



## **PLANNING & DEVELOPMENT DEPARTMENT**

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Planning & Zoning  
Community Development  
Conservation Commission  
Historic District Commission

### **NOTICE OF DECISION**

#### **Planned Unit Development**

Amended June 21, 2010

from earlier October 19, 2009 modifications

Amended September 20, 2010

September 22, 2010

Mr. Chris Strickler  
183 Washington Street, LLC  
501 Daniel Webster Highway, Suite F  
Merrimack, NH 03054

**RE: Amended Notice of Decision of for Highfield Commons Planned Unit Development  
- PUD. Case #237-3, 6, 8 and 246-5-A-02**

Dear Chris:

**RE: Highfield Commons Planned Unit Development, Hussey Hill Road.**

I am pleased to inform you that the Planned Unit Development referenced above was AMENDED by the Rochester Planning Board at its June 21, 2010 meeting with the conditions shown below. This is an amendment from the original January 27, 2003 approval and October 19, 2010 modification. This approval herein supersedes those earlier approvals, which are now null and void.

#### **HIGHFIELD COMMONS PUD**

##### **Documents**

The following documents shall constitute/guide review of the Highfield Commons Planned Unit Development Master Plan for the purposes of zoning and development regulatory requirements:

- 1) All of the documentation submitted by the applicant which is contained in files located in the Planning and Development Department office, with the more recent documentation superseding conflicting earlier documentation unless otherwise noted.
- 2) The most recent Highfield Commons Revised Master Plan map. This includes the "Concept Plan" and "Phasing Plan" both marked "Official PUD Plan – 12/16/02" and

the Phase I drawings received on May 27, 2010. In case of conflict, the Phasing Plan supersedes the Concept Plan and the May 27, 2010 drawings supersede the others.

- 3) The City of Rochester Planned Unit Development Ordinance
- 4) The City of Rochester Site Plan Regulations and Subdivision Regulations pursuant to guidelines established in the PUD Ordinance
- 5) Additions, modifications, amendments, and clarifications described herein which shall supersede any described in 1) and 2), above.
- 6) Any other appropriate laws, statutes, ordinances, regulations, policies, procedures, standards, or principles as reasonably determined by the City of Rochester Planning Board consistent with the legitimate intent of this approval.

### **General Guidelines**

- 1) The Planning Board may impose any appropriate requirements in the course of site plan and subdivision review to ensure that elements of the master plan which are important, which enhance the quality of the project, and which serve a public purpose are completed in a timely manner. This may involve requiring elements to be completed prior to issuance of building permits or certificates of occupancy, or subsequent phase approvals, or stipulating appropriate bonds. Such elements may include, for example, landscaping, trails, sidewalks, pavilions, recreational features, valuable nonresidential uses, those residential uses which provide diversity to the plan such as the townhouses. Provision of these facilities and features shall generally follow the phasing plan unless it is reasonably determined that another schedule or approach is in order.
- 2) It is the intention of the Master Plan map to be a diagram with a moderate degree of specificity. Adjustments may be made in dimensions and layouts of roads, utilities, drainage systems, buildings, structures, etc. in the course of site plan and subdivision review provided the intent of the PUD is clearly met as reasonably determined by the Planning Board
- 3) Consistency with PUD. The Planning Board may use its reasonable judgment in the course of reviewing site and subdivision plans in determining which types of adjustments in the approved master plan are consistent with the approved PUD and may simply be reviewed in accordance with the PUD and which would constitute significant changes such that an amended PUD application would be required. For example, minor adjustments in architectural standards, such as the width of clapboards should not require an amended PUD application.
- 4) While all of the items included in documentation submitted by the applicant are part of this approved PUD, statements which clearly do not impact the quality or effectiveness of the PUD, or in which the Planning Board does not take any interest are not considered to be requirements by the City, as reasonably determined by the staff or Planning Board, as appropriate.
- 5) **In the event active and substantial development or building has not begun on the site by the owner or the owner's successor-in-interest in accordance with**

**the approved master plan by August 6, 2011, then the master plan shall be deemed to have expired and the underlying zoning shall then control development of the land.** Landowners may apply to the Planning Board for extensions of this time period for good cause shown.

- 6) Commencement of active and substantial development for this PUD (same as for construction phase A1) is defined as the extension and placement of water and sewer pipes, sufficient to reach construction phase A1.
- 7) Every reference to Phase I through Phase 6 herein pertains to the phases as depicted PUD master plan drawing, not to the actual phases of development (e.g. Phase I subdivision or Phase II site plan), nor to construction phases.

### **Process**

- 1) Specific detailed plans will need to be submitted and reviewed under the customary site plan and subdivision process for conformance with this approved PUD and other applicable law. The Planning Board may, of course, impose appropriate requirements and limitations consistent with this PUD and applicable law during that process.
- 2) Prior to approval of any subsequent phases the board may stipulate review of proposed condominium or association documents by the city attorney at the applicant's expense.
- 3) Prior to approval of any phases the developer must submit proof that he owns/controls the entire PUD tract.
- 4) Engineering Phases 2 and 3. In order to provide confidence about the buildability of Phases 2 and 3 prior to construction of all of the apartment buildings, the developer shall submit to the Planning Board fully engineered drawings – including appropriate test borings - for the entirety of Phases 2 and 3 prior to issuance of any building permits for the apartment buildings in Phase IA. These drawings do not have to be approved but simply demonstrate the construction of Phases 2 and 3 is reasonably workable.
- 5) It is understood that this approved Master Plan specifies what is allowed on this tract of land. If for some reason in the future, a) most or all of the apartment buildings were to be built but relatively little else of the Master Plan and b) the property owner applied to amend the remainder of the PUD in order to construct single family houses or other uses in a conventional manner, not consistent with the intent of this PUD, there is no assurance that a conventional development would be approved at that point. If such an application were submitted, for the purpose of determining allowable density, each constructed apartment unit could – at the discretion of the Planning Board – count at a minimum, as one single-family dwelling. *The developer – and any subsequent prospective purchaser of the tract/project - proceeds with this caveat.*
- 6) Updated drawing. For clarity, prior to Planning Board approval of any site or subdivision plan the developer shall submit a revised/updated final PUD Master Plan incorporating all appropriate elements described herein. The developer should coordinate with the Planning staff in determining which elements are best included in the updated plan. Some – but not all - of the elements, which should be included, are

identification of service lanes, and correcting phases, updating uses.

