MEMORANDUM OF AGREEMENT – 40R SMART GROWTH OVERLAY DISTRICT

This Memorandum of Agreement (the "Agreement") is entered into this __ day of November, 2022, by and between the Town of Lancaster (the "Town"), acting by and through its Select Board and its Affordable Housing Trust (the "Trust"), 702, LLC, a business having its principal Massachusetts office at 259 Turnpike Road, Suite 100 Southborough, MA 01772 ("702"); and North Lancaster, LLC, a business having its principal Massachusetts office at 435 Lancaster Street, Leominster, MA 01453 ("North Lancaster"). Hereinafter the Town and the Trust may sometimes be collectively referred to as the "Town" and 702 and North Lancaster, their successors and assigns, may be collectively referred to as the "Owner".

RECITALS

WHEREAS, the Owner owns or controls property located in the Town of Lancaster described more fully in **Exhibit A** (the "Property"); and

WHEREAS, to further the Town's housing production goals and help attain the state-mandated minimum affordability threshold, the Town is amenable to sponsoring an article on the warrant at a Special Town Meeting to be held on November 14, 2022, in the form attached as **Exhibit B**, that would amend the Lancaster Zoning Bylaw by adding the North Lancaster Smart Growth Overlay District, an overlay zoning district enacted pursuant to M.G.L. c. 40R and accompanying regulations at 760 CMR 59.00; (the "North Lancaster Smart Growth Overlay District Bylaw"); and

WHEREAS, the North Lancaster Smart Growth Overlay District is depicted on **Exhibit C**, and includes a portion of the Property, specifically Assessors' Parcel 14-4.M, Parcel 14.4.L, Parcel 14-4.N, Parcel 14-4.G, Parcel 14-4.F, Parcel 14-4.K, Parcel 14-4.J, Parcel 14-4.I, Parcel 14-4.H, Parcel 14-4.A, Parcel 14-8.0, Parcel 14-8.A and Parcel 14-4.D (collectively the "North Lancaster Smart Growth Overlay District"); and

WHEREAS, the Massachusetts Department of Housing and Community Development ("DHCD") issued a letter of conditional eligibility dated May 27, 2022 finding that the proposed North Lancaster Smart Growth Overlay District Overlay Bylaw ("NL-SGOD") conditionally meets the approval requirements established pursuant to M.G.L. c. 40R and 760 CMR 59.04(1) in order to establish a "Smart Growth" overlay zoning district; and

WHEREAS, the Owner contemplates construction of a mixed-use development including up to 146 new dwelling units and the maximum area of commercial space as conceptually describe below and in compliance with M.G.L. 40R mixed use ratio requirements (the "40R Project") on a portion of the Property within the North Lancaster Smart Growth Overlay District defined as Assessors' Parcel 14-4.I, Parcel 14-4.H, Parcel 14-4.A, Parcel 14-8.0, and Parcel 14-8.A (collectively, the "Site"); and

WHEREAS, the Owner, is concurrently seeking to expand the Enterprise Zoning District to include land owned or controlled by Owner, adjacent to the Site, namely specific areas of Assessor Parcels 008-0045.0, 009-0004.0, 014-0003.B & 014-0004.D (hereinafter the "Enterprise Project Site"), on which owner proposes to develop a

Commercial Center, containing a maximum building ground floor area of 2,450,000 square feet, along with associated parking, access, site circulation and infrastructure, including, without limitation, the installation of the Phase One Access Road on and within Parcel 014-0004.D (the "Enterprise Project"). The Enterprise Project is the subject of a companion Memorandum of Agreement (the "EZ MOA") between the parties, an executed copy of which is attached hereto as **Exhibit D,** and will also require the adoption of a separate zoning amendment by Special or Annual Town Meeting. Hereinafter the Enterprise Project and the 40R Project are sometimes referred to collectively as the "Owner's Projects". The Phase One Access Road will service both of Owner's Projects. All obligations of Owner and Town set forth in the EZ MOA which are necessary for the permitting and development of the 40R Project are expressly incorporated by reference herein.

WHEREAS, based on the traffic and engineering studies performed by Owner, and reviewed by the Town's consultants, the Parties have identified the water, sewer, traffic, public transit, pedestrian, cycling, environmental, open space and recreational improvements that are required in order to support the 40R Project; and

WHEREAS, this Agreement is entered into by the Parties in an effort to establish a framework to supplement the North Lancaster Smart Growth Overlay District bylaw and to (i) memorialize the maximum residential and commercial development that may occur on the Site and the Property, (ii) facilitate the development of housing units that will count towards the Town's Subsidized Housing Inventory ("SHI"), and (iii) itemize infrastructure upgrades, environmental mitigation, and other improvements to be undertaken by Owner to adequately support the 40R Project.

NOW, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. DEVELOPMENT OF THE SITE AND PROPERTY.

1.1 Subject to the terms of this Agreement generally, and final Town Meeting and Attorney General Approval of the North Lancaster Smart Growth Overlay District, and Town Meeting and Attorney General Approval of the Zoning Amendment set forth in the EZ MOA, Owner agrees, subject to market conditions, to pursue all permits, orders and approvals necessary and required for the development of the 40R Project in compliance with this Agreement. Owner shall pursue all necessary permits, orders and approvals for the 40R Project, and actual construction of the 40R Project, contemporaneously with its permitting and construction of the Enterprise Project.

1.2 Number of Dwelling Units.

a. The Owner agrees with the Town that there shall be a maximum of 146 dwelling units constructed upon the Site. The Owner shall not develop, apply for, permit or construct any additional dwelling units on the Site, whether pursuant to the Town's Zoning Bylaws, M.G.L. c.40B, Sections 20-23, or otherwise.

b. The Owner agrees that it shall not develop, apply for, permit or construct any dwelling units within the portion of the North Lancaster Smart Growth Overlay District located outside the Site pursuant to M.G.L. c.40B, Sections 20-23, unless such project is permitted as a Local Initiative Project (a/k/a a "friendly" 40B).

c. The Owner agrees, subject to and following the granting of final Site Plan Approval and the issuance a final building permit for any non-residential building located within the re-zoned portion of the Enterprise Project, that it shall not develop, apply for, permit or construct any dwelling units on the portions of the Property located outside the North Lancaster Smart Growth Overlay District, whether pursuant to the Town's Zoning Bylaws, M.G.L. c.40B, Sections 20-23, or otherwise unless such project is permitted as a Local Initiative Project (a/k/a a "friendly" 40B). The Owner agrees that it shall withdraw, with prejudice, any and all pending applications concerning the development of housing on any portion of the Property located outside of the North Lancaster Smart Growth Overlay District.

1.3 The Owner covenants that there shall be no more than the maximum number of bedrooms on the Site allowed by applicable DCHD regulations for a project with no more than 146 units and 265 bedrooms. The distribution of bedroom count across the total units shall adhere to DHCD policies ensuring the inclusivity of families with children, and notably not less than 10% of units shall be 3-bedroom units. This covenant shall be deemed to run with the land and is intended to be a restriction to be held by a governmental body and intended to benefit the Town of Lancaster, for the longest period permitted by law.

1.4 Housing Style. The Owner agrees that all dwelling units constructed on Site shall be apartment style.

1.5 Affordable Rental Housing. The Owner agrees that all residential housing units developed upon the Site up to the maximum of 146 units shall be rental housing, and that no less than 25% of such housing units shall be affordable units qualifying for enumeration under M.G.L. c. 40B, Sections 20-23 (the "Affordable Units"), to ensure that all housing units contained in the Project (both affordable and market rate) count on the Town's SHI in perpetuity or for the longest period permitted by law. Units must comply with all aspects of the Town's NL SGOD 40R bylaw, including design, landscaping, lighting and pedestrian and cycle-friendly measures. In addition, not less than 8% of the housing units shall be affordable to a qualifying household earning 60% or less of the area median income ("AMI"), with the remainder of the Affordable Units to be affordable to those earning no more than 80% of AMI.

1.6 Local Preference. From the date on which the marketing of residential units commences and continuing for a period of 60 calendar days, and to the maximum extent permitted by law and applicable regulation, local preference for the initial occupancy of Affordable Units within the Project shall be given to residents of the Town, employees of the Town and businesses located in the Town, and households with children attending the Town's schools, satisfying all applicable eligibility requirements. The Owner agrees to pursue DHCD approval of a local preference to the extent reasonably necessary.

1.7 Tenant Selection. The Owner, or Owners' designated qualified Consultant, shall undertake a lottery and implement an Affirmative Fair Housing Marketing Plan to solicit

interest for the occupancy of the Affordable Units in accordance with applicable DHCD procedures then in effect. Consistent with the terms and conditions established in this section, the Owner and the Town, in concert with DHCD's review and approval, shall draft, execute and record a DHCD regulatory agreement that will detail the protocol for the marketing, leasing, management and oversight of the Affordable Units.

1.8 Commercial Space. The Owner agrees that, residential units shall equal no less than 51% of the gross floor area of the 40R Project. The total gross floor area devoted to non-residential uses may not exceed 49% of the total gross floor area of the 40R Project.

1.9 Required Additions to the Project. Owner agrees that its site plan for the 40R Project will be revised, prior to submission for permitting and approval by the Town's designated plan approval authority, to include:

a. Pocket Park or Parks suitable for multi-age children.
b. A dog park; and
c. A minimum of three (3) electric vehicle charging stations.

1.10 Control Plan. Owner agrees that with the exception of (a) the required additions to the Project set forth in Section 1.9, (b) insubstantial field changes to the location of buildings and infrastructure, and/or (c) and any further plan revisions agreed to in writing by all parties to this Agreement, Owner shall develop the Site exclusively as shown on the Conceptual Layout Plan attached as **Exhibit E**.

1.11 To the extent feasible based on relative site elevations, no building contained within the EZ Project shall be visible from the residential units constructed on the Site. The view shall be protected by an existing, permanent treescape not to be altered and/or a vegetated berm.

1.12 Prior to the issuance of the first Building Permit for either the Enterprise Project or the 40R Project the Owner shall organize a Common Roadway Association, mandatory membership in which shall be enforced by deed restriction and/or duly recorded affirmative covenant and shall consist of all Owners of all properties, including without limitation the 40R Project, which front on or use the Common Roadway previously approved by the Lancaster Planning Board (*Amended Definitive Subdivision Plan for McGovern Place* approved on March 14, 2022) or any extension thereof, for any purpose The terms, conditions, management and operation of the Common Roadway Association shall be as Owner, in its sole discretion determines. As set forth in the EZ MOA the Common Roadway Association, as Owner's successor, may assume certain Obligations of Owner set forth herein or in the EZ MOA.

2. WATER AND SEWER.

2.1 Water Service. The Owner has arranged for the City of Leominster to provide potable water service to the Property pursuant to the Water Supply and Development Agreement dated December 4, 2020 a copy of which is attached hereto as **Exhibit F** and the Intermunicipal Agreement between the City of Leominster and the Town of Lancaster for the Provision of Water Service, dated March 17, 2021 a copy of which is attached hereto

as **Exhibit G**. The Town expressly disclaims any ability to provide potable water service to the 40R Project. Owner hereby acknowledges and agrees on behalf of itself, its successors and assigns, and any and all affiliated entities that the Town does not now have and will not have in the future any obligation, to provide water service to the 40R Project or to the Property for any reason whatsoever, regardless of the status of the Water Supply and Development Agreement dated December 4, 2020 or the availability of potable water from the City of Leominster. Connection to the Leominster Water Supply shall be available prior to the issuance of the first building permit for either of Owner's Projects. Notwithstanding the foregoing if, in the future, the Town determines to expand public water service to the area of the Property, the Town in its sole discretion, may elect to offer public water service to the Property.

2.2 Sewer Service. The Owner will be wholly responsible for permitting, construction, operation, and maintenance of a private wastewater treatment plant to serve both the 40R project and the Enterprise Project on the Enterprise Project Site. Owner's obligation under this Section 2.2 is specifically subject to Owner obtaining final approvals of the Enterprise Project as contemplated in the EZ MOA. The Town expressly disclaims any availability of Town sewer service to serve the Owner's Projects, and the Owner agrees that it shall construct and operate its private wastewater treatment plant in compliance with any permit issued by the Massachusetts Department of Environmental Protection. The Owner on behalf of itself, its successors and assigns, and any and all affiliated entities, agrees that, unless requested by the Town, the Town will have no obligation, now or in the future, to provide sewer service to the Project or to the Property

3. TRANSPORTATION.

3.1 Traffic Mitigation. Owner has provided the Town with the Traffic Impact and Access Study prepared by TEC, Inc. dated May 5, 2021 (the "Traffic Study"), and the Town has arranged for the Traffic Study to be peer reviewed on its behalf. The Traffic Study evaluates the combined traffic impacts of the 40R Project and the Enterprise Project. The Traffic Study recommends a comprehensive program of traffic mitigation, as set forth in the EZ MOA. Provided that Town Meeting approves expansion of the Enterprise Zoning District and the "NL-SGOD" Bylaw set forth in **Exhibit B** the Owner hereby agrees to implement all recommended traffic mitigation in accordance with the Traffic Mitigation Matrix a copy of which is attached hereto as **Exhibit H** and to all of the transportation conditions included in Section 3 of the EZ MOA which are incorporated herein by reference and which shall be fully binding on Owner.

3.2 Notwithstanding the provisions of Section 3.1 above, if Town Meeting does not adopt a zoning amendment to allow the Owner's proposed Enterprise Project, and the Owner elects to permit and construct the 40R Project only, the Owner shall prepare and provide to Town a revised traffic study devoted exclusively to the 40R Project. Upon receipt of such a study, the Town shall arrange for review by its peer review consultant, and the parties shall collaborate on a revised transportation mitigation package to be implemented by Owner at its expense. Best efforts shall be used to ensure that mitigation measures shall be fully installed and/or implemented prior to issuance of Occupancy for the 40R Project, subject to MassDOT approval for timing of said improvements.

