

[SCG Letterhead]

[_____, 2016

Mark Rees
Town Administrator
Fairhaven Town Hall
40 Center Street
Fairhaven, MA 02719

DRAFT

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Re: Oxford School/Senior Housing Property Management

Dear Mr. Rees:

SCG Development Partners, LLC (the "Developer") is entering into an Option Agreement to purchase from the Town of Fairhaven (the "Town") the historic former Oxford School, located at 347 Main Street, Fairhaven for the purpose of developing the Oxford School Residences (the "Project"), an affordable housing project for residents aged 62 and older.

The Fairhaven Housing Authority has expressed an interest in providing property management services to the Project after it has been constructed and initially leased to tenants.

In consideration of the obligations undertaken by the Town in the Option Agreement, and for other good and valuable consideration, the Developer agrees that no later than two years following receipt of the certificate of occupancy for the Project as contemplated by the Option Agreement between the parties of even date, the owner of the Project, affiliated with the Developer, will enter into good faith negotiations to determine whether the project should be managed by the Fairhaven Housing Authority.

The obligations of the Developer set forth in this letter agreement shall be binding on its successors and assigns in interest in the Project.

Upon execution by an authorized representative of the Board of Selectmen for the Town of Fairhaven this letter agreement will constitute the binding agreement of the parties.

Sincerely,

SCG DEVELOPMENT PARTNERS, LLC

By: Stratford Capital Group LLC, its sole member

By: SCG Capital Corp., its manager

By: _____

Name: Richard A. Hayden

Title: Executive Vice President

Town of Fairhaven, by its Board of Selectmen

By: _____

Name: _____

Title: _____

Cc: Keith J. McDonald, Stratford Capital Group
Atty. Thomas P. Crotty
Atty. M. Chrysa Long

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OPTION TO PURCHASE AGREEMENT

THIS OPTION TO PURCHASE AGREEMENT (this "Agreement") is entered into as of [June __, 2016](the "Effective Date") by and between the TOWN OF FAIRHAVEN, MASSACHUSETTS, a political subdivision of the Commonwealth of Massachusetts, and unless otherwise expressly stated, acting in all instances, by and through its Board of Selectmen, (referred to herein as the "Seller"), and SCG DEVELOPMENT PARTNERS, a Delaware limited liability company or its successors, assigns or designee) (the "Purchaser").

WHEREAS, Seller owns the land described on Exhibit A attached hereto and incorporated herein by reference, together with the Buildings and Improvements thereon comprising a former school building known as the Oxford Elementary School located at 347 Main Street in Fairhaven, Massachusetts (Buildings and Improvements thereon as further defined below and together with such land, referred to as the "Property");

WHEREAS, pursuant to the vote at a regular [*Seller to provide copy when available* _____] 2016 meeting of Fairhaven's Board of Selectmen, Stratford Capital Group ("SCG"), an affiliate of the Purchaser, is the successful applicant under that certain Request for Proposals or RFP, issued by the Seller as of August 5, 2015 based on SCG's proposal for Purchaser to develop approximately 63 units of affordable senior multifamily rental housing on the Property (the "Project");

WHEREAS, Seller desires to grant an option to Purchase to buy the Property and Purchaser desires to hold an option to move toward purchase the Property (as hereinafter defined) subject to reservation of certain easements as described herein below and on the further terms and conditions set forth herein.

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

ARTICLE 1**Agreement: Purchase Price; Closing Date**

Section 1.1 Grant of Option to Purchase. Subject to the terms and provisions hereof, Seller grants an option to purchase the Property to the Purchaser and, upon exercise of the option by the Purchaser, the Seller agrees to sell the Property to Purchaser, and Purchaser agrees to purchase the Property from Seller; such grant, exercise and purchase all subject to the terms and conditions set forth herein. The Purchaser hereby shall deposit \$2,500 with the Seller within 30 days of the execution of this Agreement by all parties the ("Option Deposit"), to be applied toward the Purchase Price, if the Purchaser elects to exercise the Option. The Option Deposit shall be increased by the following additional payments:

- a. Within 30 days of final approval of the Town of Fairhaven of the Massachusetts General Laws Chapter 40B zoning permit, or January 1, 2017, whichever is later - an additional \$7,500.00; and

b. Within 30 days of obtaining a reservation letter from the Massachusetts Department of Housing and Community Development awarding not less than \$1,000,000.00 annually for ten years of Federal low-income housing tax credits ("LIHTC") to the Buyer or its designated affiliated for the benefit of the Property, or January 1, 2018, whichever is sooner – an additional \$10,000.00 (all such deposits to be included in the definition of the "Option Deposit").

Section 1.2 Purchase Price. The purchase price for the Property shall equal Three Hundred Twenty-Five Thousand Dollars (\$325,000.00) (the "Purchase Price"). Subject to the adjustments and apportionments as hereinafter set forth, the Purchase Price, less the Option Deposit, shall be paid on the Closing Date by wire transfer of immediately available federal funds, certified, cashier's or treasurer's check or bank check.

Section 1.3 Closing Date. The transaction contemplated hereby shall close on or before December 31, 2018, which may be extended for up to two consecutive six month periods at the sole discretion of the Purchaser in order to secure the LIHTC, (the "Closing Date") as provided for herein; provided, however that if the conditions set forth below have not been satisfied, the Purchaser shall notify the Seller in writing and the Purchaser shall have the right to terminate this Agreement by written notice to Seller. The Purchaser shall not be required to close, in any event, unless (i) it has received all Approvals and thirty (30) days has passed after the expiration of the period for any appeal of the Approvals without an appeal having been taken (the "Appeal Expiration Date") or, if later, the dismissal of any such appeal, (ii) not less than sixty (60) days have passed following the satisfaction of the Financing Contingencies; and (iii) the Purchaser's first mortgage construction loan for the Project has closed and the equity investor has been admitted as a partner of the Purchaser and the initial loan and equity installments are funded. The Purchaser shall not be obligated to purchase the Property unless the Approvals and Financing Contingencies for the Property have been obtained by the Purchaser and, if the Approvals and Financing Contingencies are not obtained, the Purchaser may notify the Seller of its decision to terminate the Agreement and receive a return of all deposits. Upon satisfaction of the Financing Contingencies and receipt of Approvals by the Purchaser, this Option to Purchase shall convert to a purchaser and sale agreement for the Property.

Section 1.4 Approvals. Purchaser agrees to use commercially reasonable efforts to obtain approvals (the "Approvals") from the Town of Fairhaven and other applicable federal, state and local authorities to develop and to operate a multifamily affordable rental property for tenants aged 62 years and older on the Property (the "Project"); provided, however, that if Purchaser determines, in its reasonable discretion, after conducting due diligence and meeting with public officials and other interested private parties, that Purchaser is not likely to obtain the Approvals for the Project, then Purchaser shall have the right to terminate this Agreement. The Approvals shall include any federal, state, or municipal permits or approvals reasonably deemed by Purchaser to be necessary to develop the Project with approximately 63 housing units, including, without limitation, rezoning of the Property, zoning variances, special permits, and orders of conditions. The parties acknowledge that this Property will be developed subject to and in accordance with M.G.L.c.40B. The granting of the Approvals for the Project shall be a condition precedent to the Purchaser's and the Seller's respective obligations to close. The

Purchaser intends to utilize a local preference for tenant selection to be implemented in accordance with all applicable federal, state and local laws, ordinances and regulations.