- 7) Building permits and architecture. The Code Enforcement Office will not be involved in reviewing building permits for compliance with the PUD community development or architectural standards. It shall be the responsibility of the HAC (Highfields Architecture Committee) to ensure the intent of these standards is met. The developer/HAC shall work with the Code Enforcement Officer to develop a system for ensuring the HAC has conducted its review prior to issuance of Rochester building permits, such as requiring a letter of approval from the HAC prior to issuance of building permits. In cases where uncertainty arises whether these standards are met, the Planning and Development Department shall be responsible for making these determinations and ensuring appropriate implementation (subject to appropriate support from the Code Enforcement Office).

### **Density**

- 1) Maximum units. The maximum number of residential dwelling units is 370 (except for provision for Granny Flats). Under no circumstances could the total exceed this amount. Developing this number is not guaranteed and is subject to addressing various appropriate standard site constraints. (Phase I is approved with 135 buildable residential lots, including the following: 87 single family lots; 47 townhouse Phase II is approved with 97 multifamily units. The density for the original Phase II was reduced from 126 to 97 units based upon an amendment (June 21, 2010) to increase the density of Phase I. The applicant may apply for an amendment to change the housing type(s) in Phase II subject to the appropriate review and judgment of the Planning Board. As of June 21, 2010 Phase III has been accepted as complete but not approved. Again, the total number of dwelling units for all three phases may not exceed 370.
- 2) Conveyances. Any land conveyed to abutting property owners outside of the PUD may not be subdivided (excluding any simple lot line adjustments consistent with the intent of this Master Plan) nor developed except for any uses that are customarily accessory to single family use and underground utilities. Deeds shall include covenants against this development in favor of the developer/homeowner's association. The reason for this requirement is to establish a firm maximum amount of development over this current 200+ acre tract. A covenant shall also be established on the parcel along Axe Handle Brook providing for public access within 50 feet of the near high water mark of the brook.
- 3) All apartments shown in phases 1 and 1A shall be 1 or 2 bedroom.

### **Uses**

- 1) Granny flats. "Granny flats" may be incorporated into a limited number of detached single family lots. They shall be small additional housing for one individual in each unit (though the units are not limited to one individual). The number may not exceed 20% of the total number of dwelling units approved in any one phase. All granny flats must be one bedroom or studio apartments. They must be under 500 square feet and may not exceed three rooms (i.e. bedroom, kitchen, living room, not counting the bathroom). They may not include a study, as it is desirable to avoid creation of a possible second bedroom.

- 2) Live/work units. The townhouses around and fronting the central square in Phase 5 are designated as “live/work units”. Persons who live in a specific unit may/are encouraged to operate a small scale, “cottage type business” on the first floor facing the square. The purpose of live/work units is to accommodate low impact pedestrian oriented nonresidential uses in a central location. Live/work allows any customary home occupation as specified in the City of Rochester Zoning Ordinance, an artists studio, antique shop, boutique, crafts store, and personal services establishment. There may be no outdoor display of goods or materials. No automobile oriented products nor products with an internal combustion engine may be sold or serviced. Use of typical downtown pedestrian retail frontage design is encouraged. It is the intent that over time this area might develop a more commercial but still low impact, pedestrian oriented character. An amendment to the PUD master plan would be needed to expand the retail or eliminate the live requirement.
- 3) Tot lot. The developer shall build an acceptable tot lot with playground equipment as part of the Phase 2 multifamily site plan. This shall be completed prior to issuance of any certificate of occupancies for the apartments in Phase 2.
- 4) Full range of uses. The applicant will work diligently to create nonresidential uses and full range of residential uses as specified and will market the spaces aggressively. It is understood that certain uses may not be marketable as quickly as other uses but nonetheless these uses are considered integral components of this PUD.
- 5) Residential adjustments. In the course of subdivision and site plan reviews the developer and Planning Board may mutually agree to minor modifications/clarifications in exact type of dwelling units whether single family detached, side by side duplex, or townhouse fronting on squares and greens for the purpose of enhancing development quality provided: a) the intent of the Master Plan is clearly met; b) a reasonable balance of housing types is maintained; c) the number of dwelling units does not exceed 370; d) the number of units in the specific phase is not increased; and e) this provision does not allow for change in Phase 6 nor around the central square in Phase 5.
- 6) Age restricted units. Phase 6 [from original PUD master plan] will be age restricted (55 years of age or older subject to applicable law). The Phase III subdivision must include at least 22 55+ units.
- 7) Meeting house. Phase 6 (as shown on master plan drawing) should be designated for a “meeting house” in the green (rather than a church; however, this would also allow for a church). Construction of this meeting house is encouraged but is at the option of the developer. It must be built prior to City acceptance of the streets in Phase 6. The design will follow traditional meeting house/church design and should incorporate a cupola or tower, for example. It is understood that much of the parking to accommodate this use will be on street around the green. Some off street parking may be established near the church but must be designed and screened very carefully in order not to compromise the aesthetic character of the meeting house and green. The developer is encouraged to tell prospective buyers of lots around the green about the meetinghouse and plan for parking. The meetinghouse may also function as a community center to accommodate community events and might be leased to outside parties for use.

- 8) Nonresidential uses, generally. If in the future, any building for a particular nonresidential use shown on the Master Plan is established and then subsequently that use is found not to be supportable in the market, such that the building would be vacant, the Planning Board may authorize another use for that building provided that: a) the proposed new use is no more intensive than the original specified use in all pertinent regards; b) the proposed new use is consistent with the intent of this Master Plan; and c) a public hearing is held on the proposed use. If these conditions are not met, submission of an amended Master Plan will be required. It is intended that if market conditions change, there be some reasonable flexibility in this process in order that a nonresidential building not be left vacant indefinitely.

### **General Design**

- 1) The approved Master Plan is as shown. Therefore, there are no specific minimum lot sizes or frontages, but rather platting must be consistent with the clear intent of the Master Plan. For example, use of flag lots would not be permitted because this concept is clearly not depicted on the drawings.
- 2) During the site plan process the Planning Board shall determine exactly where sidewalks and closed drainage is necessary.
- 3) All single family detached lots must be at least 5,000 square feet in area.
- 4) There are no specific setbacks required as part of this PUD. However, under each phase as part of site and subdivision review appropriate setbacks shall be proposed and established, subject to all appropriate building and fire requirements.