3.3 MART Bus Extension. The Owner shall:

a. Fund the cost of extending the Montachusett Regional Transit Authority ("MART") Route #8 bus line to the Property, to the extent that such funding is not fully covered by state and federal transit funding. The Owner will reimburse the Town for its share of the actual cost of providing Route #8 service to the Property, no later than thirty (30) days after delivery of an invoice from the Town. The onsite improvements required to allow for the extension of the Route #8 bus line shall be in effect and operational prior to issuance of the first certificate of occupancy for the Project. The Owner's funding obligation pursuant to this section shall remain in place as long as the Project exists on the Property. It is expressly understood by the parties that actual operation of MART Route #8 is not the obligation of Owner.

b. As set forth in Section 3.9 of the EZ MOA, the Owner agrees to construct and maintain, at its sole expense, two (2) bus shelters for use as part of the MART Route #8 bus line, with one (1) shelter located within the 40R District adjacent to the housing, and one (1) shelter within the Enterprise Project. The shelter located nearest the 40R Project shall be fully completed prior to issuance of the first certificate of occupancy for the 40R Project, and Owner shall be responsible for maintaining both shelters for as long as the Project and/or the distribution/logistics center project exist on the Property.

3.4 Pedestrian Improvements. North Lancaster, LLC as part of the Phase One Roadway construction, shall construct a 5-foot sidewalk on McGovern Boulevard as per the approved subdivision plans to provide connectivity between land uses on the site and Lunenburg Road. This includes connectivity to the several retail parcels previously constructed (Dunkin Donuts and Mobil Station), future retail as programmed for the parcels on the west side of Lunenburg Road, and the existing Kimball Farm along the east side of Lunenburg Road. Additional pedestrian crossings will be provided across McGovern Boulevard within the site. Final layout of on-site pedestrian and bicycle accommodations, internal site circulation, and other on-site transportation networks will be designed in connection with the 40R Project approval process and constructed by North Lancaster, LLC in connection therewith.

3.5 Bicycle Improvements. North Lancaster, LLC shall construct 5-foot bicycle lanes supplemented with MUTCD- compliant bicycle signage along McGovern Boulevard to provide connectivity between the Site and Lunenburg Road. In addition, bicycle racks will be provided on site at various locations to promote the use of bicycle travel Final layout of on-site pedestrian and bicycle accommodations, internal site circulation, and other on-site transportation networks will be designed in connection with the 40R Project approval process and constructed in connection therewith.

4. LOCAL TAXES.

4.1 All real property and commercial personal property contained within the Project shall be taxable, and all real estate and personal property taxes shall be paid by Owner or its tenants, as applicable. The Owner and tenants shall not seek a nonprofit, agricultural, or other exemption or reduction with respect to such taxes, including without limitation through Tax Increment Financing Agreement with the Town relating to the 40R portion of the development.

5. CONSERVATION/WETLANDS.

5.1 It is anticipated that onsite and offsite wetland resources and adjacent buffer zones to these resources may be impacted by the Project. To mitigate the impacts anticipated by the Project, in addition to any reasonable requirements imposed by the Town's regulatory boards, commissions and departments, prior to the issuance of any occupancy permit for a structure within the Project, the Owner agrees to pay for the costs of all on-site and off-site stormwater management improvements necessitated by the Project, said improvements to be determined by the Town, and to be consistent with requirements and standards of federal, state and Town laws and regulations. To the extent that Owner is called upon to pay for costs of offsite stormwater improvements pursuant to this section, it shall provide the necessary funds to the Town within thirty (30) day after receipt of a written request.

6. LAND DONATION, OPEN SPACE AND TRAIL CONNECTIVITY.

6.1 Open Space. Parcel 014-0008.A shall be conserved and protected open space with the exception of the portion of the parcel needed for the 40R development and/or trail connection on adjacent Parcel 014-0004.A. Parcel 014-0008.B shall be conserved and protected open space.

6.2 Trail Connectivity. Provided that Town Meeting approves expansion of the Enterprise Zoning District and the "NL-SGOD" Bylaw Permitting Amendment set forth in **Exhibit B** the Owner hereby agrees to implement all trail connectivity and to grant necessary easements on the terms and conditions included in Section 6.5 of the EZ MOA which are incorporated herein by reference and which shall be fully binding on Owner. Trails shall be as shown on **Exhibit I**.

7. SUPPLEMENTAL USE RESTRICTIONS.

7.1 The Owner covenants not to allow so-called "adult entertainment uses" on the Property or within the Project. This covenant shall be deemed to run with the land and is intended to be a restriction to be held by a governmental body and intended to benefit the Town of Lancaster, for the longest period permitted by law.

8. CONSULTANT COSTS

8.1 The Owner shall pay the reasonable fees of the Town's review consultants and attorneys providing services in connection with the Town's review and consideration of the Project. All such costs shall be paid by Owner within thirty (30) days after delivery of an invoice from the Town.

8.2 The Town agrees that prior to engaging a consultant, professional or an attorney or incurring any costs that will be the obligation of the Owner under this Agreement, the Town will: (i) provide written notice to and consult with the Owner regarding the necessity and selection of said consultant, professional or attorney; (ii) provide the Owner with a written scope of work and an estimated budget for the anticipated consultant, professional or attorney's work; (iii) not incur any such costs, or enter into any such contract, any contract amendments or any work order for extras without prior written notice to and

reasonable approval by the Owner; and (iv) upon request by the owner, provide a written accounting of all costs incurred and other expenditures made by or on behalf of Owner under this Agreement. Any objection from Owner pursuant to subsection (iii) shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications, which shall consist either of an educational degree in or related to the field at issue or three or more years of practice in the field at issue or a related field. Failure by Owner to respond to any written notice within fourteen (14) days of receipt shall be deemed approval of the matter contained in such notice.

9. MISCELLANEOUS.

9.1 Effective Date. This Agreement shall become effective upon approval of the North Lancaster Smart Growth Overlay District Bylaw by the Massachusetts Attorney General, following its adoption by the Lancaster Town Meeting. and only following the Effective Date of the EZ MOA.

9.2 Failure to Obtain 40R Approvals. In the event that Owner fails despite applying all best efforts to obtain or maintain all final and effective federal, state and local permits necessary to allow for the construction and operation of the 40R Project, upon Owner's delivery of written notice to the Town, the Parties shall work together to establish a mutually acceptable alternative development plan for the Site, failing which Owner may terminate this Agreement without further recourse to any Party and all restrictions contained herein shall be deemed null and void and without legal recourse, such that Owner may develop and use the Property as allowed by applicable law then in effect.

9.3 Failure to Obtain Other Approvals. In the event that the zoning amendment expanding the Enterprise District is disapproved by Town Meeting or the Massachusetts Attorney General, or Owner terminates the EZ MOA prior to its effective date as provided for therein, Sections 1.2. b. and/or c shall not be binding upon Owner. Upon Owner's delivery of written notice to the Town, the Parties shall work together to establish a mutually acceptable alternative development plan for the Site, failing which Owner may terminate this Agreement without further recourse to any Party and all restrictions contained herein shall be deemed null and void and without legal recourse, such that Owner may develop and use the Property as allowed by applicable law then in effect.

9.4 Retention of Regulatory Authority. Nothing contained in this Agreement shall affect, limit, or control the authority of Town boards, commissions, Plan Approval Authority ("PAA") and departments to carry out their respective duties to decide upon and to issue, deny, or condition applicable permits and other approvals under the statutes and regulations of the Commonwealth, the General and Zoning Bylaws of the Town, or the applicable regulations of those boards, commissions, and departments, or to enforce said statutes, bylaws, and regulations. The Town, by entering into this Agreement, is not thereby required or obligated to issue such permits and approvals as may be necessary for the Project to proceed, or to refrain from enforcement action against the Project to whatever extent the Project is determined to be in violation of applicable law.

9.5 Cooperation. The Town agrees to cooperate with the Owner in the implementation of offsite traffic improvements, so long as such improvements are in compliance with

permits and approvals issued by federal, state and Town authorities and are otherwise consistent with the Town's bylaws, rules and regulations.

9.6 Successors and Assigns. This Agreement shall run with the Property and any portion thereof, and shall be binding upon the Owner, its successors and assigns. The Parties agree that this Agreement shall be recorded with the Worcester District Registry of Deeds, and agree to cooperate to execute any documents necessary to accomplish the recording of the Agreement.

9.7 Notices. Notices, when required hereunder, shall be deemed sufficient if sent certified mail to the Parties at the following addresses:

Owner:

702, LLC
259 Turnpike Road
Suite 100
Southborough, MA 01772

with a copy to:

n/a

and

North Lancaster, LLC
435 Lancaster Street
Leominster, MA 01453

with a copy to:

n/a

Town:

Town Administrator
Town of Lancaster
Prescott Building
701 Main Street – 2nd Floor
Lancaster, MA 01523

Chair
Lancaster Affordable Housing Trust
Prescott Building
701 Main Street – Suite 2
Lancaster, MA 01523

with a copy to:

Ivria G. Fried, Esq.
Miyares and Harrington LLP
40 Grove Street

Wellesley, MA 02482 .

9.8 Force Majeure. The Owner shall not be considered to be in breach of this Agreement for so long as the Owner is unable to complete any work or take any action required hereunder due to a *force majeure* event or other events beyond the reasonable control of the Owner.

9.9 Default; Opportunity to Cure. Failure by either Party to perform any term or provision of this Agreement shall not constitute a default under this Agreement unless and until the defaulting Party fails to commence to cure, correct or remedy such failure within thirty (30) days of receipt of written notice of such failure from the other Party and thereafter fails to complete such cure, correction, or remedy within ninety days of the receipt of such written notice, or, with respect to defaults that cannot reasonably be cured, corrected or remedied within such ninety-days, within such additional period of time as is reasonably required to remedy such default, provided the defaulting Party exercises due diligence in the remedying of such default. Notwithstanding the foregoing, the Owner shall cure any monetary default hereunder within thirty days following the receipt of written notice of such default from the Town.

9.10 Enforcement. The Parties agree that irreparable damage shall occur in the event that any provision of this Agreement is not performed in accordance with the terms hereof, and that the Parties shall be entitled to specific performance of all terms, in addition to other remedies at law or in equity. In addition to the foregoing, the Parties agree in contract if the Town has issued a written notice pursuant to Section 9.9 above and the Owner has not commenced cure as required therein, or has not initiated the arbitration process as provided for in Section 9.11 below, the Town shall have the authority to withhold building permits and/or certificates of occupancy, as most directly applicable, for any building or phase of the Project until such time as the Owner has addressed its failure to perform to the Town's reasonable satisfaction. Commencement of Arbitration shall operate as to stay the authority of the Town to demand payment or to withhold building permits or certificates of occupancy for any building or phase of the Project on the basis of a violation of this Agreement (but not on the basis of any violation of state or local law, bylaw, rule or regulation) until such time as Arbitration is completed. Any construction undertaken by Owner during any such stay shall be at Owner's risk. Notwithstanding the foregoing, in the event that the Town determines any action or inaction by Owner or its agents, or any condition or activity on the Property constitutes an immediate and urgent risk to public health and safety, and to which concern Owner, after actual notice, refuses or fails to take immediate action, the Town may commence appropriate remedial judicial action.

9.11 Arbitration

(a) All disputes which may arise between the Owner and the Town out of or in relation to or in connection with this Agreement including without limitation, the determination of an event of default under the Agreement, shall be finally settled by personal or virtual arbitration in Worcester County, Massachusetts, in accordance with the applicable rules of JAMS Arbitration Service, Boston Massachusetts. Designation of a single Arbitrator shall be by mutual agreement of the parties, made within 30 days of the submission of a case for determination, failing which each party agrees that the matter shall be determined by one Arbitrator Selected by JAMS. The decision of such arbitration, including an award of

monetary damages, shall be binding on both parties, and a judgment on an award rendered shall be entered pursuant to paragraph (b). The parties agree to proceed with the arbitration process in a cooperative and timely manner. The cost of arbitration shall be paid by the non-prevailing party.

(b) Exclusive jurisdiction over entry of judgment on any arbitration award rendered pursuant to paragraph (a) or over any dispute, action or suit arising therefrom shall be in any court of appropriate subject matter jurisdiction located Worcester County and the parties by this Agreement expressly subject themselves to the personal jurisdiction of said court for the entry of any such judgment and for the resolution of any dispute, action, or suit arising in connection with the entry of such judgment while reserving all rights to appeal.

(c) Notwithstanding anything to the contrary set forth in subsections (a) and (b) immediately above, any and all disputes or appeals which arise in connection with the local permitting process and are within the subject matter authority of the Planning Board, Conservation Commission, Zoning Board of Appeals, Building Commissioner, or any other local permitting authority are not subject to the Arbitration process required in this Agreement. Both the Town and Owner specifically retain all statutory, legal and equitable rights of judicial review and intervention in connection with such local permitting.

(d) Notwithstanding anything to the contrary set forth in subsection (a) and (b) above, any and all disputes pertaining to payment of money under the terms of this Agreement shall be exempt from the provisions of this Section 9.11.

9.12 Estoppels. Each Party agrees, from time to time, upon not less than ten (10) days' prior written request from the other, to execute, acknowledge and deliver a statement in writing certifying (i) that this Agreement is unmodified and in full force and effect (or if there have been modifications, setting them forth in reasonable detail); (ii) that the party delivering such statement has no defenses, offsets or counterclaims against its obligations to perform its covenants hereunder (or if there are any of the foregoing, setting them forth in reasonable detail); (iii) that there are no uncured defaults of either party under this Agreement (or, if there are any defaults, setting them forth in reasonable detail); and (iv) any other information reasonably requested by the party seeking such statement. If the Party delivering an estoppel certificate is unable to verify compliance by the other Party with certain provisions hereof despite the use of due diligence, it shall so state with specificity in the estoppel certificate, and deliver an updated estoppels certificate as to such provisions as soon thereafter as practicable. Any such statement delivered pursuant to this Section __ shall be in a form reasonably acceptable to, and may be relied upon by any, actual or prospective purchaser, tenant, mortgagee or other party having an interest in the Project.

9.13 Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. If any term, covenant, condition or provision of this Agreement or the application thereof to any person or circumstance shall be declared invalid or unenforceable by the final ruling of a court of competent jurisdiction having final review, then the remaining terms, covenants, conditions and provisions of this Agreement and their application to other persons or circumstances shall not be affected thereby and shall continue to be enforced and recognized as valid agreements of the Parties, and in the

place of such invalid or unenforceable provision, there shall be substituted a like, but valid and enforceable provision which comports to the findings of the aforesaid court and most nearly accomplishes the original intention of the Parties. The Parties hereby consent to jurisdiction of the courts of the Commonwealth of Massachusetts sitting in the County of Worcester.