Section 1.5 Financing Contingencies. Purchaser agrees to use commercially reasonable efforts to obtain (i) a reservation for LIHTC; (ii) Part 1 and Part 2 approval for federal and state historic rehabilitation tax credits; (iii) commitments for subsidized loans from the Massachusetts Department of Housing and Community Development and/or MassHousing Finance Agency; (iv) a capital contribution commitment from an equity investor; (v) construction and permanent loan financing commitments; and (vi) the agreement of the Town to a maximum aggregate amount (which may be reflected in a credit against the Purchase Price at Closing or a reimbursement of that portion of the Purchase Price after the Closing equal to the amount charged to the Purchaser (or its affiliate) as described in this Section 1.5 in excess of the maximum aggregate amount) of \$90,000 in fees and charges assessed by the Town to the Purchaser (or its affiliate) to obtain building, electrical, gas, and plumbing and related construction permits; in each case, such tax credit awards, commitments and loans on terms and conditions agreeable to Purchaser in its sole and unreviewable discretion (collectively, the "Financing Contingencies"). If Purchaser is unable to obtain each of items (i) through (vi) above, then Purchaser shall have the right to terminate this Agreement and be entitled to a return of the Option Deposit as set forth herein as well as a reimbursement for any fees assessed against Purchaser under this Section 1.5(vi) if a Closing does not occur. The provisions of this Section 1.5(vi) shall survive (x) the termination of this Agreement and (y) the Closing.

ARTICLE 2

Title and Survey

Title and Survey.

(a) Within ten (10) business days from the Effective Date, Seller shall advise Purchaser whether there have been any owner's or lender's title insurance commitments or policies issued in connection with the Property within the last 10 years and if so, provide legible copies of those commitments for policies as well as all documents listed as exceptions to title in such insurance commitments or policies and Seller shall also provide all existing surveys of the Property, to the extent that the same are in Seller's possession or control; and (b) Purchaser shall order title commitments or pro forma title policies (the "Title Commitments") and (at Purchaser's election) a survey of the Property (the "Survey").

(b) The Property and the Survey shall include the land on Exhibit A and all the buildings, structures and improvements now thereon, and fixtures and equipment, if any, which may be owned by or belong to Seller and used in connection with the operation and maintenance of the former school building (excluding the portion of the land, buildings and improvements that comprise the former fire station), including, without limitation, any of the following: electric transformers, furnaces, heaters, heating equipment, oil and gas

burners, air conditioning equipment and ventilators, and fixtures appurtenant thereto, hot water heaters, plumbing and bathroom fixtures, electric and other lighting fixtures, outside television antennas, fences, gates, trees, shrubs, and plants relating to the former school building only ("Buildings and Improvements"). The Town shall undertake a subdivision of the land as described on Exhibit A such that the Property shall constitute a parcel separate from the land, buildings and improvements of the former fire station owned by the Town. The Purchaser shall undertake the costs of civil engineering required to establish the subdivision of the land described on Exhibit A and the parties shall mutually agree on the civil engineer. The Purchaser shall have until the end of the Study Period (or if subdivision has not been implemented as of the end of the Study Period, a date that is 20 business days following the completion and implementation of the subdivision and delivery of the related documents to the Purchaser) to give Seller a written notice that sets forth any objections that Purchaser has to title or survey matters affecting the Property and disclosed on the Title Commitments or the Survey (the "Purchaser Title Objections"). Seller shall use reasonable efforts to cure the Purchaser Title Objections before the Closing Date, provided that: (i) except for Voluntary Liens, Seller shall not be obligated to expend more than \$2,000 to effectuate such cure; and (ii) Seller shall in no event be required to bring suit to clear any claimed title or survey defects. If, despite such reasonable efforts, Seller is unable to cure the Purchaser Title Objections by the Closing Date or by any agreed upon extended date, Purchaser shall have the right (in its sole discretion) of either (y) accepting the title as it then is or (z) terminating this Agreement, in which event this Agreement shall terminate and Purchaser and Seller shall have no further obligations or liabilities hereunder other than Purchaser's obligations under Section 3.1(b). Notwithstanding anything in this Agreement to the contrary, all Voluntary Liens will be satisfied by Seller on or prior to the Closing Date or, if not so satisfied, shall be satisfied at the Closing out of the proceeds otherwise payable to Seller and Purchaser shall have no obligation to give Seller any notice of objection with respect to any Voluntary Liens.

ARTICLE 3

Inspection and Audit

Section 3.1 Information and Access.

a) During the term of this Agreement, Seller shall promptly provide Purchaser with such information concerning the Property as Purchaser may reasonably request, to the extent that the same is in Seller's possession or control.

b) During the term of this Agreement, Purchaser, personally or through its authorized agents or representatives, shall be entitled to enter upon the Property upon reasonable advance notice to Seller. Without limiting the foregoing, Purchaser shall have the right to make such investigations, including appraisals, engineering studies, soil tests, environmental studies,

inquiry of governmental officials and underwriting analyses as Purchaser deems necessary or advisable, subject to the following limitations: (a) Purchaser shall give Seller written or telephonic notice at least two (2) business days before conducting any inspections on the Property, and a representative of Seller shall have the right to be present when Purchaser or its representatives conducts any such inspections; (b) neither Purchaser nor its agents shall damage the Property or any portion thereof, except for any immaterial damage caused by environmental, geotechnical or similar tests, all of which shall promptly be repaired by Purchaser; (c) before entering upon the Property to conduct any tests thereon, Purchaser shall furnish to Seller such evidence of general liability insurance coverage naming Seller as an additional insured, in such amounts and insuring against such risks as are customary and commercially reasonable for similar vacant properties in the geographic area; and (d) Purchaser shall indemnify, hold harmless and defend the Seller against all costs (including reasonable attorneys' fees) and damage to the Property caused by the activities of Purchaser or its agents under this paragraph, provided; however, that such indemnity shall not include any costs or damages caused by (1) the acts of the Seller or its agents or representatives, (2) any claims of diminution in the value of the Property as a consequence of the results revealed by such tests and inspections or (3) any pre-existing condition of the Property. Purchaser agrees that such testing and investigations will be as minimally invasive as is reasonable and customary and, that to the extent practicable, Purchaser will restore the Property after such testing to its former condition sufficient for its use at the time of such testing or investigation. The foregoing indemnification obligation shall survive the Closing or termination of this Agreement for a period of one year and no action or proceeding thereon shall be valid or enforceable, at law or in equity after said time periods. Purchaser also agrees to make a copy of any reports contemplated by this Section 3.1(b) that Purchaser commissions with respect to the Property available to the Seller, if requested by the Seller at no cost to the Seller.

Section 3.2 Study Period. Purchaser shall have the period (the "Study Period") ending at 6:00 p.m. (local time in Boston, Massachusetts) on June 1, 2017 to physically inspect the Property, evaluate and conduct due diligence and underwriting on the Property as and to the extent that Purchaser, in its sole and absolute discretion, deems appropriate so as to satisfy itself with respect, but not limited to the following matters: title and survey, environmental, soil conditions, utilities, historic/archeological/endangered species, wetlands, zoning and land use issues. At any time before the end of the first business day following the end of the Study Period, Purchaser may, in its absolute and unreviewable discretion determine the status of the Property unsatisfactory with respect to one or more of such matters, and thereupon terminate this Agreement by giving written notice thereof to Seller (the "Termination Notice"). In the event that Purchaser timely gives a Termination Notice, this Agreement shall automatically terminate and Seller and Purchaser shall have no further obligations or liabilities to each other hereunder other than Purchaser's obligations under Section 3.1(b).