### **Landscaping**

- 1) Landscaping. A generous landscaping program shall be submitted as part of each site plan phase. The entryway from US 202 shall include a landscaped median with trees in the median. A generous program of street trees (deciduous shade trees such as maple, oak, linden, ash, or smaller deciduous trees, if necessary) shall be included with each site plan and subdivision plan.
- 2) Invasive species. No invasive plant species – such as Norway Maples, burning bush, or barberry – may be used for landscaping. Should any invasive species develop within newly established wetlands or drainage structures these will be managed according to best management practices for invasive species.

### **Traffic/Circulation**

- 1) Corridor study. In the course of the site plan review for Phase 1 the Planning Board and developer shall negotiate a reasonable percentage of the cost of the US 202 Corridor Study for the developer to contribute, based on an appropriate formula. It is understood that the Planning Board may also assess reasonable and appropriate costs for Phase 1 and/or future phases of the PUD for off site improvements in accordance with applicable law and common practice.
- 2) Entry point. A traffic analysis for the entrance to the project at US 202 conducted by Laurie Rauseo, P.E. that is included as part of this Master Plan dated September 24, 2002 recommends turn lanes for all approaches, signal conduit to be installed, and to

monitor for potential future signal installation. The sketch layout shows two lanes out, one lane in, a right turn lane in, and a left turn lane in. The exact design of the intersection will be determined in the course of the site and subdivision reviews.

- 3) Secondary connection. A secondary or emergency connection shall be maintained with Hussey Hill Road as stipulated by the Planning Board in consultation with the Fire Department. Even if the Hussey Hill Road is only for emergency access the secondary connection to it will need to be maintained and plowed as may be stipulated by the Fire Department to accommodate such emergency access. It may be necessary to place a gate here, including a knox box.
- 4) City streets. It is the intent that all streets in the development be dedicated to the City as City streets with the following exceptions/refinements:
  - a) The entire area encompassing the apartments will be privately owned and maintained, including the road around the square, parking areas, and driveways.
  - b) The network of service lanes in Phase 5 will be dedicated to the City as City streets. All other service lanes, including the service lane in Phase 4 shall be privately owned and maintained.
- 5) Entry boulevard. It is the intent for the entry boulevard to have one lane in each direction measuring 18 feet in width, with a landscaped central median.
- 6) Future road connection. There is a 50-foot opening from Phase 3 toward an adjoining parcel of land reserved for potential future road connection. During subdivision of Phase 3 it should be confirmed that this is the optimal location for the opening to allow for the connection to that adjoining parcel if it is ever developed. Also, the design of the loop road in that area should be such to accommodate this potential connection.
- 7) DOT curb cut. A precedent condition for the site plan approval of Phase 1 will be confirmation that NHDOT will issue a curb cut for the main road onto US 202.
- 8) One way streets. The street network will include a number of one way streets as shown in the Traffic Circulation Plan "from 11/26/02 mtg." The Planning Board and Developer may coordinate in making appropriate adjustments in this pattern in the subdivision/site plan stage. The intent of the one-way streets is to reduce pavement width in order to create a more attractive streetscape. The patterns were designed as shown based on consideration of conventional counter clockwise rotary patterns and preferred clockwise plowing directions to direct snow into open areas on the right side of the road. The service lane in Phase 5 (as depicted in the PUD master plan drawing) is shown as counter clockwise because there is more room to plow snow toward the single family lots.
- 9) Cross sections. The street cross sections illustrated by Robert Rook, PE dated 11/11/02 shall serve as the guide for street design, subject to final determinations by the Public Works Department and Planning Board of workability, and any terms herein which shall supersede the cross sections. It is the intent that all streets without on street parking be 24 (12-12) feet in width, that streets with parking on one side be 30

(11-11-8) feet in width, except as may be specifically approved in any site plan or subdivision phase. It is understood that the standard curb type for City streets is vertical granite curbing.

- 10) Curbing. It is the intent that “single loaded streets” (development on one side) have curbing and a sidewalk on one side, the developed side, unless topographic conditions direct otherwise. Less intensive areas with a rural collector type character may be designed with an open ditch/swale and culvert design, if appropriate and workable. In more intensive areas use of curbing on one side will generally be appropriate. Where necessary, curbing on both sides may be stipulated. Curbing is appropriate around the border of formal squares including the main square in Phase 5 and likely the square in Phase 1 next to the single family, the largest square in Phase 4, the secondary square in Phase 5, and the square in Phase 6.
- 11) Grade. All city streets shall have a maximum grade of 7% unless otherwise approved by Public Works and the Planning Board.
- 12) Service lanes. All townhouses will be served by service lanes as shown.
- 13) City service lane. The service lane to be conveyed to the City must be designed in a manner that is fully functional for appropriate service lane circulation and for City plowing. This may or may not involve curbing, though it is preferable that curbing not be used (in spite of cross section provided by Robert Rook), consistent with simplifying service lane design as much as practical. The expected design would be a one way pattern with 18 feet of pavement with a 30 foot right of way.
- 14) Hussey Hill Road. There should be no street connection from this development to Hussey Hill Road (notwithstanding the private right of way of Gary Hussey) and all residents of and visitors to Highfields PUD should only use the new road to be constructed to access US 202. At the appropriate phase the developer must present a plan for addressing this in accordance with all applicable law and the due property rights of all neighboring property owners.

### **Parking**

- 1) Parking for nonresidential uses shall be reviewed by the Planning Board to ensure that the location, amount, and design is sufficient and consistent with the intent of this Master Plan.
- 2) At each phase the applicant may propose any number of parking spaces independent of the zoning requirements, consistent with the intent of the PUD Master Plan. The Planning Board may use its reasonable discretion in determining the appropriate number of spaces. For example, the Zoning Ordinance stipulates 2 parking spaces per dwelling unit. However, if the applicant reasonably demonstrates that 1-1/2 spaces should be sufficient for the apartments, the board may approve that number. *The Parking section contained in the Site Plan Regulations provide good guidance for reviewing parking.*
- 3) All parking for townhouse units shall be at the rear.