9.14 Entire Agreement; Amendments. This Agreement sets forth the entire agreement of the Parties with respect to the subject matter hereof, and supersedes any prior agreements, discussions or understandings of the Parties and their respective agents and representatives. This Agreement may not be amended, altered or modified except by an instrument in writing and executed by all parties.

9.15 Severability. The invalidity of any provision of this Agreement as determined by a court of competent jurisdiction shall in no way affect the validity of any other provision hereof. If any provision of this Agreement or its applicability to any person or circumstance shall be held invalid, the remainder thereof, or the application to other persons shall not be affected.

9.16 Time is of the Essence. Time shall be of the essence for this Agreement and, subject to economic conditions and approval of the North Lancaster Smart Growth Overlay District Bylaw by the Town at Town Meeting, DHCD, and the Massachusetts Attorney General, the Owner shall diligently pursue the remaining permitting, development, construction and residential occupancy of the Project.

9.17 Counterparts; Signatures. This Agreement may be executed in several counterparts and by each Party on a separate counterpart, each of which when so executed and delivered shall be an original, and all of which together shall constitute one instrument. It is agreed that electronic signatures shall constitute originals for all purposes.

9.18 No Third-Party Beneficiaries. Notwithstanding anything to the contrary in this Agreement, the Parties do not intend for any third party to be benefitted hereby.

9.19 Joint and Several Liability. 702 LLC and North Lancaster LLC shall be jointly and severally liable for all obligations attributed to the Owner in this Agreement.

[Remainder of this page intentionally left blank. Signature page follows.]

EXECUTED under seal as of the date and year first above written,

TOWN OF LANCASTER SELECT BOARD

Stephen J. Kerrigan, Chair

Alexandra W. Turner, Clerk

Jason Allison

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss

On this 14th day of November, 2022, before me, the undersigned notary public, personally appeared Stephen J. Kerrigan Jason Allison proved to me through satisfactory evidence of identification, which was (a driver's license) (a current U.S. passport) (my personal knowledge of the identity of the principal), to be the persons whose name is signed on the preceding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purposes.

Notary Public
My Commission Expires:

KATE I. HODGES
Notary Public
Massachusetts
My Commission Expires
Nov 17, 2028

TOWN OF LANCASTER AFFORDABLE HOUSING TRUST

Victoria Petracca

Victoria Petracca, Chair

Frank Streeter as Sec.

Frank Streeter, Secretary

Stephen J. Kerrigan

Carolyn M Read

Carolyn Read

Debra G. Williams

Debra Williams

Kate Hodges

Kate Hodges, Town Administrator
Ex Officio Member

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss

On this 14th day of November, 2022, before me, the undersigned notary public, personally appeared Victoria Petracca, Frank Streeter, Stephen J. Kerrigan, Carolyn Read & Debra Williams proved to me through satisfactory evidence of identification, which was (a driver's license) (a current U.S. passport) (my personal knowledge of the identity of the principal), to be the persons whose name is signed on the preceding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purposes.

KATE I. HODGES
Notary Public
Massachusetts
My Commission Expires
Nov 17, 2028

Kate Hodges

Notary Public
My Commission Expires:

702, LLC

Name: William A. Depietri
Its: Manager

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss

On this 14th day of November, 2022, before me, the undersigned notary public, personally appeared William A Depietri proved to me through satisfactory evidence of identification, which was (a driver's license) (a current U.S. passport) (my personal knowledge of the identity of the principal), to be the persons whose name is signed on the preceding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purposes.

Paula A Callahan
Notary Public
COMMONWEALTH OF MASSACHUSETTS
My Commission Expires
March 11, 2027

Notary Public Paula A Callahan
My Commission Expires: 3/11/27

North Lancaster, LLC

Name: Steve Boucher
Its: Manager

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss

On this 14th day of November, 2022, before me, the undersigned notary public, personally appeared Steve Boucher proved to me through satisfactory evidence of identification, which was (a driver's license) (a current U.S. passport) (my personal knowledge of the identity of the principal), to be the persons whose name is signed on the preceding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purposes.

Paula A Callahan
Notary Public
COMMONWEALTH OF MASSACHUSETTS
My Commission Expires
March 11, 2027

Notary Public Paula A Callahan
My Commission Expires: 3/11/27

LIST OF EXHIBITS

Exhibit A - Property Description
Exhibit B - North Lancaster Smart Growth Overlay Amendment Warrant Article
Exhibit C - 40R Smart Growth Zoning Map
Exhibit D - EZ MOA
Exhibit E - Conceptual Layout Plan for 40R Project
Exhibit F - Water Supply and Development Agreement
Exhibit G - Intermunicipal Agreement
Exhibit H - Traffic Mitigation Matrix
Exhibit I - Trail Map

LIST OF EXHIBITS

Exhibit A - Property Description
Exhibit B - North Lancaster Smart Growth Overlay Amendment Warrant Article
Exhibit C - 40R Smart Growth Zoning Map
Exhibit D - EZ MOA
Exhibit E - Conceptual Layout Plan for 40R Project
Exhibit F - Water Supply and Development Agreement
Exhibit G - Intermunicipal Agreement
Exhibit H - Traffic Mitigation Matrix
Exhibit I - Trail Map

LIST OF EXHIBITS

Exhibit A - Property Description
Exhibit B - North Lancaster Smart Growth Overlay Amendment Warrant Article
Exhibit C - 40R Smart Growth Zoning Map
Exhibit D - EZ MOA
Exhibit E - Conceptual Layout Plan for 40R Project
Exhibit F - Water Supply and Development Agreement
Exhibit G - Intermunicipal Agreement
Exhibit H - Traffic Mitigation Matrix
Exhibit I - Trail Map

Exhibit A

EXHIBIT A TO 40R MOA: OWNER'S PROPERTY

702, LLC owns the following Property:

Parcel 1 and Map 14 Lot 4D, as shown on the plan recorded at, the Worcester District Registry of Deeds on 12-27-18 Plan Book 939 Page 101 the Deed for which is recorded at said Registry in Book 59673 Page 28; and

Map 9 Lot 4, also shown on said Plan, the Deed for which recorded at said Registry in Book 6621 Page 290; and

Map14 Lot 3B Deed for which is recorded at said Registry in Book 59673 Page 28 .

North Lancaster LLC owns the following Property:

Map 14 Lot 4M – Deed for which is recorded at said Registry in Book 54278, Page 197

Map 14 Lot 4J – Deed for which is recorded at said Registry in Book 54278, Page 197

Map 14 Lot 4K – Deed for which is recorded at said Registry in Book 54278, Page 197

Map 14 Lot 4A – Deed for which is recorded at said Registry in Book 52227, Page 354

Map 14 Lot 4I – Deed for which is recorded at said Registry in Book 52227, Page 354

Map 14 Lot 4H – Deed for which is recorded at said Registry in Book 54278, Page 197

Map 14 Lot 8 – Deed for which is recorded at said Registry in Book 52227, Page 354

Map 14 Lot 8A – Deed for which is recorded at said Registry in Book 58234, Page 153

Map 14 Lot 9C – Deed for which is recorded at said Registry in Book 58234, Page 153

Exhibit B

TOWN OF LANCASTER
MASSACHUSETTS

WARRANT
for the
SPECIAL
TOWN MEETING

Mary Rowlandson Elementary School Auditorium

103 Hollywood Drive, Lancaster, Massachusetts

Beginning Monday, November 14, 2022 at 7:00 P.M.

actions taken pursuant thereto are hereby ratified, validated, and confirmed, notwithstanding omissions with respect to the posting of the annual election warrant and related voter information.

SECTION 2. This act shall take effect upon its passage.

Select Board Recommendation: ***Affirmative Action***

ARTICLE 3
North Lancaster Smart Growth Overlay District
Select Board

To see if the Town will vote as follows:

(1) Add a new Article XIX to the Town of Lancaster's Zoning Bylaw, entitled "North Lancaster Smart Growth Overlay District", as follows:

ARTICLE XIX: NORTH LANCASTER SMART GROWTH OVERLAY DISTRICT

Section 220-85. PURPOSE.
The purpose of this Article XIX is to establish a North Lancaster Smart Growth Overlay District in order to encourage smart growth in accordance with M.G.L. Chapter 40R. The North Lancaster Smart Growth Overlay District provides housing opportunities in one or more mixed-use developments that promote compact design and pedestrian-friendly access to retail, employment, and other amenities. Additional objectives of this Article XIX are to:

A. Promote public health, safety, and welfare by encouraging and increasing a diversity of housing opportunities;
B. Provide for a full range of housing choices for households of all incomes, ages, and sizes in order to meet diverse population needs;
C. Help to ensure the Town of Lancaster meets the Commonwealth's affordable housing requirement of greater than 10% deed-restricted inventory, and to sustain this level to maintain local control over the Town's affordable housing program;
D. Establish requirements, standards, and guidelines to ensure predictable, fair, and cost-effective review and permitting of development;
E. Enable the Town to receive Zoning Incentive Payments and Density Bonus Payments in accordance with M.G.L. Chapter 40R and 760 CMR 59.06 arising from the development of housing in the Smart Growth Overlay District;
F. Enable the Town to receive Smart Growth Educational Aid payments for school children living in residential developments within the Smart Growth Overlay District pursuant to M.G.L. Chapter 40S, which are available only for new developments in 40R Smart Growth Overlay Districts; and
G. To the extent not in conflict with the permissible criteria for disapproval under Section 220-94 and provisions for As-of-Right development under the Governing Laws, to generate positive tax revenue from mixed-use development where possible.

Section 220-86. DEFINITIONS.
For purposes of this Article XIX, the following definitions shall apply. All bolded terms shall be defined in accordance with the definitions established under the Governing Laws or Article XIX, or as set forth in the Plan Approval Authority (PAA) Regulations. To the extent that there is any conflict between the definitions or terms set forth in, or otherwise regulated by, the Governing Laws and those defined or used in this Article

XIX, inclusive of any applicable Design Standards, PAA Regulations, or any other applicable associated local zoning requirement (e.g., zoning requirement contained in another section of the Zoning Bylaw that is nonetheless incorporated by reference), the terms of the Governing Laws shall govern.

AFFIRMATIVE FAIR HOUSING MARKETING PLAN (AFHMP) – A written plan of required actions that provide information, maximum opportunity, and otherwise attract eligible persons protected under state and federal civil rights laws that are less likely to apply for affordable housing.

AFFORDABLE HOMEOWNERSHIP UNIT – An Affordable Housing unit required to be sold to an Eligible Household.

AFFORDABLE HOUSING (AH) – Housing that is affordable to and occupied by Eligible Households.

AFFORDABLE HOUSING RESTRICTION – A deed restriction of Affordable Housing meeting the statutory requirements in M.G.L. Chapter 184, Section 31, and the requirements of Section 220-89E of this Bylaw.

AFFORDABLE RENTAL UNIT – An Affordable Housing unit required to be rented to an Eligible Household.

APPLICANT – The individual or entity that submits a Project application for Plan Approval.

AS-OF-RIGHT – A use allowed under Section 220-88 without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Project that requires Plan Approval pursuant to Section 220-93 through Section 220-97 shall be considered an As-of-Right Project, subject to review and approval by DHCD of any Municipal 40R regulations, guidelines, application forms, or other requirements applicable to review of Projects by the PAA under the 40R Zoning and 760 CMR 59.00.

DEPARTMENT OR DHCD – The Massachusetts Department of Housing and Community Development, or any successor agency.

DESIGN STANDARDS – Provisions of Section 220-97 made applicable to Projects within the NL-SGOD that are subject to the Plan Approval process of the PAA.

ELIGIBLE HOUSEHOLD – An individual or household whose annual income is less than or equal to eighty percent (80%) of the area-wide median income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

FARMERS MARKET – A public market for the primary purpose of connecting and mutually benefiting mainly Massachusetts farmers, artisans, communities, and shoppers while promoting and selling locally grown, raised and/or crafted goods.

GOVERNING LAWS – M.G.L. Chapter 40R and 760 CMR 59.00.

MIXED-USE DEVELOPMENT PROJECT – A Project containing a mix of residential uses and non-residential uses, as allowed in Section 220-88B, and subject to all applicable provisions of this Article XIX.

MOBILE MARKET – Outfitted buses, trucks, vans, carts, or any other vehicle with space to display and sell produce and/or prepared food.

MONITORING AGENT OR ADMINISTERING AGENT – The local housing authority or other qualified housing entity designated by the Select Board, pursuant to Section 220-89B, to review and implement the Affordability requirements affecting Projects under Section 220-89.

NL-SGOD – The North Lancaster Smart Growth Overlay District established according to this Article XIX.

PLAN APPROVAL – Standards and procedures which all Projects in the NL-SGOD must meet pursuant to Sections 220-93 through 220-96 and the Governing Laws.

PLAN APPROVAL AUTHORITY (PAA) – The local approval authority authorized under Section 220-93B to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the NL-SGOD.

PAA REGULATIONS – The rules and regulations of the PAA adopted pursuant to Section 220-93C.

PROJECT – A Residential Project or Mixed-use Development Project undertaken within the NL-SGOD in accordance with the requirements of this Section Article XIX.

RESIDENTIAL PROJECT – A Project that consists solely of residential, parking, and accessory uses, as further defined in Section 220-88A.

SHALL – For the purposes of this bylaw, the term "shall" has the same meaning as "must" and denotes a requirement.

WATER SUPPLY AND DEVELOPMENT AGREEMENT – An agreement reached by and between the City of Leominster and 702, LLC and executed on December 4, 2020 wherein the City of Leominster provides water to the 702, LLC development project under the terms and conditions contained therein, including certain use restrictions. See also "Intermunicipal Agreement between the City of Leominster and the Town of Lancaster for the Provision of Water Service" executed on March 21, 2021.

ZONING BYLAW – The Zoning Bylaws of the Town of Lancaster.

Section 220-87. APPLICABILITY OF NORTH LANCASTER SMART GROWTH OVERLAY DISTRICT – SCOPE AND AUTHORITY.