Section 3.3 Cooperation. During the term of this Agreement, the Seller shall cooperate with the reasonable requests of the Purchaser, and shall direct its property managers, employees, contractors and consultants to cooperate with the reasonable requests of the Purchaser to obtain information concerning the Property.

Section 3.4 Insurance and Other Costs. During the term of this Agreement, the Purchaser shall advance reimbursement to the Seller for Seller's actual costs for property insurance, utilities and required maintenance for the school building on the Property in an amount up \$5,000 annually. The initial payment of \$5,000 shall be made to the Seller upon execution of this Agreement, and subsequent payments of \$5,000 on each anniversary thereafter. The Seller shall account to the Purchaser in writing for the expenditures described herein made from the amount paid by February 15 of the year following the year to be accounted for, and any unused balance shall be credited against the Purchase Price due from Purchaser at Closing or repaid to the Purchaser by March 15 of such following year. If for any reason a Closing does not occur or this Agreement is terminated, the obligation of the Seller to reimburse the Purchaser or its affiliate for any costs not actually incurred by the Seller with third parties unaffiliated to the Seller as provided for in this Section 3.4 will remain in full force and effect and survive the termination of this Agreement.

ARTICLE 4

Conditions Precedent, Casualty Damage or Condemnation

Section 4.1 Conditions Precedent Favoring Purchaser. In addition to any other conditions precedent in favor of Purchaser set forth elsewhere in this Agreement, Purchaser's obligations under this Agreement are expressly subject to the timely fulfillment of the conditions set forth in this Section 4.1 on or before the Closing Date, or such earlier date as is set forth below. Each condition may be waived in whole or in part only by written notice of such waiver from Purchaser to Seller:

- a) Seller shall have performed and complied in all material respects with all of the terms of this Agreement to be performed and complied with by Seller prior to or at the Closing;
- b) On the Closing Date, the representations of Seller set forth in Section 5.3 shall be true, complete and accurate; provided, however that the approval of the Town Meeting for the Seller shall have been obtained on or before Closing and shall no longer be a contingency;
- c) Seller shall have acquired or have the unconditional right to transfer title to the Property as described on Exhibit A; the Property and the easements that the Purchaser has reasonably determined are necessary or desirable for the Project have been given and recorded or can be recorded simultaneously with the Closing;
- d) On the Closing Date, good and clear, record and marketable title to the Property shall be conveyed to Purchaser subject only to the Easements and those permitted title exceptions to which Purchaser has agreed in writing (such exceptions, together with the Exhibit B Easements referred to herein as the "Permitted Exceptions") and the title insurance company designated by Purchaser (the "Title Company") shall issue to Purchaser an extended coverage owner's and lender's title insurance policy (on the current ALTA Form B) in the amount of the Purchase Price plus any secured debt on the Property, together with such endorsements to the title insurance policy as may be required by Purchaser or its investors or lenders, insuring good

and indefeasible fee simple title to the Property in Purchaser, subject only to the Permitted Exceptions, easements that are necessary for the intended development and operation of the Property and the standard printed exceptions, except that: (i) the exceptions for mechanic's liens, unrecorded easements and sovereign lands shall be deleted; (ii) the survey exception shall be limited to Permitted Exceptions; (iii) the exception relating to ad valorem taxes shall relate only to taxes not due and payable as of the Closing and owing for the year of Closing and subsequent years; and (iv) the parties-in-possession exception shall be deleted except for the Permitted Exceptions;

e) On the Closing Date, (i) the Property shall be in the same condition that it is in now free from tenants and occupants; (ii) there shall be no judicial or administrative or condemnation proceeding pending or threatened concerning the Property that was not disclosed in writing to Purchaser before the commencement of the Study Period; (iii) the Property and the use and operation thereof shall comply in all material respects with all applicable legal requirements, except for any noncompliance that existed as of the commencement of the Study Period; and (iv) the Property shall be free and clear of: (y) any Contracts (other than this Agreement);

f) Between the commencement of the Study Period and the Closing Date, there shall not have occurred any spill or release of Hazardous Materials at the Property that have not been fully remediated at Seller's expense in accordance with all applicable laws to Purchaser's reasonable satisfaction;

g) The Financing Contingencies shall have been satisfied and the commitments remain in full force and effect as of the Closing Date;

h) Purchaser and Seller shall have entered into an agreement for Easements as necessary with respect to land owned by Seller and contiguous and adjacent to the Property and for the purposes of constructing parking and/or septic system to service and support the Property;

i) Purchaser shall have obtained all necessary permits, licenses and approvals to build and operate a multifamily affordable rental project with approximately 63 housing units from and any/all applicable governmental agencies;

j) Purchaser and Seller shall have entered into an Access Agreement respecting the Seller's access to an adjacent parking lot on commercially reasonable terms, conditions and expenses on land owned by Seller as identified on Exhibit B (the "Access Agreement"); and

The permits and approvals obtained by the Purchaser must be in full compliance with all Federal, state and local law and statutes or ordinances and in substance must be accepted by state, Federal and local subsidized financing sources as of the Closing Date. The Purchaser may terminate its Option or withdraw from Closing at any time that the restrictions do not meet all terms of Federal, state and local law or that the Purchaser is informed that such restrictions are not compliant with the terms of the proposed debt and equity financing, including without limitation, the language for the age 62 and older restriction for tenants as contemplated by Section 4.2(d) of

this Agreement, and the Purchaser will be entitled to a full return of the Option Deposit hereunder with accrued interest, if any.

Section 4.2 Conditions Precedent Favoring Seller. In addition to any other condition precedent in favor of Seller set forth elsewhere in this Agreement, Seller's obligations under this Agreement are expressly subject to the timely fulfillment of the conditions set forth in this Section 4.2 on or before the Closing Date, or such earlier date as is set forth below. Each condition may be waived in whole or part only by written notice of such waiver from Seller to Purchaser:

- a) Purchaser shall have performed and complied in all material respects with all of the terms of this Agreement to be performed and complied with by Purchaser prior to or at the Closing;
- b) On the Closing Date, the representations of Purchaser set forth in Section 5.2 shall be true, accurate and complete; and
- c) Purchaser and Seller shall have entered into the Easements and Joint Use Agreement as referenced in Sections 4.1(h) and (j) above.
- d) The permits and approvals obtained by the Purchaser will limit the Purchaser's use of the property to the development of housing for residents age 62 years and older.

Section 4.3 Risk of Loss. Unless and until the Closing is completed, the risk of loss to the Property from casualty or condemnation shall be borne by Seller. In the event of a fire or other casualty, (A) Purchaser shall have the option to purchase the Property in accordance with the terms hereof without reduction in the Purchase Price (except for any applicable deductible that will reduce the insurance proceeds assigned to Purchaser at Closing) and (B) Seller shall assign to Purchaser at Closing all insurance proceeds paid or payable on account of such damage (and the amount of any deductible shall be credited against the Purchase Price). If the Closing Date would otherwise occur sooner, it shall automatically be extended to the date that is twenty (20) business days after written notice to Purchaser of the casualty. If any insurance proceeds paid or payable on account of a fire or other casualty are to be assigned to Purchaser in accordance with the provisions of this Agreement, Seller shall cooperate as reasonably requested by Purchaser to effectuate such assignment (including, if necessary, prosecuting claims in Purchaser's name or for Purchaser's benefit), and Seller's obligation to so cooperate shall survive the Closing.

