitees") from and against any claim arising from or in connection with the performance of this Agreement by reason of any negligent act or omission or intentional misconduct by the Developer, his employees, agents, servants and representatives including, without limitation, any claim of liability, loss, damages, costs and expenses for personal injury or damage to real or tangible personal property. Such indemnification shall include, without limitation, current payment of all costs of defense (including reasonable attorneys' fees, expert witness fees, court costs and related expenses) as and when such costs become due and the amounts of any judgments, awards and/or settlements, provided that (a) the Developer shall have the right to select counsel to defend against such claims, such counsel to be reasonably acceptable to the Town, and to approve or reject any settlement with respect to which indemnification is sought, (b) the Indemnitees shall cooperate with the Developer in all reasonable respects in connection with such defense, and (c) the Developer shall not be responsible to pay any judgment, award or

settlement to the extent occasioned by the negligence or intentional misconduct of any of the Indemnitees. The provisions of this clause shall survive the delivery of the deed and any termination of this Agreement.

16. Insurance. The Developer shall purchase and maintain liability insurance sufficient to protect the Developer from claims under the Workers' Compensation Act and other employee benefit statutes, claims for damages for bodily injury (including death), claims for damage to property arising out of or as a result of the Developer's performance of this Agreement, and claims by the Town under the Developer's indemnity obligations hereunder. Such insurance shall be in an amount not less than \$1,000,000 combined single limit. The Town will be named an additional insured on the Developer's insurance policy, and such policy shall provide that coverage may not be cancelled, reduced or changed without thirty (30) days notice to the Town. If the Developer is underwritten on a claims-made basis, the retroactive date shall be prior to or coincident with the date of this Agreement and the certificate of insurance referred to below shall state that the coverage is claims-made and also the retroactive date. The Developer shall maintain coverage, if of the claims-made variety, for a period of two (2) years following completion of the Project. The Developer shall at the Closing provide the Town with a certificate of insurance establishing that insurance of the type and subject to the limits set forth above is in place, and at the request of the Town will also provide the Town with a copy of the insurance policy. The provisions of this clause shall survive the delivery of the deed and any termination of the Agreement.

17. The Developer's Breach and the Town's Remedies. The failure of the Developer to comply with any of the terms of this Agreement shall constitute a material breach of this Agreement, and the Town shall have all of the rights and remedies provided herein, in the RFP and in applicable law, including, without limitation, the right to cancel, terminate or suspend the Agreement in whole or in part, the right to maintain any action at law or in equity, and the right to seek damages and/or specific performance. The Town's remedies are cumulative and not exclusive, and the Town's choice of one remedy shall not preclude the Town from pursuing any other remedy. The Developer acknowledges that the Town has the right to seek specific performance because, in the event of any breach by the Developer, the Town would not have an adequate remedy at law and the threatened harm to the Town would be irreparable. The provisions of this clause shall survive the delivery of the deed and any termination of the Agreement.

18. Non-Collusion. The Developer hereby certifies under the penalties of perjury that the Proposal upon which this Agreement is based was made and submitted in good faith and without collusion or fraud with any other person and was in all respects bona fide and fair. The word "person" here means and includes any natural person, business, joint venture, partnership, corporation, union, committee, club or other organization, entity or group of individuals. The provisions of this clause shall survive the delivery of the deed and any termination of the Agreement.

19. Tax Compliance. The Developer hereby certifies, under the penalties of perjury, pursuant to G.L. c. 62C, § 49A, that the Developer is in full compliance with all laws of the Commonwealth of Massachusetts relating to taxes and the payment of child support. The

Developer's tax identification number is: \_\_\_\_\_. The provisions of this clause shall survive the delivery of the deed and any termination of the Agreement.

20. Debarment or Suspension. The Developer hereby certifies that he has not been debarred or suspended from contracting with the Commonwealth of Massachusetts or any of its agencies, departments or subdivisions, and agrees that he will not contract for goods or services from a debarred or suspended subcontractor in performing this Agreement. The provisions of this clause shall survive the delivery of the deed.