A. **Establishment.** The North Lancaster Smart Growth Overlay District, hereinafter referred to as the "NL-SGOD", is established pursuant to the authority of M.G.L. Chapter 40R and 760 CMR 59.00 as an overlay district having a land area of approximately 38 acres in size shown on the Official Zoning Overlay Map of the Town of Lancaster, as amended, and appearing at 220 Attachment 3 to this Zoning Bylaw. This map is on file in the Offices of the Town Clerk and Community Development and Planning Department. The NL-SGOD contains no subdistricts.

B. **Applicability.** An applicant may seek development of a Project located within the NL-SGOD in accordance with the provisions of the Governing Laws and this Article XIX, including a request for Plan Approval by the PAA. In such case, notwithstanding anything to the contrary in the Zoning Bylaw, such application shall not be subject to any other provisions of the Zoning Bylaw, including limitations upon the issuance of building permits for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to other building permit or dwelling unit limitations. To the extent that there is any conflict between the Governing Laws and this Article XIX, inclusive of the Design Standards, the PAA Regulations, and any applicable associated local zoning requirement (e.g., zoning requirement contained in another section of the Zoning Bylaw that is nonetheless incorporated by reference), the Governing Laws shall govern.

C. **Underlying Zoning.** The NL-SGOD is an overlay district superimposed on all underlying zoning districts. The regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s) shall remain in full force, except for those Projects undergoing development pursuant to this Article XIX. Within the boundaries of the NL-SGOD, a developer may elect either to develop a Project in accordance with the requirements of the Smart Growth Zoning/NL-SGOD, or to develop a project in accordance with requirements

of the regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s).

D. **Administration, Enforcement, and Appeals.** The provisions of this Article XIX shall be administered by the Building Inspector, except as otherwise provided herein. Any legal appeal arising out of a Plan Approval decision by the PAA under Sections 220-93 through 220-96 shall be governed by the applicable provisions of M.G.L. Chapter 40R. Any other request for enforcement or appeal arising under this Article XIX shall be governed by the applicable provisions of M.G.L. Chapter 40A.

Section 220-88. PERMITTED USES. THE FOLLOWING USES ARE PERMITTED AS-OF-RIGHT FOR PROJECTS WITHIN THE NL-SGOD.

A. **Residential Projects.** A Residential Project within the NL-SGOD may include:
(1) Single-family, 2- and 3-family, and/or Mixed-use multi-family Residential Use(s) through homeownership and/or rental;
(2) Parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking (e.g., parking garages);
(3) Accessory uses customarily incidental to any of the above permitted as follows:
(a) Subject to Section 220-89F(7) and any other applicable provisions of Section 220-89 and the Governing Laws, rental of one or two rooms within a single family detached dwelling, without housekeeping facilities;
(b) Subject to Section 220-89F(7) and any other applicable provisions of Section 220-89 and the Governing Laws, accessory apartment in a single-family dwelling with no change in the principal use of the premises;
(c) Central dining, recreation and administrative facilities exclusively for the tenants of group facilities;

(4) Home occupation or professional office, provided as follows:

(a) The principal operator resides on the premises, employs not more than one other person, and sells no products prepared by others;
(b) There is no indication of such occupation visible on the exterior of the building or on the lot, except for required parking and permitted signs; and
(c) The activity does not produce noise, odor, traffic or other nuisances perceptible at the lot line at a higher level than is usual in a residential neighborhood.

(5) Accessory buildings for noncommercial use by residents of the premises only, such as garages, boathouses, storage sheds, greenhouses.

B. **Mixed use Development Projects.** A Mixed use Development Project within the NL-SGOD shall include a mix of residential and non-residential uses and more specifically may include:

(1) Single-family, 2- and 3- family, and/or Multi-family Residential Use(s), provided that the minimum allowable as-of-right density requirements for residential use specified in Section 220-90A shall apply to the residential portion of any Mixed-use Development Project;
(2) Any of the following non-residential uses (subject to the Water Supply and Development Agreement and any other existing restrictions):
(a) Underground or overhead communications, gas, electrical, sewerage, drainage, water, traffic, fire, and police system services, appurtenant equipment, and installations;
(b) Religious and educational uses;
(c) Nonprofit community centers, places of public assembly, lodges, service or fraternal or civic corporations;

(d) Long-term care facility;
(e) Customary accessory uses if adjacent to the principal use or if permitted as a principal use;
(f) Other customary accessory uses;
(g) Retail stores; craft, consumer, professional or commercial establishments dealing directly with the general public, unless more specifically listed below;
(h) Shopping center;
(i) Gasoline service stations, including minor repairs only;
(j) Sales, rental, and repairs of motor vehicles, mobile homes, farm
(k) Car washing establishments;
(l) Dry-cleaning and laundry establishments;
(m) Funeral parlor, undertaking establishments;
(n) Hotels, motels, inns;
(o) Restaurants;
(p) Medical clinics;
(q) Administrative offices of non-profit organizations;
(r) Other offices, banks;
(s) Art galleries;
(t) Outdoor storage or display of goods;
(u) Manufacture, assembly, packaging or treatment of goods sold or handled on the premises in connection with the principal use;
(v) Retail sales or restaurant;
(w) Health and fitness center;
(x) Commercial indoor amusement or recreation place or place of assembly;
(y) Farmers Market or Mobile Markets;

(3) Parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking (e.g., parking garages); and
(4) The total gross floor area devoted to non-residential uses within a Mixed-use Development Project shall not be less than ten percent (10%) of the total gross floor area of the Project and shall not exceed forty-nine percent (49%) of the total gross floor area of the Project.

Section 220-89. HOUSING AND HOUSING AFFORDABILITY.

A. **Number of Affordable Housing Units.**

(1) For all Projects containing at least 13 residential units, not less than twenty percent (20%) of housing units constructed shall be Affordable Housing. A Project shall not be segmented to evade either the Affordability threshold set forth above or in Section 220-89A(2) below.
(2) For all projects under 13 units, the following affordable units shall be required.

Total Units	Minimum Affordable Units
6 to 9	1
10 to 12	2

(3) Unless the PAA provides a waiver on the basis that the Project is not otherwise financially feasible, not less than twenty-five percent (25%) of rental dwelling units constructed in a Project containing rental units must be Affordable Rental Units pursuant to M.G.L. Chapter 40R. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit shall be deemed to constitute a whole unit.
(4) Across all Projects containing at least 13 residential units, whether ownership or rental, not less than eight percent (8%) of all units shall be made affordable to eligible applicants at or below sixty percent (60%) AMI and the balance of the affordable units shall be restricted to eligible applicants at or below eighty percent (80%) AMI.

B. **Monitoring Agent**. The Lancaster Affordable Housing Trust, or its designee, shall be the Monitoring Agent designated by the Lancaster Select Board ("designating official"). In a case where the Monitoring Agent cannot adequately carry out its administrative duties, upon certification of this fact by the Select Board or by DHCD such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the Select Board. In any event, such Monitoring Agent shall ensure the following, both prior to issuance of a Building Permit for a Project within the NL-SGOD, and on a continuing basis thereafter, as the case may be:

(1) Prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;
(2) Income eligibility of households applying for Affordable Housing is properly and reliably determined;
(3) The AFHMP conforms to all requirements, has been approved by DHCD specifically with regard to conformance with M.G.L. Chapter 40R and 760 CMR 59.00, and is properly administered;
(4) Sales and rentals are made to Eligible Households chosen in accordance with the AFHMP with appropriate unit size for each household being properly determined and proper preference being given; and
(5) Affordable Housing Restrictions meeting the requirements of this section are approved by DHCD specifically with regard to conformance with M.G.L. Chapter 40R and 760 CMR 59.00, recorded with the Worcester Registry of Deeds.

C. **Submission Requirements**. As part of any application for Plan Approval for a Project within the NL-SGOD submitted under Sections 220-93 through 220-96, the Applicant must submit the following documents to the PAA and the Monitoring Agent:

(1) Evidence that the Project complies with the cost and eligibility requirements of Section 220-89D;
(2) Project plans that demonstrate compliance with the requirements of Section 220-89E; and
(3) A form of Affordable Housing Restriction that satisfies the requirements of Section 220-89F.

These documents in combination, to be submitted with an application for Plan Approval, shall include details about construction related to the provision, within the development, of units that are accessible to the disabled and appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly.

D. **Cost and Eligibility Requirements**. Affordable Housing shall comply with the following requirements:

(1) Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.
(2) For an Affordable Rental Unit, the monthly rent payment, including applicable utility allowances, shall not exceed thirty percent (30%) of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless another affordable housing program methodology for calculating rent limits as approved by DHCD applies.
(3) For an Affordable Homeownership Unit, the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, parking, and insurance, shall not exceed thirty percent (30%) of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless another affordable housing program methodology for calculating rent limits as approved by DHCD applies.

Prior to the granting of any Building Permit or Plan Approval for a Project, the Applicant must demonstrate, to the satisfaction of the Monitoring Agent, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to the Town of Lancaster.

E. **Design and Construction.** Units of Affordable Housing shall be finished housing units. With respect to the minimum required number for a given Project, units of Affordable Housing shall be equitably integrated and proportionately dispersed throughout the residential portion of the Project of which they are part, across all residential buildings, floors and distinct unit types in accordance with the AFHMP approved by DHCD and be comparable in initial construction quality, size and exterior design to the other housing units in the Project. The Affordable Housing shall be indistinguishable from the unrestricted/market-rate units. Unless expressly required otherwise under one or more applicable state or federal housing subsidy programs, the bedroom-per-unit average for the Affordable Housing must be equal to or greater than the bedroom-per-unit average for the unrestricted/market-rate units.

F. **Affordable Housing Restriction.** Each Project shall be subject to an Affordable Housing Restriction which is subject to approval by DHCD and recorded with the Worcester Registry of Deeds or district registry of the Land Court, and which contains the following:

(1) Specification of the term of the Affordable Housing Restriction, which shall be in perpetuity or the longest time that is legally allowed;

(2) Name and address of the Monitoring Agent with a designation of its power to monitor and enforce the Affordable Housing Restriction;

(3) Description of each Affordable Homeownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity, initial unit designations and number of bedrooms and number of bedroom types of Affordable Rental Units in a Project or portion of a Project that are rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Units and shall apply to a percentage of rental units of a rental Project or the rental portion of a Project with the initially designated Affordable Rental Units identified in, and able to float subject to specific approval by DHCD in accordance with the corresponding AFHMP and DHCD's AFHMP guidelines;

(4) Reference to an AFHMP, to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. Such plan shall be consistent with DHCD guidance and approved by DHCD. Consistent with DHCD guidance, such plan shall include a preference based on need for the number of bedrooms in a unit and a preference based on need for the accessibility features of a unit where applicable and may only provide for additional preferences in resident selection to the extent such preferences are also consistent with applicable law and approved by DHCD;

(5) Requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales or rentals from a list of Eligible Households compiled in accordance with the AFHMP;

(6) Reference to the calculation defined in Sections 220-89D of Cost and Eligibility Requirements at which the rent limit of an Affordable Rental Unit, or the maximum resale price of an Affordable Homeownership Unit, will be set;

(7) Requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease of any Affordable Rental Unit shall be given to the Monitoring Agent;

(8) Provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction (AHR) by the Monitoring Agent;

(9) Provision that the AHR on an Affordable Homeownership Unit shall run in favor of the Monitoring Agent and/or the municipality, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;

(10) Provision that the AHR on Affordable Rental Units in a rental Project or rental portion of a Project shall run with the rental Project or rental portion of a Project and shall run in favor of the Monitoring Agent and/or the municipality, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;

(11) Provision that the owner[s] or manager[s] of Affordable Rental Unit[s] shall file an annual report to the Monitoring Agent, in a form specified by that agent, certifying compliance with the Affordability provisions of this Bylaw and containing such other information as may be reasonably requested in order to ensure affordability; and

(12) A requirement that residents in Affordable Housing provide such information as the Monitoring Agent may reasonably request in order to ensure affordability.

G. **Costs of Housing Marketing and Selection Plan.** The housing marketing and selection plan and/or any associated Monitoring Services Agreement may make provision for payment by the Project applicant of reasonable costs to the Monitoring Agent to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements.

H. **Age Restrictions.** Nothing in this Article XIX shall permit the imposition of restrictions on age upon Projects unless proposed or agreed to voluntarily by the Applicant. However, the PAA may, in its review of a submission under Section 220-89C allow a specific Project within the NL-SGOD designated exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable federal, state and local fair housing laws and regulations and not less than twenty-five percent (25%) of the housing units in such a restricted Project shall be restricted as Affordable units.

I. **Phasing.** For any Project that is approved and developed in phases in accordance with Section 220-93D, unless otherwise approved by DHCD at the request of the PAA, the percentage of Affordable units in each phase shall be at least equal to the minimum percentage of Affordable Housing required under Sections 220-89A or 220-89H, as applicable. Where the percentage of Affordable Housing is not uniform across all phases, the unit dispersal and bedroom proportionality requirements under Section 220-89E shall be applied proportionately to the Affordable Housing provided for in each respective phase.

J. **No Waiver.** Notwithstanding anything to the contrary herein, the Affordability provisions in this Section 220-89 shall not be waived unless expressly approved in writing by DHCD at the request of the Plan Approval Authority

Section 220-90. DIMENSIONAL AND DENSITY REQUIREMENTS.

A. **Table of Requirements.** Notwithstanding anything to the contrary in this Zoning Bylaw, the dimensional requirements applicable in the NL-SGOD are as follows:

Lot Area	Minimum lot area = 44,000 square feet. At least 90% of the lot area requirement must be met without including any "wetland" as defined in M.G.L. Chapter 131, §40.
Lot Frontage	Minimum lot frontage = 100 feet.
Front Yard	Not less than 30 feet.

Setback	
Side & Rear Setback	Not less than 20 feet unless abutting a residential use, then the setback shall be not less than 40 feet.
Building Height	No building or portion thereof or other structure of any kind shall exceed 40 feet excluding chimneys, towers, spires, cupolas, antennas, or other projections of or attachments to a building that do not enclose potentially habitable floor space, provided that they do not exceed the height of the building by more than ten (10) feet or 20% of building height, whichever is greater.
Minimum As-of-Right Residential Density	(1) A density of at least eight (8) units per acre for Developable Land zoned for single-family residential use; (2) A density of at least fifteen (15) units per acre for Developable Land zoned for 2- and/or 3-family residential use; or (3) A density of twenty (20) units per acre of Developable Land multiplied by the minimum permissible percentage of the gross floor area of a Mixed-use Development Project that is devoted to residential use (51%).
Maximum As-of-Right Residential Density	A density of twenty (20) residential units per acre of Developable Land multiplied by the maximum permissible percentage of the gross floor area of a Mixed-use Development Project devoted to residential use (90%). This maximum by-right density shall apply even in cases where the actual percentage of gross floor area in a Mixed-use Development Project devoted to residential use is less than 90%.