Section 4.4 Condemnation. Unless and until the Closing is completed, the risk of loss to the Property from condemnation or an eminent domain action shall be borne by Seller. If, at any time before completion of the Closing, a taking or condemnation (or proceeding in lieu thereof) is commenced or threatened in writing: (i) of all or substantially all of the Property; or (ii) of less than all or substantially all of the Property that: (1) causes the Property to fail to comply with legal requirements or any applicable Agreements; (2) materially impairs access to or egress from the Property; and/or (3) otherwise, in Purchaser's reasonable business judgment,

results in a loss of value in excess of \$50,000 (any of the foregoing, a "Material Taking"). Purchaser may, at Purchaser's sole option, elect either to:

- a) terminate this Agreement and receive a return of the Option Deposit with accrued interest, if any; or
- b) purchase the Property subject to and in accordance with this Agreement.

In the event of condemnation or taking that does not constitute a Material Taking, or if there is a Material Taking but Purchaser elects to proceed under Section 4.4(b): (1) Purchaser shall purchase the Property in accordance with the terms hereof (without reduction in the Purchase Price), (2) Seller shall assign to Purchaser at Closing all condemnation proceeds paid or payable as a result of such condemnation, (3) Purchaser shall have the right to be present with Seller at any hearings or negotiations with respect thereto, and (4) Seller shall not settle or compromise any such matter without Purchaser's prior written consent, which consent shall not be unreasonably withheld, delayed or conditioned. Purchaser shall be deemed to have elected to terminate this Agreement under Section 4.4(a) unless, within fifteen (15) business days from written notice to Purchaser of the condemnation, Purchaser provides Seller with written notice that Purchaser elects to proceed pursuant to Section 4.4(b). If the Closing Date would otherwise occur sooner, it shall automatically be extended to the date that is twenty (20) business days after written notice to Purchaser of the Material Taking.

Section 4.5 Leasing and Other Activities Prior to Closing.

a) Seller shall not enter into any lease of any portion of the Property to be conveyed to the Purchaser as shown on Exhibit A, and shall not grant any right to any Person to possess or occupy any portion of that Property unless and until this Agreement has terminated. The Purchaser acknowledges the existing rental agreement with the North Fairhaven Improvement Association, but the location of such tenancy, if it continues after Closing, will be on a site adjacent to the Property and is not intended to be part of the Property to be conveyed to the Purchaser.

b) Seller shall not, without Purchaser's prior written approval, given or withheld in its reasonable discretion, (i) make any material alterations or additions to the Property, except as may be required by Legal Requirements or as may reasonably be required for the prudent repair and maintenance of the Property or as specified in Section 10.2 below, (ii) change or attempt to change (or consent to any change in) the zoning or other Legal Requirements applicable to the Property, or (iii) cancel, amend or modify in any material respect any certificate, license, approval or permit held by or on behalf of Seller with respect to the Property.: which would interfere with the performance of any material obligation of the Seller, or right of the Purchaser, under the terms of this Agreement.

c) At all times prior to Closing, Seller shall: (i) take the following measures to maintain the Property:

- Maintain the current burglar alarm system
- Maintain the current fire alarm system

- Perform at least monthly walk through inspections and, also on a monthly basis, provide the Purchaser with a written report of any damage or maintenance issues apparent at the time of the walk through
- Board up broken windows
- Ensure that the water is and remains shut-off and purged from all pipes

The Seller shall not be obligated to maintain a sprinkler system, water or heat.

(ii) perform its obligations under the Permitted Exceptions; (iii) maintain the insurance with respect to the Property that is in place as of the Effective Date and maintain liability insurance in accordance with generally prevailing industry standards; (iv) not sell or further encumber the Property or any direct or indirect interest therein or enter into any agreement relating thereto; (v) not cut or remove any trees on the Property, and (vi) promptly give Purchaser a reasonably detailed written notice of: (1) any fire, flood or other material adverse change with respect to the Property, (2) any actual or proposed condemnation or taking (or proceeding in lieu thereof) of which Seller obtains actual knowledge, (3) any written notice received by Seller claiming that the Property or the use and operation thereof fails to comply with applicable legal requirements, and (4) any written notice received by Seller concerning any pending or threatened litigation or administrative proceeding affecting the Property. If Seller becomes aware during the term of this Agreement of any matters that render any of their representations or warranties untrue, Seller shall promptly disclose such matters to Purchaser in writing.

ARTICLE 5

As-Is Sale; Limited Representations and Warranties

Section 5.1 As-Is Sale.

a) Purchaser acknowledges that prior to the Closing, it will have a full and complete opportunity to conduct such investigations, examinations, inspections and analysis of the Property and market conditions as Purchaser, in its absolute discretion, may deem appropriate. Purchaser further acknowledges that, except for Seller Representations, Purchaser has not relied upon any statements, representations or warranties by Seller or any agent of Seller.

b) Except for the obligations of Seller under this Agreement and the Seller Representations, Purchaser agrees that the Property shall be sold and that Purchaser shall accept possession of the Property on the Closing Date strictly on an "as is, where is" basis, and that, except for the Seller Representations, such sale shall be without representation or warranty of any kind by Seller, express or implied.

Section 5.2 Purchaser Representations. Purchaser hereby represents and warrants to Seller as follows:

a) Purchaser is a limited liability company, duly formed, validly existing and in good standing under the laws of the State of Delaware and this Agreement constitutes the valid and

legally binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms;

b) There are no actions, suits or proceedings pending or, to the knowledge of Purchaser, threatened, against or affecting Purchaser which, if determined adversely to Purchaser, would adversely affect its ability to perform its obligations hereunder. Purchaser has not (a) made a general assignment for the benefit of creditors, (b) filed any voluntary petition in bankruptcy or suffered the filing of an involuntary petition of Purchaser's creditors, (c) suffered the appointment of a receiver to take possession of all, or substantially all, of Purchaser's assets, (d) suffered the attachment or other judicial seizure of all, or substantially all, of Purchaser's assets, (e) admitted in writing its inability to pay its debts as they come due or (f) made an offer of settlement, extension or composition to its creditors generally. Purchaser has full right, power and authority and is duly authorized to enter into this Agreement, to perform each of the covenants on its part to be performed hereunder and to execute and deliver, and perform its obligations under all documents required to be executed and delivered by it pursuant to this Agreement;

c) Neither the execution, delivery or performance of this Agreement (i) conflicts or will conflict with or results or will result in a breach of or constitutes or will constitute a default under (1) the organizational documents of Purchaser, (2) to the best of Purchaser's knowledge, any law or any order, writ, injunction or decree of any court or governmental authority, or (3) any agreement or instrument to which Purchaser is a party or by which it is bound or (ii) results in the creation or imposition of any lien, charge or encumbrance upon its property pursuant to any such agreement or instrument;

d) No authorization, consent, or approval of any governmental authority or any other Person is required for the execution and delivery by Purchaser of this Agreement or the performance of its obligations hereunder.

e) Purchaser is not, and will not be, a Person with whom Seller is restricted from doing business with under the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, H.R. 3162, Public Law 107-56 (commonly known as the "USA Patriot Act") and Executive Order Number 13224 on Terrorism Financing, effective September 24, 2001 and regulations promulgated pursuant thereto (collectively, "Anti-Terrorism Laws"), including persons and entities named on the Office of Foreign Asset Control Specially Designated Nationals and Blocked Persons List.