- 4) Parking will be very carefully handled in order to make it as unobtrusive as possible. All garages for townhouses shall be at the rear (or at the side on end units if determined not otherwise practical). All parking for apartments shall be at the rear, except that parking may be placed on the side if determined not otherwise practical and if fully screened from the street/main driveway. Every reasonable effort shall be made to avoid any parking lots fronting on any of the greenspaces/squares.

### **Sidewalks/paths**

- 1) There shall be an asphalt sidewalk measuring at least 5 feet wide along the collector type roads with a lawn strip at least 5 feet wide. It may meander alongside the road with an undulating lawn strip.
- 2) All sidewalks shall include a planting strip at least 5 feet wide.
- 3) There should be a sidewalk on most streets, located on one side only. There will be no sidewalks in any service lanes.
- 4) Trails. Trail/footpath plans will be finalized as part of the site and subdivision plan approvals to determine exact locations, widths, design, materials, and amount of clearance. Appropriate treatment is needed to ensure trails next to single family lots do not get privatized, such as construction of a section of asphalt path next to the road.

### **Utilities**

- 1) The PUD will be serviced by City water (except as noted immediately below) and sewer. Water lines must be placed in the street rather than in service lanes, unless otherwise approved by the Fire and Public Works Departments. Subject to Public Works approval sewer lines may be placed in service lanes. Highfields was amended on September 20, 2010 to allow for a mix of City water and individual private wells in accordance with the **Water Infrastructure Reimbursement and Use Agreement**.
- 2) All utility lines shall be underground.
- 3) Use of attractive wet ponds rather than dry detention basins is encouraged to the extent practical.
- 4) Accessory utilities to serve the PUD shall be installed as reasonably stipulated by the Planning Board in consultation with Public Works.
- 5) It is the intention to place as many utilities in the alleys as practical, including sewer, all electrical lines, and garbage pickup (though not water lines).

### **Environmental Aspects**

- 1) Best management practices will be employed throughout, particularly with regard to stormwater management.
- 2) A conservation easement shall be established on the couple of lots neighboring Axe Handle Brook prohibiting removal of healthy vegetation or construction in a 50 foot buffer at the rear of the lots near the brook.

- 3) Existing stonewalls will be preserved to the extent practical.

### **Open Space**

- 1) Areas shown as open space on the master plan map remain in perpetuity as open space. There can be reasonable, incremental adjustments of developed areas around/within these open space areas as long as the size and integrity of each open space area is maintained.
- 2) All open space, greens, and squares will be owned and maintained privately. The landscaped median in the entry boulevard will be maintained privately, whether it is owned by the City or privately; if it can be retained privately as well it shall be.
- 3) In designated open space areas there may be no asphalt (other than paths and trails as approved). There can be open-air gazebos and pavilions not to exceed 1000 square feet in area each. No motorized vehicles including ATV's are allowed on paths or sidewalks, or in open space areas.
- 4) Plaza. The central square in Phase 5 is intended to be a formal, central square. As such, it is desirable that it have some of the character of a "plaza", i.e. to incorporate some hard scape to accommodate public gatherings (not for parking).
- 5) Maintenance plans will be submitted as part of subdivision/site plans to ensure that all squares and greens are appropriately maintained. It is expected that there will be a range of styles: some spaces will be formal, others informal, and the main field to be mowed only once or twice each year.
- 6) One or more focal points will be designed and built in most of the squares and greens, such as a gazebo, pavilion, statue, or fountain. In smaller areas this may be as simple as a bench.

### **Architectural Design**

- 1) The Master Plan includes Community Development Standards and Architectural Standards submitted by the developer. While these are part of the Master Plan and must be implemented, waivers may be granted by the HAC. Wide latitude is given to the HAC in reviewing applications and in granting waivers as its members see fit completely independently of City oversight. It is emphasized that the City does not wish to participate in the implementation of these standards on a day-by-day basis, but rather prefers to defer implementation to the HAC. However, where there is evidence of a widespread failure to implement the standards in a reasonable manner consistent with the intent of this Master Plan the City reserves its right to intervene, as it deems appropriate to ensure reasonable implementation.
- 2) Models for architecture. The intention is for the architecture in Highfields Commons to be similar in character to the architecture at Chapman's Reach at Marina Bay in Quincy, Ma. and for the single family homes to be similar in character to the houses illustrated in the documents a) *Carolina Inspirations* published by Allison Ramsey Architects and b) Authentic Historical Designs (Jackson, MS) but on a more modest scale. While this is not binding it is stated here to elucidate the objective. It is

emphasized that any use or reference to these designs in the actual project must conform with all appropriate copyright protections.

- 3) Architectural regulations. The City of Rochester Architectural Regulations shall apply in the customary manner (i.e. to all buildings except single family detached). While some schematic architectural designs have been submitted, the applicant may work out any reasonable arrangement to provide for efficient and effective review of designs in accordance with those regulations and the intent of the PUD ordinance.
- 4) Garages. There shall be no double size garage doors facing the road. Where garages are visible from the road they shall be handled as a subordinate mass, clearly reading as secondary to the primary mass of the house. Devices shall be employed to mitigate their impact such as using pitched roofs, dormers, special architectural treatment, turning the garages 90 degrees from the road, incorporating transom windows, painted garage doors, beveled or curved corners of the doors, etc.
- 5) The applicant shall work with the City to modify the submitted architectural designs consistent with the Architectural Regulations. For example, shutters shall not be used on double windows or on any windows for which they are not properly sized. The designs shall utilize the traditional vocabulary of architectural tools in order to create attractive, gracious designs, such as pitched roofs, columns, dormers, transom windows, sidelights, porticos, entablatures, various volumes, etc.
- 6) Architectural styles. It is the intent that the inspiration for single family and townhouse units will generally be the Italianate, Greek Revival, Neoclassical, Victorian, Craftsman, and Folk architectural styles. Use of low-slung ranch style structures is not appropriate.
- 7) The developer shall work out a palette of designs in order to avoid monotonous repetition of design. The objective within each phase, is to achieve “variety within unity” to the extent practical.
- 8) Townhouses. Townhouses define the street better when the primary facades are situated in a straight line rather than with recesses and projections. Interest is created more effectively with architectural detail, pitched roofs, bays, and other minor recesses and projections.
- 9) Siding. Use of natural siding materials such as wood clapboard, wood shingles, brick, stucco, or stone or cementitious clapboard such as hardy plank is strongly encouraged but not required.
- 10) Entry way. The entryway of all buildings, shall be made prominent in some manner, such as through use of porches, stoops, sidelights/transom windows, and/or a door surround. All primary entryways should be placed on the front facade of the building. Use of full front porches is strongly encouraged.
- 11) Foundation. All residential units must be on a raised foundation; none may be built on a slab. However, the senior housing units in phase 6 may be built on a slab.