Section 220-91. PARKING REQUIREMENTS.
The parking requirements applicable for Projects within the NL-SGOD are as follows.

A. **Number of Parking Spaces.** Unless otherwise found to be unduly restrictive with respect to Project feasibility and approved by the PAA, the parking requirements set forth in Section 220-91 shall be applicable to all projects in the NL-SGOD by use, either in surface parking, within garages, or other structures. The PAA may allow for additional visitor parking spaces beyond the maximum spaces per unit if deemed appropriate given the design, layout, and density of the proposed residential or other development. The PAA may allow for a decrease in any required parking as provided in Section 220-91B and Section 220-91C below.

B. **Shared Parking.** Notwithstanding anything to the contrary herein, the use of shared parking to fulfill parking demands noted above that occur at different times of day is strongly encouraged. Minimum parking requirements above may be reduced by the PAA through the Plan Approval process if the Applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies (e.g., the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other approved studies).

C. **Reduction in Parking Requirements.** Notwithstanding anything to the contrary herein, any minimum required amount of parking may be reduced by the PAA through the Plan Approval

process, if the Applicant can demonstrate that the lesser amount of parking will not cause excessive congestion, or endanger public safety, and that lesser amount of parking will provide positive environmental or other benefits, taking into consideration:

(1) The availability of surplus off street parking in the vicinity of the use being served and/or the proximity of a bus stop or transit station;
(2) The availability of public or commercial parking facilities in the vicinity of the use being served;
(3) Shared use of off-street parking spaces serving other uses having peak user demands at different times;
(4) To the extent consistent with 760 CMR 59.04(1)(g) and 760 CMR 59.04(l)(i)1., age or other occupancy restrictions which are likely to result in a lower level of auto usage;
(5) Impact of the parking requirement on the physical environment of the affected lot or the adjacent lots including reduction in green space, destruction of significant existing trees and other vegetation, destruction of existing dwelling units, or loss of pedestrian amenities along public ways; and
(6) Any applicable transportation demand management strategies that will be integrated into the Project or such other factors as may be considered by the PAA.

D. **Parking Location and Design Standards.** The PAA will review the parking design documentation and evaluate for the following:

1. Hazards. The parking area and access roads shall not create a hazard to abutters, vehicles, or pedestrians.
2. Placement of parking facilities. Parking facilities shall be at the rear or, where not feasible or otherwise preferred by the PAA, side(s) of the principal structure and shall not about a public way for more than 20 feet. If site encumbrances make this requirement impossible to achieve, parking may be allowed to abut a public way only if the parking lot is buffered and screened from the public way using dense, native vegetation to the greatest extent possible. The design of the parking facility shall take into consideration natural, cultural and historical features and setting.
3. Pedestrian and bicycle access. Provisions for pedestrian and bicycle access shall be safe and convenient, so that the development as a whole enhances rather than degrades access by foot or bicycle. Parking areas shall accommodate pedestrian access through the use of raised crosswalks, usable landscaped islands, benches, and abundant shade trees, among other design attributes. Parking shall further ensure an inviting pedestrian environment by providing safe, landscaped connections between vehicles stationed in parking areas and building entrances and exits. Such landscaping connections may include sidewalks, terraces, decorative fencing, stone walls, site furnishings, grading and reshaping of earth contours, planting, and lawn areas. Dedicated bicycle lanes shall be included where possible.
4. Plantings. Landscaping meeting the requirements for plantings in parking area(s) under Section 220-97F of Design Standards shall be provided.
5. Emergency access. Appropriate access for emergency vehicles shall be provided to the principal structure. Such access need not be paved yet but shall be stable and constructed to withstand a fire vehicle.
6. Size of facility. Parking lots shall be configured so that no section of lot shall contain more than 50 spaces, and each section of the lot shall be visually separated from any other section of the lot on- or off-premises through the use of major landscaping, earthen berms or grade changes. No more parking than is required by this bylaw shall be provided unless the applicant demonstrates to the satisfaction of the PAA that unusual circumstances justify the

amount of parking proposed as being necessary despite reasonable efforts at parking demand reduction.

Section 220-92. TRAFFIC IMPACT ASSESSMENT.

A. **Objectives.** To document existing traffic conditions (both vehicular and pedestrian) in the vicinity of the proposed Project, to describe the volume and effect of projected traffic generated by the proposed Project, and to identify measures proposed to mitigate any adverse impacts on traffic.

B. **Applicability.** The PAA may request an Applicant for Plan Approval to prepare a traffic impact assessment, provided, however, Projects with one or more of the following characteristics shall prepare a traffic impact assessment:
   (1) Proposing 30 or more parking spaces;
   (2) Proposing a vehicular service establishment, such as a gasoline service station; a facility for the sale, rental or repair of motor vehicles; or car wash establishment;
   (3) Containing frontage and access on a state-numbered highway and proposing more than six parking spaces.

C. **Qualifications.** The traffic impact assessment shall be prepared by a registered professional civil or traffic engineer in the Commonwealth of Massachusetts.

D. **Format and scope.** All applications for Plan Approval shall provide the following documentation as part any required traffic impact assessment:

   (1) Existing traffic conditions. Average daily and peak-hour volumes, average and peak speeds, sight distances, accident data, and levels of service (LOS) of intersections and streets likely to be affected by the proposed development. Generally, such data shall be presented for all streets and intersections adjacent to or within 1,000 feet of the projected boundaries or impacted by the development and shall be no more than six months old at the date of application. Further, information regarding existing pedestrian circulation and ways shall be provided.
   (2) Projected traffic conditions for design year of occupancy. Statement of design year of occupancy, background traffic growth for the previous five years, impacts of proposed developments which have already been approved in part or in whole by the Town.
   (3) Projected impact of proposed development. Projected peak-hour and daily traffic generated by the development on roads and ways in the vicinity of the development; sight lines at the intersections of the proposed driveways and streets; existing and proposed traffic controls in the vicinity of the proposed development; proposed pedestrian ways and design elements to maximize pedestrian safety and usage; and projected post-development traffic volumes and level of service (LOS) of intersections and streets likely to be affected by the proposed development.
   (4) Proposed measures to minimize traffic conflict and mitigate any affected intersections or ways.

E. **Traffic impact standards.** The proposed site plan shall minimize points of traffic conflict, both pedestrian and vehicular. The following guidelines shall be used to achieve this standard:

(1) Entrance and exit driveways shall be so located and designed as to achieve maximum practicable distance from existing and proposed access connections from adjacent properties.
(2) Where possible, adjoining parcels shall have unified access and promote inter-parcel circulation.
(3) Left-hand turns shall be minimized.
(4) Driveways shall be so located and designed as to discourage the routing of vehicular traffic to and through residential streets.
(5) Pedestrian and bicycle circulation shall be accommodated on and off site and shall be separated from motor vehicle circulation as much as practicable. Existing pedestrian ways shall be maintained and where no pedestrian ways exist, proposals shall create pedestrian ways and connections between streets, the proposed development, surrounding neighborhoods, and other surrounding uses. Said ways shall be landscaped and handicapped accessible.

Section 220-93. PLAN APPROVAL OF PROJECTS.

A. **Plan Approval.** An application for Plan Approval shall be reviewed by the PAA for consistency with the purpose and intent of this Article XIX. Such Plan Approval process shall be construed as an As-of-Right review and approval process as required by and in accordance with the Governing Laws. The following categories of Projects shall be subject to the Plan Approval process:
(1) Any Residential Project containing at least thirteen [13] residential units;
(2) Any Mixed-use Development Project; and
(3) Any Project seeking a waiver.

B. **Plan Approval Authority (PAA).** The 40R Plan Approval Committee, consistent with M.G.L. Chapter 40R and 760 CMR 59.00, shall be the Plan Approval Authority (the "PAA"), and it is authorized to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the NL-SGOD. The 40R Plan Approval Committee shall include one (1) representative member chosen by each of the following Town of Lancaster Boards from their membership: Planning Board, Zoning Board of Appeals, Conservation Commission, Affordable Housing Trust, and Economic Development Committee. Each board, commission and trust shall notify the Select Board in writing of their chosen representative member. The Select Board shall appoint the 40R Plan Approval Committee, constituted as described herein, for staggered terms of three (3) years with one (1) member first appointed for one (1) year and two (2) members first appointed for two (2) years.

C. **PAA Regulations.** The Plan Approval Authority may adopt and from time to time amend reasonable administrative rules and regulations relative to Plan Approval. Such rules and regulations and any amendments thereof must be approved by DHCD.

D. **Project Phasing.** An Applicant may propose, in a Plan Approval submission, that a Project be developed in phases, provided that the submission shows the full buildout of the Project and all associated impacts as of the completion of the final phase, and subject to the approval of the PAA. Any phased Project shall comply with the provisions of Section 220-89I.

Section 220-94. PLAN APPROVAL PROCEDURES.

A. **Pre-application.** Prior to the submittal of a Plan Approval submission, a "Concept Plan" may be submitted to help guide the development of the definitive submission for Project buildout and

individual elements thereof. Such Concept Plan should reflect the following:

(1) Overall building envelope areas;
(2) Open space and natural resource areas;
(3) General site improvements, groupings of buildings, and proposed land uses.

The Concept Plan is intended to be used as a tool for both the Applicant and the PAA to ensure that the proposed Project design will be consistent with the Design Standards and other requirements of the NL-SGOD.

B. **Required Submittals.** An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA and approved by DHCD, along with application fee(s) which shall be as set forth in the PAA Regulations. The application shall be accompanied by such plans and documents as may be required and set forth in the PAA Regulations. For any Project that is subject to the Affordability requirements of Section 220-89, the application shall be accompanied by all materials required under Section 220-89C. All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of one-inch equals forty feet (1"=40') or larger, or at a scale as approved in advance by the PAA.

C. **Filing.** An Applicant for Plan Approval shall file the required number of copies of the application form and the other required submittals as set forth in the PAA Regulations with the Town Clerk and a copy of the application including the date of filing certified by the Town Clerk shall be filed forthwith with the PAA.

D. **Circulation to Other Boards.** Upon receipt of the application, the PAA shall immediately provide a copy of the application materials to the Affordable Housing Trust [and Monitoring Agent, if already identified, for any Project subject to the Affordability requirements of Section 220-89], Select Board, Board of Appeals, Board of Health, Conservation Commission, Economic Development Committee (if mixed-use), Fire Department, Planning Board, Police Department, Building Inspector, Department of Public Works, and other applicable municipal officers, agencies or boards for comment, and any such board, agency or officer shall provide any written comments within 60 days of its receipt of a copy of the plan and application for approval.

E. **Hearing.** The PAA shall hold a public hearing for which notice has been given as provided in Section 11 of M.G.L. Chapter 40A. The decision of the PAA shall be made by simple majority vote, and a written notice of the decision filed with the Town Clerk, within 120 days of the receipt of the application by the Town Clerk. The required time limits for such action may be extended by written agreement between the Applicant and the PAA, with a copy of such agreement being filed in the office of the Town Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the Plan Approval application.

F. **Peer Review.** The Applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to M.G.L. Chapter 40R, Section 11(a). Such fees shall be held by the Town in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, housing consultants, planners, and others. Any surplus funds remaining after the completion of such review, including any interest accrued, shall be returned to the Applicant forthwith.

Section 220-95. PLAN APPROVAL DECISIONS.

A. **Plan Approval.** Plan Approval shall be granted where the PAA finds that:

(1) The Applicant has submitted the required fees and information as set forth in the PAA Regulations;
(2) The Project as described in the application meets all of the requirements and standards set forth in this Article XIX and the PAA Regulations, or a waiver has been granted therefrom; and
(3) Any extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.

For a Project subject to the Affordability requirements of Section 220-89, compliance with condition (2) above shall include written confirmation by the Monitoring Agent that all requirements of that Section have been satisfied or that approval is made subject to such satisfaction prior to any marketing, leasing, occupancy of the Project. Any Plan Approval decision for a Project subject to the affordability restrictions of Section 220-89 shall specify the term of such affordability, which shall be in perpetuity or the longest time that is legally allowed.

The PAA may attach conditions to the Plan Approval decision that are necessary to ensure substantial compliance with this Article XIX, or to mitigate any extraordinary adverse potential impacts of the Project on nearby properties.

B. **Plan Disapproval.** A Plan Approval application may be disapproved only where the PAA finds that:

(1) The Applicant has not submitted the required fees and information as set forth in the Regulations; or
(2) The Project as described in the application does not meet all of the requirements and standards set forth in this Article XIX and the PAA Regulations, or that a requested waiver therefrom has not been granted; or
(3) It is not possible to adequately mitigate extraordinary adverse Project impacts on nearby properties by means of suitable conditions.

C. **Waivers.** Upon the written request of the Applicant and subject to compliance with M.G.L. Chapter 40R, 760 CMR 59.00 and Section 220-89J, the Plan Approval Authority may waive dimensional and other requirements of Section 220-90, and/or the Design Standards of Section 220-97, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the NL-SGOD, or if it finds that such waiver will allow the Project to achieve the density, affordability, mix of uses, and/or physical character allowable under this Article XIX.

D. **Project Phasing.** The PAA, as a condition of any Plan Approval, may allow a Project to be phased at the request of the Applicant, or it may require a Project to be phased for the purpose of coordinating its development with the construction of Planned Infrastructure Improvements (as that term is defined under 760 CMR 59.00), or to mitigate any extraordinary adverse Project impacts on nearby properties. Any phased Project shall comply with the provisions of Section 220-89I.

E. **Form of Decision.** The PAA shall issue to the Applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the Town Clerk and that all plans referred to in the decision are on file with the PAA. If twenty (20) days have

elapsed after the decision has been filed in the office of the Town Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. If a plan is approved by reason of the failure of the PAA to timely act, the Town Clerk shall make such certification on a copy of the application. A copy of the decision or application bearing such certification shall be recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the Applicant.