Section 5.3 Seller's Representations. Seller warrants and represents to Purchaser as follows:

a) **Representations Concerning Seller.**

i) The Town of Fairhaven is a political subdivision of the Commonwealth of Massachusetts duly organized, validly existing and in good standing under the laws of the Commonwealth of Massachusetts. Subject to the approval by the Town Meeting for the Town of Fairhaven authorizing the Board of Selectmen

to enter into this sale of the Property, if not previously obtained, this Agreement constitutes the valid and legally binding obligation of Seller, enforceable against Seller in accordance with its terms;

ii) There are no actions, claims, suits or proceedings pending or, to the knowledge of Seller, threatened, against or affecting Seller which, if determined adversely to Seller, would adversely affect its ability to perform its obligations hereunder, actions or claims relating thereto or specified therein. Seller has not (a) made a general assignment for the benefit of creditors, (b) filed any voluntary petition in bankruptcy or suffered the filing of an involuntary petition of Seller's creditors, (c) suffered the appointment of a receiver to take possession of all, or substantially all, of Seller's assets, (d) suffered the attachment or other judicial seizure of all, or substantially all, of Seller's assets, (e) admitted in writing its inability to pay its debts as they come due or (f) made an offer of settlement, extension or composition to its creditors generally. Subject to the approval by the Town Meeting for the Town of Fairhaven authorizing the Board of Selectmen to enter into this sale of the Property, if not previously obtained, Seller has full right, power and authority and is duly authorized to enter into this Agreement, to perform each of the covenants on its part to be performed hereunder and to execute and deliver, and to perform its obligations under all documents required to be executed and delivered by it pursuant to this Agreement;

iii) Neither the execution, delivery or performance of this Agreement (a) conflicts or will conflict with or results or will result in a breach of or constitutes or will constitute a default under (1) the organizational documents of Seller, (2) to the best of Seller's knowledge, any law or any order, writ, injunction or decree of any court or governmental authority, or (3) any agreement or instrument to which Seller is a party or by which it is bound or (b) results in the creation or imposition of any lien, charge or encumbrance upon its property pursuant to any such agreement or instrument;

iv) No authorization, consent, or approval of any governmental authority (including courts) or any other Person is required for the execution and delivery by Seller of this Agreement or the performance of its obligations hereunder except the approval by the Town Meeting for the Town of Fairhaven authorizing the Board of Selectmen to enter into this sale of the Property, if that approval has not been previously obtained, and

v) No party constituting Seller is a "foreign person" as defined in Section 1445 of the Code; the taxpayer identification numbers of the parties constituting Seller shall be provided to Purchaser prior to the end of the Study Period;

b) **Representations Concerning the Property.**

- i) Except for the existing rental agreement with the North Fairhaven Improvement Association, there are no leases, licenses or other occupancy agreements affecting all or any portion of the Property;
- ii) Except for the existing rental agreement with the North Fairhaven Improvement Association, Seller has not entered into any commitments or agreements with any governmental authorities or agencies or with any other Person affecting the Property that are not a matter of public record at the registry of deeds for the Property; and (2) Seller has not received any written notice requiring the correction of any condition with respect to the Property, or any part thereof, by reason of any alleged violation of any applicable federal, state, county or municipal law, code, rule or regulation, or stating that any investigation has been commenced or is contemplated regarding any of the same;
- iii) Seller has delivered (or will deliver within the time provided in Section 4.1) to Purchaser (without representation or warranty, express or implied) true and complete copies of all plans, specifications, engineering, geotechnical, environmental, planning and other similar studies or reports (whether draft or final) in the possession or control of the Seller relating to the Property (the "Reports"). Except as set forth in the Reports, Seller has not received any written notice of: (1) the presence of any Hazardous Materials at the Property in violation of any Environmental Law or that require any remediation or investigation; or (2) the presence of any underground storage tanks on any portion of the Property;
- iv) Seller has delivered (or will deliver within the time provided in Section 3.1) to Purchaser true and complete copies of all permits, licenses and approvals in Seller or in Seller's possession or control and relating to the ownership and operation of the Property (the "Permits"). Any permits, licenses and approvals relating solely to the operation of the Property are not included in the foregoing. To the best of Seller's knowledge, the Permits are in full force and effect and free from default. Seller has not received any written notice that any license, permit or approval is required in connection with the current ownership or use of the Property;
- v) There are no pending, or to Seller's knowledge, threatened, judicial, administrative, condemnation or eminent domain proceedings or investigations relating to the Property;
- vi) All sums payable by reason of any labor or materials furnished with respect to the Property, and all sums payable with respect to the production and issuance of the Reports and the Permits, have been, or at or prior to Closing will be, paid in full, and Seller has no knowledge of any material disputes in connection therewith;

vii) Since the Property has been an asset of a municipality, it has not appeared on the tax rolls and there have not been any tax bills issued by any applicable federal, state or local governmental authority to the Seller with respect to the Property. No portion of the Property comprises part of a tax parcel which includes property other than property comprising all or a portion of the Property. No application or proceeding is pending with respect to the establishment of such taxes. There are no tax refund proceedings relating to the Property which are currently pending. There are no special taxes or assessments to be levied against the Property nor is the Seller aware of any change in the tax assessment of the Property;

viii) Seller has not granted any option or right of first refusal or first opportunity to any party to acquire any interest in any of the Property;

ix) To the Seller's knowledge, the Seller has not failed to deliver to Purchaser a true and complete copy of any written report or document in Seller possession or control that materially affects the development, ownership, leasing, value or use of the Property;

x) Seller is the sole owner of fee simple title to the Property; and

xi) The Property is serviced by municipal sewer and water, and has access to gas and electric utilities.

ARTICLE 6

Closing

Section 6.1 Closing Date. Unless the parties otherwise agree in writing, the Closing shall take place on or before December 31, 2018, which may be extended for up to two consecutive six month periods at the sole discretion of the Purchaser in order to secure the LIHTC. Unless the parties otherwise agree in writing, the Closing shall be conducted through a customary arrangement with the Title Company and, on or before the Closing Date, the Seller shall deliver to the Title Company or Purchaser the documents listed in Section 6.2 and the Purchaser shall deliver to the Title Company the documents and funds described in Section 6.3.

Notwithstanding anything to the contrary in this Agreement, if, on the Closing Date, Purchaser is unable to bind property and casualty insurance for the Property because of the existence of severe weather threatening the area in which the Property is located, Purchaser may, by written notice to Seller, adjourn the Closing until the date that is three (3) business days after the date that such condition no longer exists.