21. Licenses and Permits. The Developer shall be responsible, at his own cost, for obtaining and maintaining any licenses, permits and/or approvals necessary to perform the Developer's obligations under this Agreement. The Developer shall submit copies of such licenses, permits and approvals to the Town upon request. The provisions of this clause shall survive the delivery of the deed and any termination of the Agreement.

22. Maintenance and Inspection of Records. The Developer shall prepare and maintain financial and other records with respect to the Project and shall permit any person(s) duly designated by the Town or by the Commonwealth of Massachusetts to inspect and copy such records, together with any other books, records and compilations of data that pertain to the Developer's performance of his obligations hereunder, at reasonable times and upon reasonable notice. The Developer shall preserve and make available all such books, records and data for a period of six (6) years from the date of a certificate of occupancy for the Project under this Agreement. The Developer shall retain such documents that are pertinent to adjudicatory proceedings or appeals commenced during the said six- (6-) year period until such proceedings, including any appeals, have reached final disposition. The provisions of this clause shall survive the delivery of the deed and any termination of the Agreement.

23. Assignment. The Developer may not assign his rights or delegate his obligations under this Agreement without the express, prior, written consent of the Town, which consent shall be within the sole discretion of the Town. The provisions of this clause shall survive the delivery of the deed.

24. Binding on Successors. This Agreement shall be binding upon the Developer and his permitted successors, assigns and transferees. The provisions of this clause shall survive the delivery of the deed.

25. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable, or if any such term is so held when applied to any particular circumstance, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, or affect the application of such provision to any other circumstances, and this Agreement shall be construed and enforced as if such invalid, illegal or unenforceable provision were not contained herein. The provisions of this clause shall survive the delivery of the deed and any termination of the Agreement.

26. Waiver. The obligations and conditions set forth in this Agreement may be waived only by a writing signed by the party waiving such obligation or condition. Forbearance

or indulgence by a party shall not be construed as a waiver, nor limit the remedies that would otherwise be available to that party under this Agreement or applicable law. No waiver of any breach or default shall constitute or be deemed evidence of a waiver of any subsequent breach or default. The provisions of this clause shall survive the delivery of the deed and any termination of the Agreement.

27. Amendment. This Agreement may be amended only by a writing signed by both parties duly authorized thereunto. The provisions of this clause shall survive the delivery of the deed.

28. Governing Law. This Agreement shall be governed by and construed in accordance with the substantive law of the Commonwealth of Massachusetts, without regard to the conflicts of laws provisions thereof. The provisions of this clause shall survive the delivery of the deed and any termination of the Agreement.

29. Venue. The Developer agrees that if it commences any legal action against the Town hereunder or in connection herewith said action shall be commenced and maintained only in (1) the United States District Court for the District of Massachusetts sitting in Worcester, Massachusetts; (2) the Worcester Superior Court; or (3) the Leominster District Court. The Developer consents to suit in each of the aforesaid Courts, hereby agreeing that each such Court will have personal jurisdiction over the Developer in connection with any action brought by the Town against the Developer hereunder or in connection herewith. The provisions of this clause shall survive the delivery of the deed and any termination of the Agreement.

30. Headings. The paragraph headings herein are for convenience only, are no part of this Agreement and shall not affect the interpretation of this Agreement. The provisions of this clause shall survive the delivery of the deed and any termination of the Agreement.

31. Construction. This Agreement shall be liberally construed to accomplish the purpose of ensuring that the Premises are maintained in accordance with the terms and conditions of the Restriction and that they be put to one or more lawful uses. In the event that a court of competent jurisdiction finds any of the terms or conditions hereof or in the Restriction to be ambiguous, the same shall be construed to accomplish such purpose and without reference to the rule of contractual interpretation that ambiguities are construed against the draftsman, as the parties acknowledge they each had ample opportunity to negotiate this Agreement and the Restriction. The provisions of this clause shall survive the delivery of the deed and any termination of the Agreement.