F. **Validity of Decision.** A Plan Approval shall remain valid and shall run with the land indefinitely, provided that construction has commenced within two years after the decision is issued, which time shall be extended by the time required to adjudicate any appeal from such approval and which time shall also be extended if the Project proponent is actively pursuing other required permits for the Project or there is other good cause for the failure to commence construction, or as may be provided in a Plan Approval for a multi-phase Project.

Section 220-96. CHANGE IN PLANS AFTER APPROVAL BY PAA.

A. **Minor Change.** After Plan Approval, an Applicant may apply to make minor changes in a Project involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall buildout or building envelope of the site, or provision of open space, number of housing units, or housing need or affordability features. Such minor changes must be submitted to the PAA on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the PAA. The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision and provide a copy to the Applicant for filing with the Town Clerk.

B. **Major Change.** Those changes deemed by the PAA to constitute a major change in a Project because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to Sections 220-93 through 220-96.

Section 220-97. DESIGN STANDARDS.

A. **Adoption of Design Standards.** Any Project undergoing the Plan Approval process shall be subject to design standards as set forth below in this Section 220-97.

B. **Purpose.** The Design Standards are adopted to ensure that the physical character of Projects within the NL-SGOD:

(1) Will be complementary to nearby buildings, structures, and landscape;

(2) Will be consistent with the Housing Production Plan; and

(3) Will provide for high-density quality development consistent with the character of building types, streetscapes, and other community features traditionally found in densely settled areas of the Town or in the region of the Town.

(4) These standards are intended to be applied flexibly by the PAA as appropriate to the Project as part of the Plan Approval review process to enable the purpose of this District to be realized, and in recognition of the As-of-Right nature of Projects proceeding under this article. Relief from design standard(s) shall be submitted in writing by the Applicant to the PAA and comply with the requirements of Section 220-95C, Waivers.

(5) These standards apply to all site improvements, buildings and structures to enhance the appearance of the built environment within the NL-SGOD.

C. **Building Placement.** Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the functional requirements of Chapter 301, Subdivision of Land, of the Code of the Town of Lancaster, currently in effect; and shall be so designed that for the given location and type and extent of land use, the design of building form, building location, egress points, grading, and other elements of the development shall be so as to:

(1) Minimize the volume of cut and fill, the number of removed trees six-inch-trunk diameter and larger, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air or water pollution;
(2) Maximize pedestrian or vehicular safety and convenience within the site and egressing from it;
(3) Minimize obstruction of water views; minimize the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned; and minimize glare from headlights or area lighting; and
(4) Assure that the design and location of structures on the site avoid damage to or incompatibility with historical and archeological resources, such as antique buildings and structures, barns, stonewalls, earthworks and graves.

D. **Building Design.**

(1) Exterior facade and roof surfaces appear similar to the materials commonly found on existing buildings within the Town;
(2) Major dimensions of the building are approximately parallel or perpendicular to one or more nearby streets, if within 100 feet of such street;
(3) The building is not made in effect a sign through painting with bold colors or other graphics devices, or through otherwise unnecessary use of unconventional building form;
(4) There is some element of consistency with any buildings on abutting premises if facing the same street, such as eave height, exterior facade materials, or window proportions; and
(5) If the building exceeds 35,000 cubic feet and contains at least twice the cubage of a principal building on any abutting lot, the building design uses breaks in massing, roof planes, wall planes, and other means to reduce the apparent difference in scale.

E. **Disturbance Controls.** No activity shall be permitted unless the following are met:

(1) Standard. No sound, noise, vibration, odor, or flashing (except for warning devices, temporary construction or maintenance work, parades, special events, or other special circumstances) shall be observable without instruments more than 40 feet from the boundaries at locations within the District. However, the PAA may authorize on special permit an activity not meeting these standards, in cases where the PAA determines that, because of peculiarities of location or circumstance, no objectionable conditions will thereby be created for the use of other properties.
(2) Performance compliance. For a proposed facility whose future compliance with this requirement is questionable, the Building Inspector may require that the applicant furnish evidence of probable compliance, whether by example of similar facilities or by engineering analysis. Issuance of a permit on the basis of that evidence shall certify the Town's acceptance of the conformity of the basic structure and equipment, but future equipment changes and operating procedures must be such as to also comply with this standard.

F. **Landscaping Requirements.**

(1) Applicability. Street, sideline, parking area, and district boundary plantings shall be provided as specified below when any new building, addition, or change of use requires a

parking increase of 10 or more spaces. In performing Plan Approval review, the PAA may authorize alternatives to the following specifications, taking into consideration existing vegetation, topography, soils, and other site conditions, provided that equivalent screening, shading, and articulation are achieved.

(2) Plantings. Required plantings shall include both trees and shrubs and may include ones existing on the site. To be credited towards meeting these requirements, trees must be at least 2 1/2 inches in caliper four feet above grade, be of a species common in the area, and be ones which reach an ultimate height of at least 30 feet. To be credited towards meeting these requirements, shrubs must be at least 24 inches in height at the time of building occupancy, reach an ultimate height of at least 36 inches, and be of a species common in the area. Plantings shall consist of at least one tree per 30 linear feet of planting area length and at least one shrub per three feet. Plantings preferably will be grouped, not evenly spaced, and shall be located or trimmed to avoid blocking egress visibility. The planting area shall be unpaved except for access drives and walks essentially perpendicular to the area.

(3) Street planting area. Street planting is required for nonresidential premises abutting an arterial street. Required street planting shall be provided within 15 feet of the street property line along the entire street frontage except at drives.

(4) Sideline planting area. Sideline planting is required for premises abutting an arterial street. Required sideline planting shall be provided within five feet of the side lot line between the front lot line and the building setback (as built, not as required).

(5) Parking area plantings. A minimum of 2% of the interior area of parking lots containing 30 or more spaces must be planted. A minimum of one tree and four shrubs exclusive of perimeter plantings must be planted for every 1,500 square feet of parking lot. Planting areas must each contain not less than 30 square feet of unpaved soil area. Trees and soil plots shall be so located as to provide visual relief and wind interruption within the parking area, and to assure safe patterns of internal circulation.

(6) District boundary planting area. District boundary planting is required on any premises along the full length of any boundary abutting or extending into a residential area and being developed for a use not allowed in that residential area, unless abutting property is determined by the Building Inspector to be unbuildable or visually separated by topographic features. Required planting shall be located within 10 feet of the boundary.

(7) Existing vegetation. Wherever possible, the above requirements shall be met by retention of existing plants. If located within 25 feet of a street, no existing tree of six-inch-trunk diameter or greater (measured four feet above grade), dense hedgerow of four or more feet in both depth and height, or existing earth berm providing similar visual screening shall be removed or have grade changed more than one foot unless dictated by plant health, access safety, or identification of the premises.

(8) Exceptions. Where plant materials as required would harmfully obstruct a scenic view, substitution of additional low-level plantings which will visually define the street edge or property line may be authorized, provided that proposed buildings are also designed and located to preserve that scenic view.

(9) Maintenance. All plant materials required by this Article XIX shall be maintained in a healthful condition. Dead limbs shall be promptly removed, and dead plants shall be replaced at the earliest appropriate season.

(10) The Town Planner may provide a list of recommended plantings to achieve this purpose.

G. **Lighting.** The regulation of outdoor lighting is intended to enhance public safety and welfare by providing for adequate and appropriate outdoor lighting, provide for lighting that will complement the character of the Town, reduce glare, minimize light trespass, and reduce the cost and waste of unnecessary energy consumption.

(1) Applicability. The requirements of this Section shall apply to outdoor lighting on lots and

parcels in the District but shall not apply to one- and two-family dwellings on lots on which they are the principal use, streetlighting, lights that control traffic, or other lighting for public safety on streets and ways.

(2) When an existing outdoor lighting installation is being modified, extended, expanded, or added to, the entire outdoor lighting installation on the lot shall be subject to the requirements of this Section if twenty percent (20%) or more of the fixtures will be new or altered.

(3) Nonconforming temporary outdoor lighting necessitated by construction, special nonrecurrent events, or emergency contingencies may be used upon issuance of a temporary lighting permit by the Building Inspector.

(4) The following light sources are prohibited:

(a) Neon signs;

(b) Mercury vapor and quartz lamps; and

(c) Searchlights.

(5) Definitions. For the purpose of this Section, the following words and phrases shall have the following meanings:

(a) **COLOR RENDERING INDEX (CRI)** - A measurement of the amount of color shift that objects undergo when lighted by a light source as compared with the floor of those same objects when seen under a reference light source of comparable color temperature. CRI values generally range from zero to 100, where 100 represents incandescent light.

(b) **CUTOFF ANGLE** - The angle formed by a line drawn from the direction of the direct light rays at the light source with respect to the vertical, beyond which no direct light is emitted.

(c) **DIRECT LIGHT** - Light emitted from the lamp, off the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

(d) **FIXTURE** - The assembly that houses a lamp or lamps, and which may include a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor, lens or diffuser lens.

(e) **FOOTCANDLE** - A unit of illumination. One footcandle is equal to one lumen per square foot.

(f) **FULLY SHIELDED LUMINAIRE** https://ecode360.com/13265871 - 13265871- A lamp and fixture assembly designed with a cutoff angle of 90°, so that no direct light is emitted above a horizontal plane.

(g) **GLARE** - Light emitted from a luminaire with an intensity great enough to produce annoyance, discomfort, or a reduction in a viewer's ability to see.

(h) **HEIGHT OF LUMINAIRE** - The vertical distance from the finished grade of the ground directly below to the lowest direct light-emitting part of the luminaire.

(i) **INDIRECT LIGHT** - Direct light that has been reflected off other surfaces not part of the luminaire.

(j) **LAMP** - The component of a luminaire that produces the actual light.

(k) **LIGHT TRESPASS** - The shining of direct light produced by a luminaire beyond the boundaries of the lot or parcel on which it is located, or on-site lighting producing more than 0.3 footcandles horizontal brightness at ground level at any point off premises, except within a street.

(l) **LUMEN** - A measure of light energy generated by a light source. One footcandle is one lumen per square foot. For purposes of this bylaw, the lumen output shall be the initial lumen output of a lamp, as rated by the manufacturer.

(m) **LUMINAIRE** - A complete lighting system, including a lamp or lamps and a fixture.

(6) Plan Contents. Wherever outside lighting is proposed, every application for a building permit, electrical permit, special permit, variance, or site plan shall be accompanied by a lighting plan which shall show:

(a) The location and type of any outdoor luminaires, including the height of the luminaire;

(b) The luminaire manufacturer's specification data, including lumen output and photometric data showing cutoff angles;

(c) The type of lamp, such as metal halide, compact fluorescent, LED or high-pressure sodium;

(d) That light trespass onto any street or abutting lot will not occur. This may be demonstrated by manufacturer's data, cross-section drawings, or other means.

(7) Control of Glare and Light Trespass.

(a) Any luminaire with a lamp or lamps rated at a total of more than 2,000 lumens shall be of fully shielded design.

(b) All luminaires, regardless of lumen rating, shall be equipped with whatever additional shielding, lenses, or cutoff devices are required to eliminate light trespass onto any street or abutting lot or parcel and to eliminate glare perceptible to persons on any street or abutting lot or parcel.

(c) Section 220-97G(7)(a) above shall not apply to any luminaire intended solely to illuminate any freestanding sign or the walls of a building, but such luminaire shall be shielded so that its direct light is confined to the surface of such sign or building.

(d) All lamps subject to this Article XIX shall have a minimum color temperature of 2,000° K. and a maximum color temperature of 4,500° K.

(e) Control of illumination levels. All parking areas and pedestrian facilities serving nonresidential uses and open to the general public shall be provided with illumination during all hours from dusk to dawn while those facilities are open to the general public. Such illumination shall provide not less than 0.2 average maintained horizontal footcandles. However, in performing Plan Approval review, the PAA may approve alternative arrangements if it determines that, because of special circumstances or alternative provisions, the specified illumination is not necessary or appropriate for the protection of the public safety.

(8) Lamp Types.

(a) Lamp types shall be selected for optimum color rendering as measured by their color rendering index (CRI), as listed by the lamp manufacturer. Lamps with a color rendering index lower than 50 are not permitted. This subsection shall not apply to temporary decorative lighting which may include colored lamps, such as holiday lighting.

(b) No flickering or flashing lights shall be permitted. Processes, such as arc welding, which create light flashes shall be confined within buildings or shielded to prevent either direct glare or flashing.

(c) A luminaire attached to the exterior of a building or structure for area lighting shall be mounted no higher than 20 feet above grade and shall be shielded to control glare.

(d) A luminaire attached to a pole shall be mounted no higher than 20 feet above grade and shall be shielded to control glare.

(9) Hours of Operations. Outdoor lighting shall not be illuminated between 11:00 p.m. and 6:00 a.m., with the following exceptions:

(a) If the use is being operated, such as a business open to customers, or where employees are working, or where an institution or place of public assembly is conducting an activity, normal illumination shall be allowed during the activity and for not more than 1/2 hour after activity ceases;

(b) Low-level lighting sufficient for the security of persons or property on the lot may be in operation between 11:00 p.m. and 6:00 a.m., provided the average illumination on the ground or on any vertical surface is not greater than 0.5 footcandles.

H. **Signs and Illumination.**

(1) General Regulations.

(a) Interference with traffic. No sign shall be so placed or so worded, designed, colored or illuminated as to obscure or distract from signs regulating traffic.

(b) Motion. Flashing or moving signs are prohibited throughout the NL-SGOD.

(c) Setbacks and corner clearance. No sign, including temporary signs, shall be closer than 20 feet to any street or lot line unless affixed to a building.

(d) Signs on Town property. All signs on Town property, except for temporary or directional signs, shall require a special permit from the Board of Appeals.

(e) Sign content. Except for permitted directional signs, sign content shall pertain exclusively to products, services, or activities on the premises. Sign shall not display brand names, symbols, or slogans of nationally advertised products or services except in cases where the majority of the floor or lot area on the premises is devoted to that brand, product or service.

(f) Permitted Forms of Illumination. Illumination of signs and outdoor areas shall be indirect.

(2) Limitations on sign location and size.