Section 6.2 Seller's Deliveries. At the Closing, Seller shall deliver or cause to be delivered, at Seller's sole expense, each of the following items:

a) (i) A quitclaim deed conveying good and clear record and marketable fee simple title to the Property (after subdivision as provide by Section 2(b) , subject only to the Permitted Exceptions, in proper form for recording (the (“Deed”), (ii) the Representation Update Certificate with respect to its representations made in Section 5.3, (iii) the Closing Statement, (iv) the Easements, and (v) Access Agreement.

b) Such evidence or documents as may be reasonably required by the Title Company or Purchaser relating to and sufficient to delete any exceptions for: (i) mechanics' or materialmen's liens; (ii) survey exceptions; (iii) customary affidavits for endorsements required by Purchaser's financing sources; (iv) parties in possession (except with respect to Permitted Exceptions); or (v) the status and capacity of Seller and the authority of the Person or Persons who are executing the various documents on behalf of Seller in connection with the sale of the Property;

c) All books, records and other documents, databases, computer files and other Intangible Property in the possession or control of Seller and material to Purchaser's ownership or operation of the Improvements, including permits, licenses, and approvals, as-built drawings, plans and specifications, and guaranties and warranties; and

d) Evidence of authority to enter into the transaction, including an opinion of counsel to Seller; and

e) A certificate of compliance with Section 4.1(b) with respect to the Seller's representations in this Agreement.

Section 6.3 Purchaser's Deliveries. At the Closing, Purchaser shall deliver the following items:

a) Immediately available federal funds sufficient to pay the Purchase Price and Purchaser's share of all escrow costs and closing expenses;

b) (i) the Closing Statement, duly executed (and, when required, acknowledged) by Seller, (ii) the Easements, and (iii) Access Agreement

c) Such evidence or documents as may reasonably be required by the Title Company evidencing the status and capacity of Purchaser and the authority of the Person or Persons who are executing the various documents on behalf of Purchaser in connection with the purchase of the Property;

d) Immediately available federal funds sufficient to fund the Closing Loan;

e) Such other documents as are consistent with the terms of this Agreement and reasonably required to close the transaction contemplated hereby.

Section 6.4 Costs and Prorations.

a) **General.** Real estate taxes and assessments allocable to the payment period that includes the Closing Date shall be the responsibility of the Seller.

b) **Taxes.** Real estate taxes will be paid by the Purchaser as required by statute based on an assessed value of the Property equal to the Purchase Price prorated as of the Closing Date. The parties acknowledge that there should be no real estate taxes accruing prior to the Closing Date. All real estate taxes, if any, accruing before the Closing Date shall be the obligation of Seller and all such taxes accruing on and after the Closing Date shall be the obligation of Purchaser.

c) **Assessment Installments.** If as of the Closing Date the Property is encumbered or otherwise affected by any assessment (whether or not a lien) which is or may become payable in installments, then for the purposes of this Agreement, all unpaid installments of such assessments shall be deemed to have become due and payable prior to the Closing Date and Purchaser shall be entitled to receive a credit against the Purchase Price in an amount equal to all unpaid installments of such assessments, and in such event Purchaser shall take title to the Property subject to the unpaid installments not yet due and payable.

d) **Utilities.** The actual or estimated charges for utilities accrued and payable by Seller shall be prorated between Seller and Purchaser, provided Purchaser is required by law or elects to assume Seller's utility account. Deposits for utilities (the "Utility Deposits"), plus any interest on the Utility Deposits to which Seller is or will be entitled that are held by the provider of the utilities and which are freely transferable to Purchaser, shall at the election of the Purchaser be assigned by Seller to Purchaser and Purchaser shall pay Seller the full amount thereof at Closing. Seller shall retain the right to obtain a refund of any Utility Deposits which are not required to be assigned to Purchaser, and Purchaser will cooperate with Seller as reasonably requested in obtaining any refund. With respect to water, sewer, electric and gas charges, Seller shall make reasonable efforts to obtain a reading of the meter or other consumption measuring device as of the Closing Date. If the Seller is unable to obtain such a reading, Seller shall furnish a reading as of a date not more than thirty (30) days prior to the Closing Date and the unknown charges shall be apportioned on the basis of an estimate computed by utilizing such reading and the most recent bill from the utility provider.

e) **Closing Costs.** Purchaser and Seller shall each pay their own legal fees related to the preparation of this Agreement and all documents required to settle the transaction contemplated hereby. Purchaser shall pay all costs associated with its due diligence, including but not limited to, the cost of appraisals, architectural, engineering, credit and environmental reports. The Purchaser shall pay the charges for the escrow services of the Title Company. Seller shall pay all recording fees in connection with the release of any encumbrances on the Property and all transfer taxes and documentary stamp charges. Purchaser shall pay the cost of recording the Deed and any title insurance premiums. All other customary purchase and sale closing costs shall be paid by Seller or Purchaser in accordance with the custom in the jurisdiction where the Property is located.

f) **Closing Statement.** Purchaser and Seller shall cooperate to produce prior to the Closing Date a schedule of prorations to be made as of the Closing Date in accordance with the

terms of this Agreement (the "Closing Statement"). If any of the items described in this Section 6.4 cannot be apportioned at the Closing because of the unavailability of the amounts which are to be apportioned or otherwise, or are incorrectly apportioned at Closing or subsequent thereto, such items shall be apportioned or reapportioned, as the case may be, as soon as practicable after the Closing Date or the date such error is discovered, as applicable. The provisions of this Section 6.4 shall survive the Closing.

g) **Use of Money to Clear Title.** To enable Seller to make conveyance as herein provided, Seller may, at the time of delivery of the Deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, provided that all instruments so procured are recorded simultaneously with the delivery of the deed or that provision for prompt recording thereof in accordance with prevailing conveyancing practices is made at the time of Closing.

Section 6.5 Possession. Possession of the Property shall be delivered to Purchaser by Seller at the Closing, subject only to the Permitted Exceptions.

ARTICLE 7

Real Estate Commission

Section 7.1 Commissions. The Purchaser and Seller represent and warrant that no broker's fees or commissions are due to any person in connection with this transaction. Each party shall indemnify and hold the other harmless from all claims by any person claiming any fee or commission by, through or under the other party or otherwise in relation to this transaction, whether prior to or after the Closing. The provisions of this Section 7.1 shall survive the Closing.

ARTICLE 8

Termination and Default

Section 8.1 Termination and Default. Termination without Default. If the sale of the Property is not consummated on or before December 31, 2019, (including the two consecutive six month extension periods at the sole discretion of the Purchaser in order to secure the LIHTC award), or if the Purchaser elects to terminate this Agreement prior to December 31, 2019, because of the failure of any condition precedent to Purchaser's obligations expressly set forth in this Agreement or for any other reason except a default by Purchaser in its obligation to purchase the Property in accordance with the provisions of this Agreement (which shall be governed by Section 8.2) or any default by Seller of its obligations under this Agreement (which shall be governed by Section 8.3) one-half the Option Deposit plus any amounts owed to the Purchaser under Sections 1.5 and 3.4 of this Agreement shall be returned promptly to the Purchaser and, upon receipt of one-half the Option Deposit plus any amounts owed to the Purchaser under Sections 1.5 and 3.4 of this Agreement by the Purchaser, the Agreement shall terminate and neither Party shall have any further obligations hereunder, except for any obligations which under the terms of this Agreement expressly survive termination.