## **Miscellaneous**

- 1) Expansion of PUD. It is understood that the developer has the right to apply to amend the PUD by adding adjoining land through the PUD amendment process outlined in the PUD ordinance. The Planning Board would evaluate any such proposal in accordance with the ordinance.
- 2) Blasting. Any necessary blasting will be carried out in compliance with Fire Department requirements, including a pre-blast survey if requested by the Fire Department.
- 3) Abutters. The applicant shall make reasonable efforts to mitigate the impacts of the development on Ms. Jean Shaw and other abutters during subsequent phases, to include, for example, installation of planting or earthen materials to buffer/screen residences from traffic.
- 4) Public access. The general public shall have general access to the site, including streets, sidewalks, paths, open space, and outdoor recreational facilities, notwithstanding any reasonable limitations that may be necessitated. The general public will be expected to follow the rules of the HOA when on common property within the PUD. No gate may be erected to the overall site barring entry to the public except as may be stipulated by the City such as a crash gate at the Hussey Hill Road entrance. If such a gate is stipulated the developer shall install one.
- 5) Off premises sign. One permanent off premises advertising sign (with exterior illumination only, if illuminated) may be placed on private property in the vicinity of US 202, with the design and dimensions to be approved by the Planning Board consistent with the intent of this provision. The sign may advertise any or all of the nonresidential uses within the PUD.
- 6) Construction vehicles. It is the intent that all construction vehicles for this project use the new road for access and not Hussey Hill Road.
- 7) Hussey property. The PUD may or may not include the property now or formerly owned by Gary Hussey, lot 237-3-1, consisting of 13.89 acres. This will be clarified as part of the overall Phase III subdivision

Chris, I wish you the best of luck with your project and if you have any questions, please feel free to contact me. It has been a pleasure working with you so far.

Sincerely,

Michael Behrendt, AICP  
Chief of Planning

CC: Robert Rook, 12 Sunset Avenue, Concord, NH 03301  
Attorney Uchida (via email) ruchida@orr-reno.com  
File

**HIGHFIELDS PLANNED UNIT DEVELOPMENT**  
**WATER INFRASTRUCTURE REIMBURSEMENT AND USE AGREEMENT**

THIS WATER INFRASTRUCTURE REIMBURSEMENT AND USE AGREEMENT (this "Agreement") is made as of this \_\_\_\_ day of \_\_\_\_\_, 2010, by and between **183 WASHINGTON STREET, LLC**, a New Hampshire limited liability company, with a mailing address of c/o Chesapeake Development, LLC, 501 Daniel Webster Highway, Unit F, Merrimack, New Hampshire 03054 ("183 Washington"), and the **CITY OF ROCHESTER**, a New Hampshire municipality with an address of 31 Wakefield Street, Rochester, New Hampshire 03867 (the "City").

R E C I T A L S

This Agreement is premised on the following understandings of the parties:

A. 183 Washington Street, LLC, a New Hampshire limited liability company, with a mailing address c/o Chesapeake Development, LLC, 501 Daniel Webster Highway Unit F, Merrimack, New Hampshire 03054 ("183 Washington") is the owner of a certain undeveloped tract of land situated off Washington Street (a/k/a Route 202), in the City of Rochester (the "City"), County of Strafford, State of New Hampshire, said property being a portion of the property conveyed to 183 Washington by deed of Highfield Commons of Rochester, LLC dated May 28, 2009, and recorded in the Strafford County Registry of Deeds at Book 3743, Page 558 (the "Premises"). The Premises are generally depicted on a plan entitled "Revised Subdivision Plan of Highfield Commons - Phase 1, Owned by 183 Washington Street, LLC, Tax Map 237, Lots 8, 8-1 & 3, Washington Street (Route 202), Hussey Hill Road and Bickford Road, Rochester, New Hampshire", prepared by Joseph M. Wichert, LLS, Inc., dated June 30, 2010, as revised through \_\_\_\_\_, 2010, to be recorded in the Strafford County Registry of Deeds (the "Plan").

B. The City has previously constructed and installed, or caused the construction and installation of a public water supply system along Washington Street, including the construction and installation of a pump station, for the benefit of properties along and near Washington Street.

C. 183 Washington intends to develop up to 370 homes on the Premises, including a first phase consisting of 135 residential building lots, which, as approved, features 88 single family building lots and 47 townhouse lots. Pursuant to approvals from the City of Rochester Planning Board (the "Planning Board"), 183 Washington shall satisfy the Premise's water supply requirements by (i) constructing and installing a water line from the City's water supply system into the Premises, and utilize the pump station's capacity for such water line, (ii) tying the first thirty two (32) single family homes in the first phase of the project, which includes those lots along Fillmore Boulevard and Pierce Drive, as depicted on the Plan, into such City water line, and (iii) installing individual wells for the remaining one hundred three (103) residential lots, including those townhouse lots identified on the Plan. The individual wells are intended to facilitate the use of geo-thermal technology for those homes and townhouses to be developed on the 103 lots.

D. As a condition of the Planning Board's approval for the development of the Premises, the Planning Board has required that 183 Washington and the City enter into an agreement regarding the supply of water to the Premises and the reimbursement of certain costs and expenses related to the pump station.

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

1. Project Water Supply Line. 183 Washington shall be responsible at its cost and expense to construct and install a City water supply line from Washington Street, up Hussey Hill Road

and into the Premises along a portion of Fillmore Boulevard from Sta. 112.00 to Sta. 130.00. The precise location and specifications of the City water line are shown on plans approved for the Premises by the Planning Board and on file with the City Planning Department. As part of the installation of the City water line, 183 Washington shall be responsible, at its cost and expense, to install water line stubs to the curb stops for every residence on Hussey Hill Road currently situated within two hundred feet (200') of the City water line, as proposed. As of the date of this Agreement, this includes properties at Map 246, Lots 6 through 13 and Map 237, Lot 4. For those existing houses not situated within 200 feet of the proposed City water line, 183 Washington shall install water line stubs (with the exception of abutting property owned by Gary and Robynn Jewell), but may elect not extend them to the curb stop.