(a) General Location of Signs. All signs shall be placed on the premises to which their message pertains, with the following exceptions:

[1] Municipal, state or federal signs;

[2] Permitted temporary posters or political signs;

[3] Directional signs pertaining to an institutional, educational or recreational use, provided a special permit is granted by the PAA for their location and indirect illumination, if any.

(b) Freestanding signs. Freestanding signs shall be limited to one per premises, in the principal front yard only, and shall not be placed on a tree, rock, or utility pole. No such sign shall exceed three square feet in area on residential premises, nor 12 square feet on nonresidential premises or on premises for sale.

(c) Attached signs.

[1] Attached signs may be placed only on the side of a building facing a street and shall not project more than three inches from the face of the building, nor above the line of the eaves, and shall not obscure any window, door, or other architectural feature. The maximum area of signs shall not exceed three square feet for each permitted family or home occupation on residential premises, or 12 square feet for each permitted nonresidential premises. The aggregate area of all signs on any face of a building fronting a street shall not exceed 10% of the area of that face or 30 square feet, whichever is smaller.

(3) Exemptions for temporary and directional signs.

(a) Temporary posters for noncommercial events, political signs. Such signs are limited to a period of 45 days preceding and seven days after the relevant event and to not more than one, not to exceed 12 square feet, per residential premises in residential areas nor more than two, not exceeding 20 square feet each, on all other premises.

(b) Directional signs. Accessory signs directing traffic to entrances or exits from the building or parking area are permitted in any district and all yards, provided:

[1] No freestanding directional sign exceeds two square feet in area, or is placed higher than three feet above the ground;
[2] No such sign is closer than 10 feet to a street lot line;
[3] The number of such signs is limited to the minimum necessary to give clear directions;
[4] The sign bears no advertising matter.

(4) Size, location, and illumination exceptions. The PAA may grant exceptions regarding the size, location and allowable illumination of signs (such as allowing direct illumination) upon its determination that the objectives of facilitating efficient communication, avoidance of visual conflict with the environs, and good relationships between signs and the buildings to which they relate are satisfied, considering the following among other considerations.
(a) Sign size is appropriate in relation to development scale, viewer distance, speed of vehicular travel, street width, and signage on nearby premises.
(b) Visibility of other public or private signage on nearby premises is not unreasonably diminished.
(c) Sign content is simple and neat, with minimum wording to improve legibility.
(d) Sign placement, colors, lettering style, and form are compatible with building design.
(e) Sign design and location do not interrupt, obscure or hide architectural features of the building, such as columns, sill lines, cornices, or roof edges.
(f) Sign brightness is not inconsistent with that of other signs in the vicinity.

(5) Permit required; fees.
(a) Permits. No sign of three-square feet or more in area shall be erected, enlarged, or structurally altered without a sign permit issued by the Building Inspector.
(b) Fee. Signs shall be subject to an annual inspection fee as set forth in Chapter 1, General Provisions, Article III, Fees, of the Code of the Town of Lancaster

Section 220-98. SEVERABILITY.

If any provision of this Article XIX is found to be invalid by a court of competent jurisdiction, the remainder of Article XIX shall not be affected but shall remain in full force. The invalidity of any provision of this Article XIX shall not affect the validity of the remainder of the Town's Zoning Bylaw.

(2) Amend Section 220-4 of the Zoning Bylaw by adding the following abbreviation in appropriate alphabetical order:

Abbreviation	**Name of District**
NL-SGOD	North Lancaster Smart Growth Overlay District

(3) Amend Section 220-5.B of the Zoning Bylaw, by inserting a new subparagraph (7), as follows:

(7) The North Lancaster Smart Growth Overlay District (NL-SGOD) is defined on the Official Zoning Overlay Map, as specified at 220 Attachment 3.

And

(4) Amend the Town of Lancaster's Official Zoning Overlay Map, 220 Attachment 3, to include the North Lancaster Smart Growth Overlay District, which district

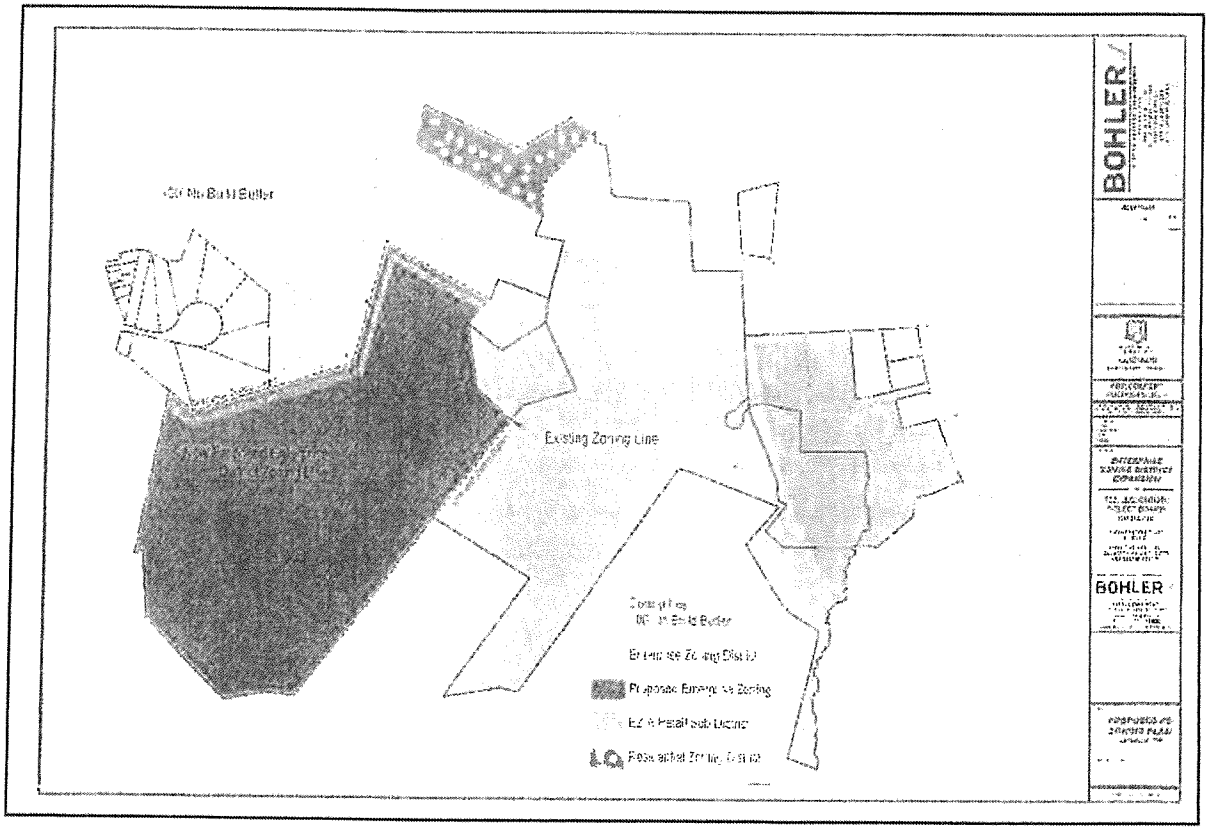
shall be comprised of the Assessors' Map 14 Lots 4.A, 4.D, 4.F, 4.G, 4.H, 4.I, 4.J, 4.K, 4.L, 4.M, 4.N, 8.0, and 8.A;

Or act in any manner relating thereto.

Select Board Recommendation: ***Affirmative Action***
Planning Board Recommendation: ***No Action***

ARTICLE 4
Enterprise Re-Zone
Select Board

To see if the Town will vote to amend the Official Zoning Map of the Town of Lancaster, 220 Attachment 2, by rezoning a portion of the parcel identified as Assessor's Map 8, Lot 45 of Lancaster, located within the Residential District, to the Enterprise District, such that the entirety of said parcel is located within the Enterprise District, and as further shown on a plan entitled "Proposed Re-Zoning Plan, Lancaster, MA," dated 08/31/22 and on file with the Town Clerk; or act in any manner relating thereto.



Select Board Recommendation: ***Affirmative Action***
Planning Board Recommendation: ***Affirmative Action***

Exhibit C

North Lancaster Smart Growth Overlay District as determined conditionally eligible by DHCD 05/27/2022

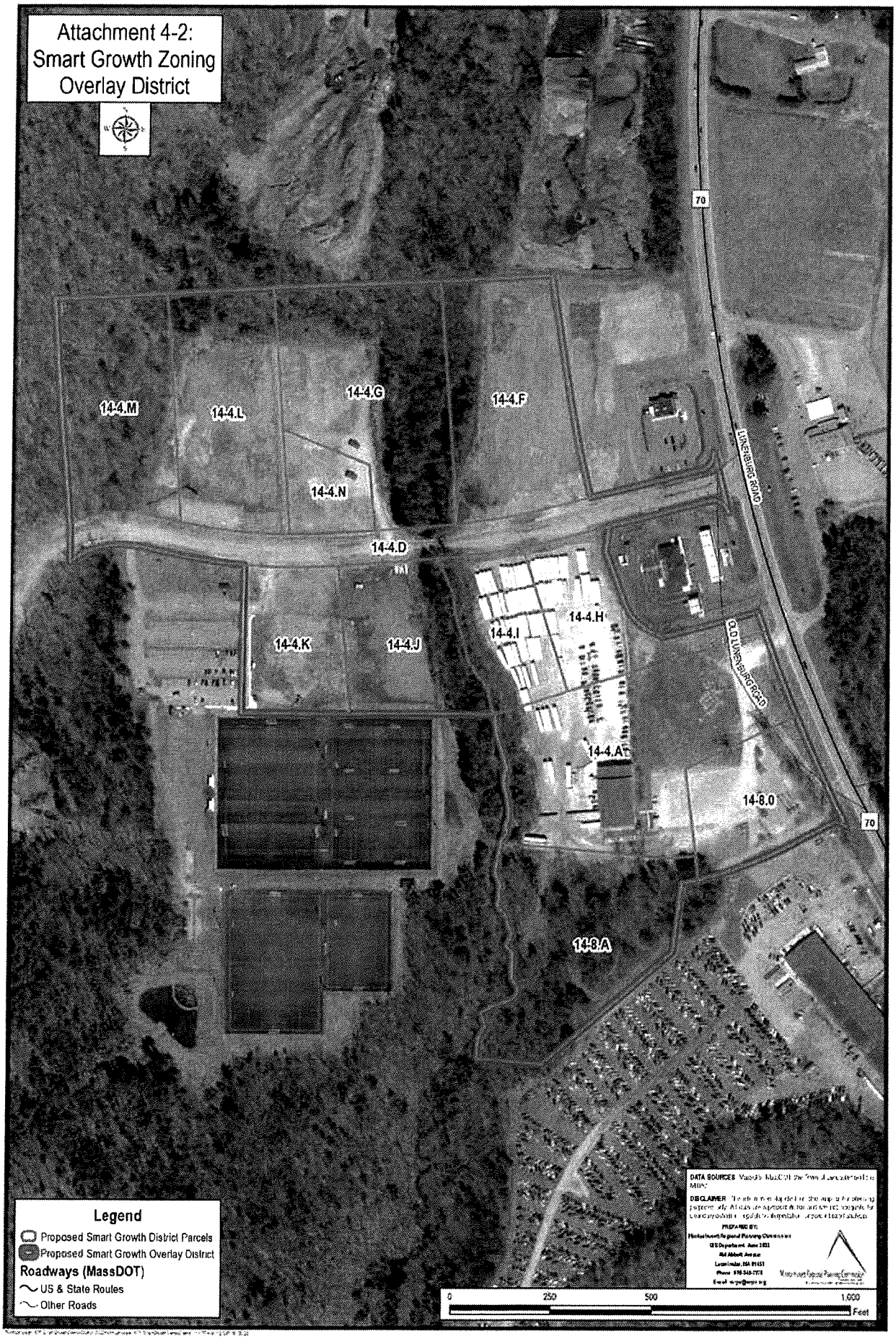
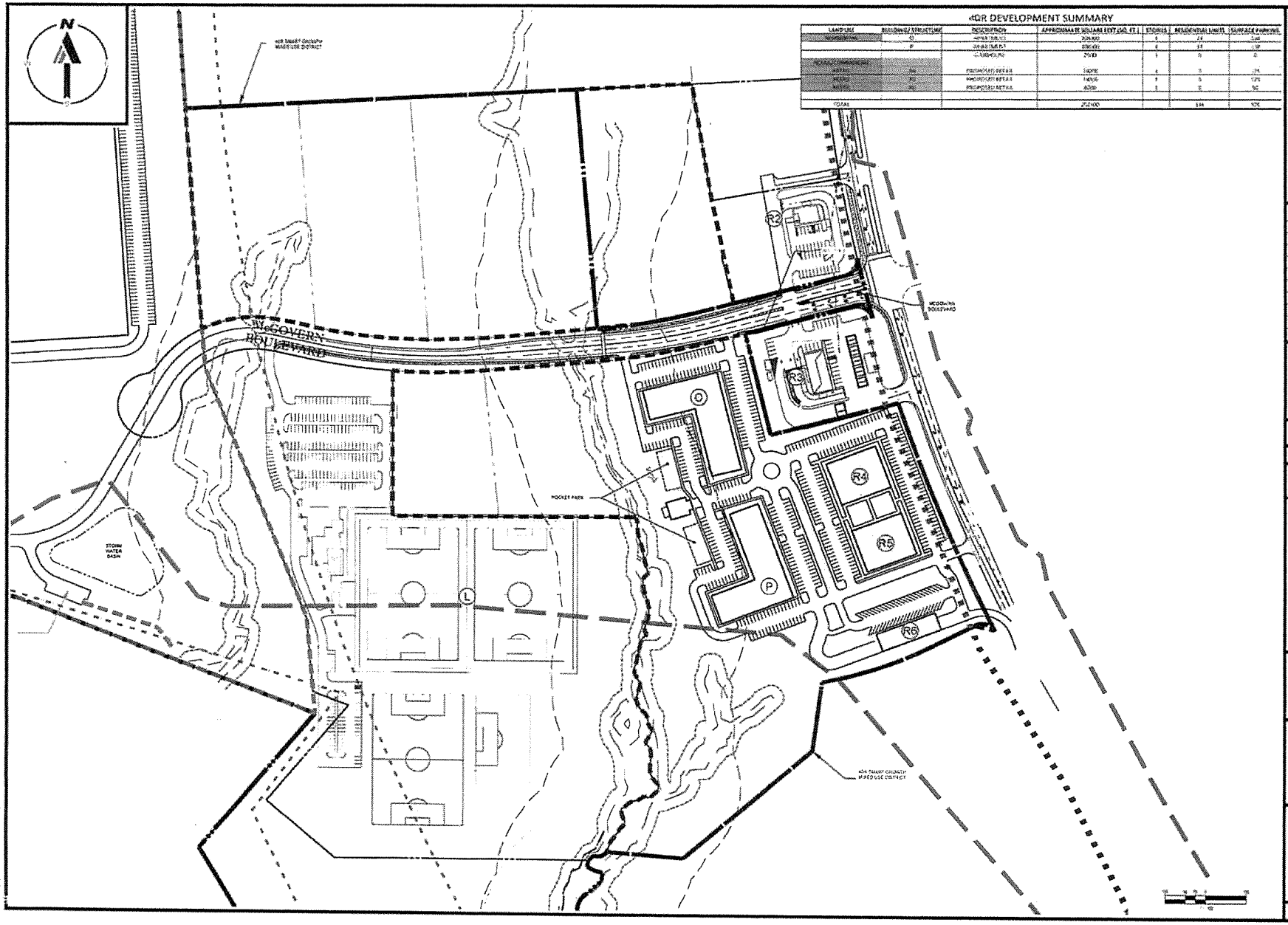