Section 8.2 Purchaser's Default. If the sale contemplated hereby is not consummated because of a default by Purchaser in its obligation to purchase the Property in accordance with the terms of this Agreement, and if such default is not cured within ten (10) days from written notice thereof from Seller to Purchaser or such longer period, but in any event not to exceed twelve (12) months, if a cure is being diligently pursued or unless such deadline is extended in the sole discretion of the Seller, then: (a) the Option Deposit shall be paid in full to the Seller and this Agreement shall terminate and (b) Seller and Purchaser shall have no further obligations to each other, except for any obligations which under the terms of this Agreement expressly survive termination.

Section 8.3 Seller's Default. If Seller defaults in its obligation to sell the Property to Purchaser in accordance with the terms of this Agreement, and if such default is not cured within thirty (30) business days from written notice thereof from Purchaser to Seller or such longer period as may be reasonably necessary to cure provided Purchaser is diligently pursuing a cure of such default, then Purchaser may, as its sole and exclusive remedy at law or in equity: (a) terminate this Agreement by giving written notice thereof to Seller, in which event the parties shall have no further obligation to each other; (b) waive such default and consummate the transactions contemplated hereby in accordance with the terms of this Agreement; or (c) specifically enforce this Agreement.

Section 8.4 Breach of Representations. The representations and warranties of Seller and Purchaser set forth in this Agreement or in any document or certificate delivered by Seller or Purchaser in connection herewith shall survive the Closing for a period of twelve (12) months (the "Survival Period"), and no action or proceeding thereon shall be valid or enforceable, at law or in equity, unless within such time written notice thereof is given to the other party.

Section 8.5 Mutual Indemnifications.

a) Subject to the limitations set forth in Section 8.4, from and after the Closing, Seller shall indemnify Purchaser and defend and hold Purchaser harmless from and against any and all claims, demands, liabilities, costs, expenses, penalties, damages and losses, including reasonable attorneys' fees, resulting from any misrepresentation or breach of warranty by Seller in this Agreement or in any document, certificate, or exhibit given or delivered by Seller pursuant to or in connection with this Agreement.

b) Subject to the limitation set forth in Section 8.4, from and after the Closing, Purchaser shall indemnify Seller and defend and hold Seller harmless from and against any and all claims, demands, liabilities, costs, expenses, penalties, damages and losses, including reasonable attorneys' fees, resulting from any misrepresentation or breach of warranty made by Purchaser in this Agreement or in any document, certificate, or exhibit given or delivered by Purchaser pursuant to or in connection with this Agreement.

c) Subject to the limitation set forth in Section 8.4, Seller shall indemnify Purchaser and defend and hold Purchaser harmless from and against any and all claims, demands, liabilities, costs, expenses, penalties, damages and losses, including reasonable attorneys' fees, asserted against, incurred or suffered by Purchaser resulting from: (i) any personal injury or

property damage occurring in, on or about the Property or relating thereto and occurring during any period in which Seller or its affiliates owned the Property, from any cause whatsoever other than as a consequence of the acts or omissions of Purchaser, its agents, employees or contractors; (ii) any claims under statute or common law, to the extent that such liability accrued prior to Closing, except to the extent that Purchaser has received a credit at Closing and/or Purchaser has assumed obligations or liabilities for such pre-Closing periods pursuant to the terms of this Agreement or the closing documents; or (iii) any claims for transfer taxes, other taxes, and recording fees (including related interest or penalties) that are required to be paid by Seller as a result of the transactions contemplated by this Agreement.

d) Purchaser shall indemnify Seller and defend and hold Seller harmless from any claims, losses, demands, liabilities, costs, expenses, penalties, damages and losses, including reasonably attorneys' fees, asserted against, incurred or suffered by Seller resulting from any personal injury or property damage (i) from any cause whatsoever, occurring in, on or about the Property or relating thereto and occurring during any period in which Purchaser or its affiliates owns the Property or (ii), at any other time arising or resulting from any act or omission of the Purchaser, its agents, employees or contractors; and other than as a consequence of the acts or omissions of Seller, its agents, employees or contractors.

e) In the event either party hereto receives notice of a claim or demand which results or may result in indemnification pursuant to Section 8.5, such party (the "Indemnitee") shall promptly give notice thereof to the other party (the "Indemnitor") to this Agreement. The Indemnitor shall promptly take such measures as may be reasonably required to properly and effectively defend such claim, and may defend same with counsel of its own choosing. In the event the Indemnitor fails to properly and effectively defend such claim, and in the event the Indemnitor is liable therefor, then the Indemnitee may defend such claim at the expense of the Indemnitor. The provisions of this Section 8.5 shall survive the Closing.

ARTICLE 9

Miscellaneous

Section 9.1 Entire Agreement: Successors and Assigns: Miscellaneous Provisions.

This Option Agreement constitutes the entire agreement between the parties hereto with respect to the transactions contemplated herein, and it supersedes all prior discussions, understandings or agreements. All Exhibits and Schedules attached hereto are a part of this Agreement and are incorporated herein by reference. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement may be executed in any number of counterparts and it shall be sufficient that the signature of each party appear on one or more such counterparts, and all counterparts shall collectively constitute a single agreement. No modification of this Agreement shall be deemed effective unless in writing and signed by both Seller and Purchaser. In the event the time for performance of any obligation hereunder expires on a day that is not a business day, the time for performance shall be extended to the next business day. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any provisions of this Agreement. Words such as "herein", "hereinafter", "hereof and "hereunder"

when used in reference to this Agreement, refer to this Agreement as a whole and not merely to a subdivision in which such words appear, unless the context otherwise requires. The singular shall include the plural and the masculine gender shall include the feminine and neuter, and vice versa, unless the context otherwise requires. The word "including" shall not be restrictive and shall be interpreted as if followed by the words "without limitation." This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared primarily by counsel for one of the parties, it being recognized that both Purchaser and Seller have contributed substantially and materially to the preparation of this Agreement.

Section 9.2 Waiver; Governing Law. The excuse or waiver of the performance by a party of any obligation of the other party under this Agreement shall only be effective if evidenced by a written statement signed by the party so excusing or waiving. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by Seller or Purchaser of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement. This Agreement shall be construed and the rights and obligations of Seller and Purchaser hereunder determined in accordance with the internal laws of the Commonwealth of Massachusetts without regard to the principles of conflict of laws.

Section 9.3 Notices. All notices or other communications required or provided to be sent by either party shall be in writing and shall be sent by: (i) by United States Postal Service, certified mail, return receipt requested, (ii) by any nationally known overnight delivery service for next day delivery, (iii) delivered in person or (iv) sent by telecopier or facsimile machine which automatically generates a transmission report that states the date and time of the transmission, the length of the document transmitted and the telephone number of the recipient's telecopier or facsimile machine (with a copy thereof sent in accordance with clause (i), (ii) or (iii) above). All notices shall be deemed to have been given upon receipt. All notices shall be addressed to the parties at the addresses below:

To Seller:

Board of Selectmen
Fairhaven Town Hall
40 Center Street
Fairhaven, MA 02719

With a copy to:

Thomas P. Crotty, Esq.
Thomas P. Crotty & Assoc. PLLC
388 County Street, Third Floor
New Bedford, MA 02740

To Purchaser:

Richard A. Hayden
SCG Development Partners, LLC
c/o Stratford Capital Group
100 Corporate Place, Suite 404

Peabody, MA 01960

With a copy to:

M. Chrysa Long.
Klein Hornig LLP
101 Arch St.
Boston, MA 02110

Any address or name specified above may be changed by notice given to the addressee by the other party in accordance with this Section 9.3. The inability to deliver notice because of a changed address of which no notice was given as provided above, or because of rejection or other refusal to accept any notice, shall be deemed to be the receipt of the notice as of the date of such inability to deliver or rejection or refusal to accept. Any notice to be given by any party hereto may be given by the counsel for such party.