32. Notices. Any notice permitted or required hereunder to be given or served on either party by the other shall be in writing signed in the name of or on behalf of the party giving or serving the same. Notice shall be deemed to have been received at the time of actual receipt of any hand delivery or three (3) business days after the date of any properly addressed notice sent by mail as set forth below.

a. To the Town. Any notice to the Town hereunder shall be delivered by hand or sent by registered or certified mail, return receipt requested, postage prepaid, to:

Town Administrator  
Princeton Town Hall  
6 Town Hall Drive  
Princeton, MA 01541

with a copy to:

Thomas A. Mullen, Esq.  
40 Salem Street, Suite 12  
Lynnfield, MA 01940

or to such other address(es) as the Town may designate in writing to the Developer.

b. To the Developer. Any notice to the Developer hereunder shall be delivered by hand or sent by registered or certified mail, return receipt requested, postage prepaid, to:

XXX

with a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

or to such other address(es) as the Developer may designate in writing to the Town.

The provisions of this clause shall survive the delivery of the deed and any termination of the Agreement.

33. Complete Agreement. This Agreement constitutes the entire agreement between the Town and the Developer concerning the subject matter hereof, superseding all prior agreements and understandings. There are no other agreements or understandings between the parties concerning the subject matter hereof. The Developer acknowledges that he has not relied on any representations by the Town or by anyone acting or purporting to act for the Town or for whose actions the Town is responsible, other than the express, written representations set forth herein and in any document expressly incorporated herein. The provisions of this clause shall survive the delivery of the deed and any termination of the Agreement.

34. Liability of Public Officials. To the fullest extent allowed by law, the Developer hereby agrees that no elected or appointed official, officer, employee, servant, agent or

representative of the Town shall be individually or personally liable on or with respect to any obligation of the Town hereunder. The provisions of this clause shall survive the delivery of the deed and any termination of the Agreement.

35. Conflicts of Interest. The Developer agrees that he will not engage in any conduct which violates, or induces another to violate, the provisions of G.L. c. 268A regarding the conduct of public employees in general and conflicts of interests involving such employees in particular. No official, officer, employee, agent, servant or representative of the Town who exercises any functions or responsibilities in the review or approval of the Proposal, awarding this Agreement or the performance or enforcement hereof shall (a) participate in any decision relating to this Agreement which affects his personal interest or the interest of any corporation, partnership or association in which he is directly or indirectly interested; or (b) have any interest, direct or indirect, in this Agreement or the proceeds thereof. The Developer represents and agrees that (a) he presently does not have and will not acquire any interest, direct or indirect, which would conflict in any manner with the services to be performed hereunder, constitute a violation of G.L. c. 268A or give rise to the appearance of a conflict of interest; (b) if the Developer becomes aware of any such conflict of interest he will immediately and fully inform the Town thereof, in writing, and should counsel for the Town determine that a conflict of interest does exist, the Town shall have the right to terminate this Agreement forthwith, without liability for premature termination; and (c) the Developer shall not at any time during the term of this Agreement hire any Town official, officer, employee, agent, servant or representative who participated to any extent in the preparation of the RFP, any negotiations leading to the execution of this Agreement, the decision to award this Agreement and/or the supervision or oversight of the performance of the Developer of its obligations hereunder. The provisions of this clause shall survive the delivery of the deed and any termination of the Agreement.

36. Subject to Appropriation. Notwithstanding anything in this Agreement or the RFP or the Proposal or elsewhere to the contrary, payments which the Town is required to make hereunder (if any) shall be subject to appropriation or other availability of funds as certified by the Town Accountant. The provisions of this clause shall survive the delivery of the deed.

37. Statutory Compliance. Wherever applicable law, including, without limitation, G.L. c. 30B regarding public procurement of goods and services, mandates the inclusion of any term or provision in municipal contracts, this Section shall be understood to import such term or provision into this Agreement. To whatever extent any provision of this Agreement may be inconsistent with any statute, regulation, bylaw or other law, such law shall control. The provisions of this clause shall survive the delivery of the deed and any termination of the Agreement.

38. Time of the Essence. The parties agree that time is of the essence in this Agreement. The provisions of this clause shall survive the delivery of the deed and any termination of the Agreement.

IN WITNESS WHEREOF, the parties have set their hands and seals as of the date first written above.

TOWN OF PRINCETON  
By its Board of Selectmen

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Karen Cruise

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Michael Tuohy d/b/a Tuohy Contracting

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Richard Bisk

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Matthew Moncreaff

c:\Princeton\DevelopmentAgreement