2. Initial 32 Homes to Be Supplied by Project Water Supply Line. 183 Washington shall be responsible for tying in the first thirty two (32) single family homes in the initial phase of the project into the public water supply line, which includes those lots along Fillmore Boulevard and Pierce Drive, as depicted on the Plan, into such City water line.

3. Homes to Be Permitted on Private Wells. The next one hundred three (103) homes, which may include the townhouses in the project, shall be permitted to utilize private, individual wells for each home's water supply. The individual wells are intended to facilitate the use of geo-thermal technology for those 103 homes and townhouses.

4. Further Homes in Project on Project Water Supply Line. The next one hundred fifty three (153) houses, whether in Phase II or Phase III, will be connected to City water, pursuant to extensions of the City water line in the Premises. This will cause one half of the total number of proposed homes in the project to be connected to the City water system. If some of the 103 units, described in Paragraph 2, above, are connected to City water instead of private wells, then an equal number of these 153 homes may be installed on private wells. The intent is to connect the maximum number of homes in the premises to the City water supply system based on the capacity of the City's pump station/water system.

5. Future Homes/Use of Wells. After the first 288 homes, described above, are built, 183 Washington may seek approval from the Planning Board to install individual wells to supply water for any of the remaining eighty two (82) units. In order to receive such approval, 183 Washington must demonstrate that (a) there is adequate water capacity for both the homes previously constructed utilizing private wells, in addition to the capacity required for any of the remaining 82 units; and (b) the remaining units cannot be connected to City water without significant expense (including the construction of a water tank); and (c) any problems identified with wells on properties outside of the Premises in the surrounding area have been satisfactorily mitigated or resolved. The Planning Board may refer this request to an outside consultant for review at its option, with cost for that review to be paid by the developer.

6. Fire Protection. Fire hydrants will be installed along the City water line consistent with the requirements of the City Fire Department. All houses and townhouses that are not connected to the City water line shall be sprinkled. Townhouses that are connected to City water will be sprinkled if so required under then-applicable city and state laws.

7. Geo-Thermal Wells for Homes on City Water. This amendment does not affect installation of wells to accommodate geo-thermal systems in those homes served by the City water line. Such systems may be installed at the option of 183 Washington and the home buyers.

8. Contribution for Pump Station Costs. 183 Washington shall reimburse the City for a portion of the costs associated with the construction and installation of the water supply pump station serving the Washington Street area. Such contribution shall be calculated based on a formula as follows:

\$286,000.00 MINUS the cost of constructing and installing the City water line described in Paragraph 1 of this Agreement; provided that under no circumstances shall the contribution exceed \$112,500.00 or be less than \$60,000.00 (the "Contribution Amount"). It is understood that the cost of the water supply pump station was \$225,000. The \$112,500 figure, above, was established to be one half the cost of the pump station. The City of Rochester purchased materials for construction of water lines and hydrants on Hussey Hill Road. If it is determined that the cost of those materials was included in the figure of \$225,000, then the maximum contribution shall be reset from \$112,500 to one half of the actual cost of the pump station itself (not including the cost of those materials).

The cost of installing the City water line, as described in Paragraph 1 of this Agreement, shall include the installation of water line stubs for the possible connection of homes to the City water line on and near Hussey Hill Road, as may be required under a certain Water Supply Indemnification Agreement approved by the City for the benefit of such residents.

9. Payment of Contribution Amount. The Contribution Amount shall be prorated across the one hundred three (103) homes described in Paragraph 3 of this Agreement, and paid upon issuance of a building permit for each such home, whether or not such home is tied into the City water line.

10. Drill/Pump Tests. 183 Washington shall not be required to conduct drill or pump tests prior to the installation of private wells anticipated by this Agreement. To the extent that such drill or pump tests are conducted, 183 Washington shall supply copies of the test reports to the City within thirty (30) days of receipt.

11. Water Supply Indemnification Agreements. 183 Washington and Highfield Commons Development, Inc., shall offer, and if agreed to, to honor an indemnity to the owners of all properties fronting on Hussey Hill Road, and to the owners of lot 237-3-1 (Gary and Sharon Hussey) and to those of lot 236-1 (Gary and Robynn Jewell), with respect to the active water supply wells on those properties, pursuant to the terms and conditions in a Water Supply Indemnification Agreement, the form of which has been approved by the Planning Board. According to the City Assessor's Maps as of the date of this Agreement, there are nine lots fronting Hussey Hill Road (not including the Hussey lot), including Map 246, lots 6 through 13 and Map 237, lot 4.

12. Miscellaneous Provisions.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of New Hampshire.

(b) This Agreement represents the entire agreement between 183 Washington and the City with respect to the matters addressed herein. This Agreement may be amended only by a written instrument signed by the parties.

(c) This Agreement shall be binding upon, and inure to the benefit of the parties and their respective heirs, successors and assigns.

(d) Upon execution of this Agreement, the parties shall record a notice of this Agreement, in a form mutually satisfactory to the parties, in the Strafford County Registry of Deeds.

(e) Any notice required or permitted to be given hereunder shall be deemed to be given when mailed certified mail return receipt requested or upon delivery (with receipt) by Federal

Express, or nationally reputed overnight express service or via hand delivery, in any case addressed to the parties at their respective addresses referenced below:

If to 183 Washington:        183 Washington Street, LLC  
   c/o Chesapeake Development, LLC  
   501 Daniel Webster Highway, Unit F  
   Merrimack, NH 03054  
   ATTN: Christian Strickler

With a Copy to:                Richard Y. Uchida, Esquire  
   Orr & Reno, PA  
   One Eagle Square  
   P. O. Box 3550  
   Concord, NH 03302-3550

If to the City:                    City of Rochester  
   31 Wakefield Street  
   Rochester, New Hampshire 03867  
   ATTN.: City Manager

*[the next page is the signature page]*



IN WITNESS WHEREOF, the parties hereto have executed and delivered this Water Infrastructure Reimbursement and Use Agreement as of the date first set forth above.