Section 9.4 Confidentiality. [Intentionally Omitted.]

Section 9.5 Attorneys' Fees. In the event of a judicial or administrative proceeding or action by one party against the other party with respect to the interpretation or enforcement of this Agreement, the prevailing party shall be entitled to recover reasonable costs and expenses including reasonable attorneys' fees and expenses, whether at the investigative, pretrial, trial or appellate level. The prevailing party shall be determined by the court based upon an assessment of which party's major arguments or position prevailed.

Section 9.6 IRS Real Estate Sales Reporting. Purchaser and Seller hereby agree that the Title Company shall act as "the person responsible for closing" the transaction which is the subject of this Agreement pursuant to Section 6045(e) of the Code and shall prepare and file all informational returns, including IRS Form 1099-S, and shall otherwise comply with the provisions of Section 6045(e) of the Code.

Section 9.7 Further Instruments. Each party, promptly upon the request of the other, shall execute and have acknowledged and delivered to the other or to Title Company, as may be appropriate, any and all further instruments reasonably requested or appropriate to evidence or give effect to the provisions of this Agreement and which are consistent with the provisions of this Agreement.

Section 9.8 Severability. The parties hereto intend and believe that each provision in this Agreement comports with all applicable local, state and federal laws and judicial decisions. If, however, any provision in this Agreement is found by a court of law to be in violation of any applicable local, state, or federal law, statute, ordinance, administrative or judicial decision, or public policy, or if in any other respect such a court declares any such provision to be illegal, invalid, unlawful, void or unenforceable as written, then it is the intent of all parties hereto that, consistent with and with a view towards preserving the economic and legal arrangements among the parties hereto as expressed in this Agreement, and provided that no material change in the rights and obligations of the parties under this Agreement results, such provision shall be given force and effect to the fullest possible extent, and that the remainder of this Agreement shall be construed as if such illegal, invalid, unlawful, void, or unenforceable provision were not

contained herein, and that the rights, obligations, and interests of the parties under the remainder of this Agreement shall continue in full force and effect.

Section 9.9 No Implied Agreement. Neither Seller nor Purchaser shall have any obligations in connection with the transaction contemplated by this Agreement unless both Seller and Purchaser, each acting in its sole discretion, elects to execute and deliver this Agreement to the other party. No correspondence, course of dealing or submission of drafts or final versions of this Agreement between Seller and Purchaser shall be deemed to create any binding obligations in connection with the transaction contemplated hereby, and no contract or obligation on the part of Seller or Purchaser shall arise unless and until this Agreement is fully executed by both Seller and Purchaser. Once executed and delivered by Seller and Purchaser, this Agreement shall be binding upon them notwithstanding the failure of Title Company or any other Person to execute this Agreement.

Section 9.10 Electronically Transmitted Signatures. Signatures to this Agreement, any amendment hereof and any notice given hereunder, transmitted electronically or by telecopy shall be valid and effective to bind the party so signing. Each party agrees to promptly deliver an execution original of this Agreement (and any amendment hereto) with its actual signature to the other party, but a failure to do so shall not affect the enforceability of this Agreement (or any amendment hereto), it being expressly agreed that each party to this Agreement shall be bound by its own telecopied or electronically transmitted signature and shall accept the telecopied or electronically transmitted signature of the other party to this Agreement.

ARTICLE 10

Other Agreements of the Parties

Section 10.1 Support of the Approvals

(a) The Town, acting through its Board of Selectmen, shall cooperate in Purchaser's efforts to obtain financing for the Project, and all necessary approvals, licenses, and permits, including a comprehensive permit, for the construction, operation, repair and maintenance of the Project, provided that the Town shall not be required to take any action involving the expenditure of funds or to expend funds in support of the Project; and provided, however, that nothing herein shall prevent any Town department or agency from enforcing any existing applicable law, statute, by-law, rule or regulation which it has the right to enforce; and provided, further, that, except as may be required by general law, the Town shall not amend any such law, statute, bylaw, rule or regulation, or put into effect any new law, statute, by-law, rule or regulation, which will result in a charge or fee, or impose an obligation or prohibition, which is applicable to Purchaser but which is not applicable to all of the inhabitants of the Town on the same basis that it is applicable to Purchaser, or which will unreasonably interfere with Purchaser's ability to perform its obligations hereunder or to conduct its business.

(b) Except when exercising its regulatory authority, the Town shall not interfere with Purchaser's use of the Property; provided, however, that Purchaser is in compliance with its obligations under this Agreement.

Section 10.2 Cupola

The Seller shall have the option, at no cost to the Purchaser, to design, permit, and restore the cupola formerly on the school building on the Property, such restoration to be completed prior to the Closing Date; provided, however, the parties acknowledge and agree that any such restoration must be done in compliance with Federal and state requirements in order to maintain eligibility of the Property for Federal and state historic tax credits. The Purchaser shall be kept promptly informed of all scheduled work and the Seller shall provide access to the Purchaser of all written plans, specifications and contracts relating to the restoration of the cupola as well as being allowed to participate in all meetings and correspondence with the Massachusetts Historic Commission and the National Park Service, if necessary.

Section 10.3 Town Parking

The Purchaser shall design and construct a 30 space asphalt parking lot adjacent to the northeast corner of the Property on property of the Seller as described in Exhibit C. The parking lot will include signage indicating its use as "Parking for Livesy Park Only". The design and construction of the parking lot shall be subject to the reasonable review and approval of the Seller. This provision shall survive the termination of this agreement, but shall be conditioned on the construction of the project contemplated by the Purchaser,

Section 10.4 Access to Town Parking

The Purchaser shall lay-out and grant to the Seller a permanent easement at the northeast corner of the Property for access to the above described parking lot as further described in Exhibit B herein above and in the Access Agreement to be mutually agreed upon by the Purchaser and Seller not less than 30 days prior to the Closing Date. The lay-out and terms of the easement shall be subject to the reasonable review and approval of the Seller. This provision shall survive the termination of this agreement, but shall be conditioned on the construction of the project contemplated by the Purchaser.

IN WITNESS WHEREOF, Seller and Purchaser hereto have executed this Agreement as of the Effective Date.

PURCHASER:

SCG DEVELOPMENT PARTNERS, a Delaware limited liability company, by SCG Development Manager, LLC, its sole member

By: SCG Capital Corp., a Delaware corporation,
(d/b/a/ Strat Cap), its manager

By: _____
Richard A. Hayden
Executive Vice President

SELLER:

[BOARD OF SELECTMEN OF THE TOWN OF
FAIRHAVEN *[authorized signer(s) to be identified
by Town]*

By: _____
Name:
Title: Selectman

By: _____
Name:
Title: Selectman

By: _____
Name:
Title: Selectman

EXHIBIT A

[to be inserted]

DESCRIPTION OF THE PROPERTY

Draft 4/1/16

EXHIBIT B

[to be inserted]

DRAFT