183 WASHINGTON STREET, LLC

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Christian Strickler, Member

CITY OF ROCHESTER

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
\_\_\_\_\_(Name)  
Its \_\_\_\_\_(Title)  
Duly Authorized

**HIGHFIELDS PLANNED UNIT DEVELOPMENT**  
**WATER SUPPLY INDEMNIFICATION AGREEMENT**

THIS WATER SUPPLY INDEMNIFICATION AGREEMENT (this "Agreement") is made as of this \_\_\_\_ day of \_\_\_\_\_, 2010, by and between **HIGHFIELD COMMONS DEVELOPMENT, INC.**, a New Hampshire corporation, with a mailing address of c/o Chesapeake Development, LLC, 501 Daniel Webster Highway, Unit F, Merrimack, New Hampshire 03054 ("HCDI"), and [**NAME OF HOMEOWNER**], an individual with a mailing address of \_\_\_\_\_, Rochester, New Hampshire \_\_\_\_\_ (the "Homeowner").

R E C I T A L S

This Agreement is premised on the following understandings of the parties:

A. 183 Washington Street, LLC, a New Hampshire limited liability company, with a mailing address c/o Chesapeake Development, LLC, 501 Daniel Webster Highway Unit F, Merrimack, New Hampshire 03054 ("183 Washington") is the owner of a certain undeveloped tract of land situated off Washington Street (a/k/a Route 202), in the City of Rochester (the "City"), County of Strafford, State of New Hampshire, said property being a portion of the property conveyed to 183 Washington by deed of Highfield Commons of Rochester, LLC dated May 28, 2009, and recorded in the Strafford County Registry of Deeds at Book 3743, Page 558 (the "Premises"). The Premises are generally depicted on a plan entitled "Revised Subdivision Plan of Highfield Commons - Phase 1, Owned by 183 Washington Street, LLC, Tax Map 237, Lots 8, 8-1 & 3, Washington Street (Route 202), Hussey Hill Road and Bickford Road, Rochester, New Hampshire", prepared by Joseph M. Wichert, LLS, Inc., dated June 30, 2010, as revised through \_\_\_\_\_, 2010, to be recorded in the Strafford County Registry of Deeds (the "Plan").

B. The Homeowner is the owner of that certain tract of land and the improvements thereon located at \_\_\_\_\_, in the City of Rochester, New Hampshire \_\_\_\_\_, and being shown as Tax Map \_\_, Lot \_\_\_\_ (the "Homeowner's Lot"). The Homeowner's Lot either abuts, or is in close proximity to the Premises.

C. 183 Washington intends to develop the Premises in phases, with the first phase consisting of 135 residential building lots, including 88 single family building lots and 47 townhouse lots (the "Project"). HCDI shall be responsible for constructing and installing the infrastructure for the Project, including but not limited to installation of its water supply systems.

D. Pursuant to approvals from the City of Rochester Planning Board (the "Planning Board"), 183 Washington shall cause HCDI to satisfy the Project's water supply requirements by (i) constructing and installing a water line into the Premises, to be accepted by the City, at such locations approved by the Planning Board and based on specifications established by the City, (ii) tying the first thirty two (32) single family homes in the Project, which includes those lots along Fillmore Boulevard and Pierce Drive, as depicted on the Plan, into such City water line, and (iii) installing individual wells for the remaining one hundred three (103) residential lots, including those townhouse lots identified on the Plan. The individual wells in the Project are intended to facilitate the use of geo-thermal technology for those homes and townhouses to be developed on the 103 lots.

E. As a condition of the Planning Board's approval to permit the installation of individual wells in the Project, the City has required that certain owners of property in and around the Premises who obtain their respective residential water supplies through private wells, including the Homeowner, be indemnified in the event that the average number of gallons of water per minute over an eight (8) hour period currently obtained by the Homeowner (the "Homeowner's GPM") is reduced, provided that such reduction is proximately caused by the installation and operation of the wells in the Project.

F. The parties hereto wish to enter into this Agreement upon the terms and conditions set forth below.

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

1. Term. The term of this Agreement shall commence as of the date of execution of this Agreement by both parties, and shall remain in effect until the earlier of (a) three (3) years after the issuance of the last certificate of occupancy for the Project, or (b) ten (10) years from the issuance of the first certificate of occupancy for those residential units in the Project to be served by wells. The term of this Agreement shall not act as a bar to prevent the Homeowner from seeking remedies at law or in equity for a reduction in the Homeowner's GPM which occurs after the expiration of the Agreement, provided that the Homeowner can demonstrate such reduction is proximately caused by the installation and operation of the wells in the Project. Likewise, the term of this Agreement shall not be interpreted as a waiver by HCDI or 183 Washington of any defenses it may have to such a subsequent claim.

2. Indemnification by HCDI. During the Term of this Agreement, HCDI hereby agrees to indemnify the Homeowner against a reduction in the Homeowner's GPM; provided that the reduction is proximately caused by the installation or operation of the individual wells for the Project. HCDI'S indemnification obligations hereunder are limited solely to the remedies set forth in this Agreement. Neither HCDI nor 183 Washington is responsible for indemnifying the Homeowner in the event that a reduction in the Homeowner's GPM is caused by seasonal, environmental, or mechanical conditions that are not proximately caused by HCDI's installation of wells for the Project, including but not limited to, droughts, seasonal fluctuations in the local water table, or the deterioration or failure of well casings, piping, wiring, foot valves, or other appurtenant well equipment and connections.

3. Indemnification Procedure.

(a) The Homeowner's GPM shall be established by an independent third party contractor, mutually agreed upon by the parties, based on a monitored pump test conducted by such contractor on the Homeowner's Lot prior to the installation of any wells in the Project. HCDI shall be responsible for payment of the independent third party's fees in connection with the monitored pump tests. Neither HCDI nor 183 Washington shall be responsible for any of the independent third party's actions or omissions, or any indirect, special, incidental, or consequential damages of any character stemming therefrom.

(b) In the event that the Homeowner shall, in good faith, claim that its water supply has been reduced below the Homeowner's GPM as a result of the wells in the Project, the Homeowner shall provide written notice to HCDI by certified mail, return receipt requested, together with any and all evidence which, in the opinion of the Homeowner, demonstrates that the reduction has been proximately caused by the wells in the Project. Such written notice shall be supplied within thirty (30) days of the Homeowner's knowledge of such reduction. The term "knowledge" as used herein shall mean the actual knowledge of Homeowner.

(c) HCDI shall, as soon as practicable, consult with the Homeowner. Upon reasonable request by HCDI, the Homeowner agrees to grant HCDI, and its agents, employees and contractors access to the Homeowner's Lot, including the Homeowner's well(s) and any pumps, equipment, power supply sources or other improvements and appurtenances related to the operation and maintenance of the well and the supply of water for the Homeowner's Lot, to conduct tests and inspections of Homeowner's water supply. HCDI is responsible for completing all consultation, testing and inspections within sixty (60) days of the Homeowner's written notice of a reduction in the Homeowner's GPM, at its sole cost and expense. If HCDI fails to complete such consultation, testing

and inspections within the 60-day period described above, then it shall be irrebuttably presumed that the wells in the Project proximately caused the reduction in the Homeowner's GPM.

(d) If testing and inspections (or the failure to timely test and inspect) reveal that the wells in the Project are the proximate cause of the reduction in the Homeowner's GPM, HCDI shall, at the Homeowner's election and at HCDI's sole cost and expense, (i) tie the water supply system for the Homeowner's Lot into the City water line constructed and installed by HCDI, or (ii) make such improvements to the Homeowner's existing well to eliminate the reduction in the Homeowner's GPM, or (iii) drill a new well on Homeowner's Lot with a capacity that is not less than the Homeowner's GPM. Any such work shall be completed as soon as practicable, weather and ground conditions permitting.

(e) In the event that the Homeowner fails to cooperate in permitting the establishment of the Homeowner's GPM, or if the Homeowner fails to give written notice in accordance with this Agreement, or refuses to grant access to HCDI, its contractors and agents, and/or HCDI's independent well water testing company for the purposes set forth in this Agreement, then HCDI shall have no obligation to indemnify Homeowner, and shall have no liability to the Homeowner for any damages claimed as a result of any alleged reduction in the Homeowner's GPM.

4. Dispute Resolution. In the event that a dispute arises under this Agreement, including any dispute that the remedy elected by the Homeowner will not cure the reduction in the Homeowner's GPM, the parties shall first attempt to resolve the matter through mediation under such procedural rules as are mutually agreeable to the parties. If the parties cannot agree on such rules, the procedural rules then applicable to mediation in the New Hampshire Superior Court system shall govern. If the parties cannot agree on a mutually acceptable mediator, then each party shall select a mediator, and the two mediators shall select a third mediator and proceed with mediation. If the parties cannot reach a voluntary resolution of the dispute, then the parties may proceed to enforce their respective rights in a court of competent jurisdiction, including those rights and remedies permitted under this Agreement, or at law or in equity. In the event that a court of competent jurisdiction determines that any claim or dispute was made in bad faith, or with reckless disregard of the facts and circumstances, it shall award attorney's fees and costs to the other party.

5. Performance of Work. Any and all work contemplated by this Agreement shall be accomplished in a good and workmanlike manner, and the materials and specifications used shall be those that conform to industry standards and are appropriate for the use for which they are intended (the "Work"). All Work will be performed with all due professional diligence, and where applicable, in conformity with all requirements of federal, state and local laws, codes, rules and regulations. Following completion of the Work, HCDI shall leave the Homeowner's Lot in its original condition, reasonable wear and tear excepted.

6. Limitation of Liability. Under no circumstances and under no legal theory, whether in tort (including negligence), contract, or otherwise, shall HCDI or 183 Washington be liable to Homeowner for any indirect, special, incidental, or consequential damages of any character arising as a result of the reduction in the Homeowner's GPM. Any liability for damages, expenses, fees, costs, injuries or losses resulting from a reduction of the Homeowner's GPM proximately caused by the installation of individual wells in the Project, whether such claims could have been asserted against HCDI and/or 183 Washington, is limited solely to the remedies set forth in this Agreement, the satisfactory performance of the Work, and the bearing of costs and expenses associated with the Work.

7. Surety. In connection with HCDI's indemnification obligations to Homeowner hereunder, HCDI shall place an appropriate surety for the term of this Agreement to cover reasonable potential costs associated with the performance of its obligations under this Agreement, as well as the Work. The amount of the surety shall be established by the Planning Board prior to the issuance of any building permits for lots in the Project which will be served by wells.

8. Miscellaneous Provisions.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of New Hampshire.

(b) This Agreement represents the entire agreement between and among 183 Washington, HCDI and the Homeowner with respect to the matters addressed herein. This Agreement may be amended only by a written instrument signed by the parties.

(c) This Agreement shall be binding upon, and inure to the benefit of the parties and their respective heirs, successors and assigns. In the event that 183 Washington engages other contractors or builders in addition to or in replacement of HCDI, to construct or install the wells for the Project, 183 Washington shall be responsible to ensure that each such contractor or builder shall perform those duties and obligations of HCDI under this Agreement, and shall provide notice to the Homeowner of such engagements.

(d) Upon execution of this Agreement, the parties shall record a notice of this Agreement, in a form mutually satisfactory to the parties, in the Strafford County Registry of Deeds.

(e) Any notice required or permitted to be given hereunder shall be deemed to be given when mailed certified mail return receipt requested or upon delivery (with receipt) by Federal Express, or nationally reputed overnight express service or via hand delivery, in any case addressed to the parties at their respective addresses referenced below:

If to HCDI: Highfield Commons Development, Inc.  
c/o Chesapeake Development, LLC  
501 Daniel Webster Highway, Unit F  
Merrimack, NH 03054  
ATTN: Christian Strickler

With a Copy to: Richard Y. Uchida, Esquire  
Orr & Reno, PA  
One Eagle Square  
P. O. Box 3550  
Concord, NH 03302-3550

If to Homeowner to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With a copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*[the next page is the signature page]*

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Water Supply Indemnification Agreement as of the date first set forth above.

HIGHFIELD COMMONS  
DEVELOPMENT, INC.

By: \_\_\_\_\_  
Christian Strickler, President

HOMEOWNER:

\_\_\_\_\_

\_\_\_\_\_  
183 WASHINGTON STREET, LLC

By: \_\_\_\_\_  
Christian Strickler, Member

(183 Washington joins for the purpose of acknowledging its rights, duties, obligations and responsibilities under this Agreement.)