Exhibit D

Exhibit E



BOHLER

SITE CIVIL AND CONSULTING ENGINEERING
LAND DEVELOPMENT
PROGRAM MANAGEMENT
LANDSCAPE ARCHITECTURE
SURVEYING SERVICES
PERMITTING SERVICES
TRANSPORTATION SERVICES

REVISIONS

KEY	DATE	COMMENT

811 Know what's below. Call before you dig.
ALWAYS CALL 811
It's Easy, It's Free, It's the Law

FOR CONCEPT PURPOSES ONLY

PROJECT No. W191206
DRAWN BY MJK
CHECKED BY MJM
DATE 11/09/2022
ENG FILE: W191206_40R PLAN

PROJECT

ENTERPRISE ZONING DISTRICT EXPANSION

FOR

702, LLC, OWNER; SELECT BOARD SPONSOR

McGOVERN BOULEVARD EXTENSION

McGOVERN BOULEVARD
LANCASTER, MASSACHUSETTS
WORCESTER COUNTY

BOHLER
302 TURNPIKE ROAD
SOUTHBOROUGH, MA 01772
Phone (508) 480-9900
Fax (508) 480-9041
www.BohlerEngineering.com

SHEET TITLE

EXHIBIT C

SHEET NUMBER

ORIG. DATE - 11/09/2022

Exhibit F

EXECUTION VERSION – November 30, 2020

WATER SUPPLY and DEVELOPMENT AGREEMENT
CITY OF LEOMINSTER, and
702, LLC

This Water Supply Development Agreement ("Agreement") made this 4 day of December 2020 by and between the City of Leominster acting by and through its Mayor, a Massachusetts municipal corporation having an address at 25 West Street, Leominster, Massachusetts 01453, hereinafter referred to as the "City" and 702, LLC, a Massachusetts limited liability corporation having an address at 259 Turnpike Road, Suite 100, Southborough, Massachusetts 01772, hereinafter referred to as "702," and

WHEREAS, 702 is the owner of and desires to develop certain unimproved land in Lancaster, Massachusetts shown in the Assessors records Map 8 as Parcel 45; and as described in a deed dated November 8, 2019 and recorded with the Worcester Registry of Deeds at Book 59673 Page 28 containing 378.95 +/- acres (the "702 Property"); and

WHEREAS, the 702, LLC Property lacks adequate access to the water supply system in the Town of Lancaster or alternative means of obtaining water; and

WHEREAS, other land adjacent and/or proximate to the 702 Property ("Additional Properties") may also lack adequate access to the water supply system in the Town of Lancaster or alternative means of obtaining water, and

WHEREAS, 702 is desirous of connecting the 702 Property and facilities built thereon, as well as such other Additional Properties and the facilities built thereon, as determined by 702 in its sole discretion, to the City's water supply system through the water main located and currently ending at the intersection of Johnny Appleseed Lane and Baldwin Drive in the City; and

WHEREAS, such connection to said water main and the City's water supply system would require the extension of the existing water main to the Town of Lancaster Town Line; and

WHEREAS, the City is amenable to permitting 702 to connect to the City's water supply system dependent upon 702's payment of a one-time water connection fee and all costs associated with the extension of said water main to the Lancaster Town Line at the 702 Property as shown on the Water Main Extension Project Concept Plan attached hereto as Exhibit A and incorporated herein by reference.

NOW, THEREFORE, the City and 702 agree as follows:

1. Definitions. The following terms shall have the following meaning for the purposes of this Agreement:

   a. **702** - 702, LLC, and any of its Successors and Assigns.

   b. Additional Properties – those properties adjacent or proximate to the 702 Property which 702, in its sole discretion, determines to supply water to.

   c. **Effective Date** – the date first referenced above.

d. Successors and Assigns – Any person or entity to whom 702 or its successor or assigns or grants, conveys, or otherwise transfers title to, or any other interest in, the 702 Property or any portion thereof, and, in addition thereto, any condominium or other property owner entity, association or trust organized by 702 for the purpose of supplying water to the then owners or occupants of the 702 Property or any such Additional Property.

e. Water Connection Fee – a one-time fee paid to compensate the City by 702 for the costs and expenses, now and in the future, of connecting to the Water Supply System.

f. **Water Main** – the primary line or piping in the Water Supply System through which properties connect to the Water Supply System and that currently runs below Johnny Appleseed Lane in the City and ends at the intersection of Johnny Appleseed Lane and Baldwin Drive in the City.

g. Water Main Extension – the portion of the Water Main to be constructed and installed in the City of Leominster by 702 and ending with a *dedicated water meter* to be installed at the Lancaster Town Line so as to allow the 702 Property and Additional Properties to connect, to the Water Supply System as contemplated by this Agreement and as shown in Exhibit A attached hereto.

h. Project Water Main Extension – that portion of the Water Main to be constructed and installed by 702 in the Town of Lancaster commencing from the *dedicated water meter*, so as to service the 702 Property and Additional Properties.

i. **Water Rate** – the fees charged by the City to 702 and its Successors and Assigns, from time to time revised, as set forth in City Ordinance Chapter 21, §21-11.1.

j. **Water Supply System** – the complete network of pipes and appendages, equipment, machinery, buildings and facilities used to supply water to properties in and around the City generally, and the 702 Property and Additional Properties, specifically

k. **Work** – all work necessary and appropriate to accomplish the purposes of this Agreement and related to the Water Main Extension, but not including the Project Water Main, including but not limited to the procurement and installation of all pipes and appendages, equipment, fixtures, and all attachments and materials related thereto, as shown on the engineering plan to be agreed to by the City and 702 within Forty-five (45) days of the Effective Date; provided that "work" shall also include all incidental, unanticipated, or necessary work required for the successful completion of the Water Main Extension project not heretofore anticipated or expected that may arise during the course of the Water Main Extension project construction and/or that is deemed reasonably necessary to the safe and successful completion of the Water Main Extension project and preservation of and safe attachment to the Water Supply System as reasonably determined by the City's Department of Public Works (DPW). The "work" shall commence no later than two-years following the Effective Date, in 702's sole discretion (the "Construction Commencement Date").

2. Fee. In consideration hereof, 702 hereby agrees to pay the City a Water Connection Fee in the amount of Two Hundred and Fifty Thousand Dollars ($250,000.00), due on or before the that date which is sixty (60) days prior to the connection of any building or facility located on the 702 or any Additional Property

3. Water Main Extension Project. 702 hereby agrees to pay for and perform all Work, as defined herein, required under this Agreement and necessary and appropriate for the completion of the Water Main Extension project and the connection of the 702 Property to the Water Supply System, as more particularly described in Exhibits A attached hereto.

4. Sole Responsibility. 702 and its authorized agents shall be solely responsible for completion of the Work, as defined herein, related to the Water Main Extension project and called for under this Agreement, including the purchasing of all supplies, materials, and labor required hereunder and the obtaining of all permits, easements, and other approvals necessary for the completion of the Work, the Water Main Extension, and the Project Water Main Extension.

5. Dedication of Water Main Extension. In the event that any portion of the Water Main Extension is located anywhere except a public way within the City, or within property owned or controlled by the City, 702 or its Successors and Assigns, shall transfer all of its right, title, and ownership interests in, and the City shall accept, the Water Main Extension and its associated infrastructure located within the City, upon the satisfaction of the following conditions: (i) Within sixty (60) days of the Construction Commencement Date, 702 shall deliver to the City all of the required easements, if any, for the purposes of construction, installation, excavation, operation, maintenance, inspection, repair, replacement, alteration, relocation, extension or removal of the Water Main lines or pipes (or the appurtenances related thereto) and the Water Main Extension in a form mutually acceptable to the City and 702 and fully executed and acceptable for registration with the Worcester Registry of Deeds; and (ii) the City Council at a meeting duly held shall have voted to accept, with approval of the Mayor, the Water Main Extension and all necessary easements for the land in which the Water Main Extension will run . Should it be necessary for the DPW to inspect and/or repair the Water Main Extension prior to the recording of any necessary easements, 702 hereby grants the City a license to enter upon private lands held by 702 for such limited purpose and only for as long as is necessary for the DPW to perform such inspections or repairs.

6. Water Supply. The City hereby represents that its Water Supply System has sufficient capacity to provide an adequate water supply to the 702 and Additional Properties based on the estimates provided by 702 and as set forth herein. The Water Main Extension project shall provide for and deliver, and 702, (and its Successors and Assigns) shall be limited to, the taking of one hundred thousand (100,000) gallons per day of water from the Water Supply System to the 702 Property. In the future, should 702 or its Successors and Assigns, (individually or collectively) cause to be taken or seek to take from the Water Supply System more than one hundred thousand (100,000)

gallons per day, said increased taking of water per day shall only be permitted with the prior written approval of the City, by and through its DPW, to take such additional gallons of water per day from the Water Supply System, which approval shall be subject to available capacity within the system and the costs, upgrades, or repairs necessary to provide the 702 Property with such additional water supply.

7. Additional Connections. 702 and its Successors and Assigns may not allow, direct additional connections to the Water Main Extension located within the City. 702 and its Successors and Assigns may allow an unlimited number of connections to the Project Water Main to be installed by 702 within the 702 Property or Additional Properties, which will be connected to the dedicated water meter as provided herein. All such connections shall be at 702's sole cost and expense, and without any additional connection fee due or owing to the City, but always subject to the terms and conditions of this Agreement.

8. Maintenance. The City agrees to maintain the Water Main Extension following completion of the Water Main Extension project up to the City limit, at which point 702 and its Successors and Assigns will be responsible for all maintenance and repairs, including routine and emergency repairs, to the Project Water Main Extension in the Town of Lancaster.

9. Right to Repair. The City reserves the right, but not the obligation to perform any emergency repairs and ordinary maintenance or repairs of the Project Water Main should 702 or its Successors and Assigns fail or refuse to perform such maintenance or repairs deemed necessary by the City, by and through its DPW, but only following written notice to 702, which notice shall include a reasonable period to first perform any such necessary maintenance or repair. In the event of an emergency, as determined by the City DPW in its sole discretion, advanced notice is not required. 702 and its Successors and Assigns shall be responsible for the costs of all such maintenance and repairs conducted hereunder and shall thereafter remit to the City the cost of said maintenance and repairs. Within sixty (60) days of the Construction Commencement Date, 702 shall deliver to the City all of the required easements for the purposes of inspection, maintenance, repair, replacement, alteration, relocation, or removal of the Project Water Main Extension lines or pipes (or the appurtenances related thereto), as permitted under this section, in a form mutually acceptable to the City and 702 and fully executed and acceptable for registration with the Worcester Registry of Deeds; and (ii) the City Council at a meeting duly held shall have voted to accept, with approval of the Mayor, said easements for the land in which the Project Water Main Extension will run. Should it be necessary for the DPW to inspect and/or repair the Project Water Main Extension prior to the recording of any necessary easements, 702 hereby grants the City a license to enter upon private lands held by 702 for such limited purpose and only for as long as is necessary for the DPW to perform such inspections or repairs.

10. Water Rate Payment. All water supplied under this Agreement shall be through the dedicated water meter. All bills for water fees, assessments and water use charges incurred

in relation to the water supplied by the City pursuant to this Agreement shall be to a single entity which shall be responsible for payment of all water supplied through the dedicated water meter. 702 and its Successors and Assigns, as that single entity, shall promptly pay any and all fees, assessments and water use charges incurred in relation to the water supplied by the City in accordance with the City's water rates and billing procedures. Promptly shall mean within thirty (30) days of the billing date, or any other time period set forth in the City's Water and Sewer Ordinance and the rules and regulations promulgated thereunder and from time to time amended. Interest shall accrue at a rate of fourteen percent (14%) per annum for any bills unpaid thirty-one (31) days after the billing date.

The City reserves the right to turn off or disconnect the water supply provided to the 702 Property through the Water Main Extension should 702 or its Successors and Assigns fail to pay, any rate, charge, fee, or bill provided for in this Paragraph 10 with 3-days written notice and regardless of any otherwise applicable ordinance or regulation but consistent with the public health and safety..

11. Lien to Secure Payment. 702, and its Successors and Assigns, waive(s) any right under any applicable general or special law or City ordinance to apportion such fees or assessments over a term of years and agrees that the City shall have the same lien upon the 702 Property or Additional Properties to enforce the collection of such fees, assessments and charges as it has under general or special law to enforce the collection of such fees, assessments and charges against property located within the City. The City's right to impose a lien upon the Property shall extend to the collection of any rates, fees, or costs incurred by the City under Paragraphs 8 or 9 of this Agreement.

12. Term. This Agreement shall be effective and binding upon on the Effective date as defined above. The initial term of water supply by the City as required in this Agreement (the "Water Supply Commencement Date"), shall be for twenty-five (25) years from the date that 702 connects to the meter at the City/Town line or that date on which 702 receives it first permit for construction of a building or other use within Lancaster to which water will be supplied, whichever shall later occur. Thereafter there shall be three (3) automatic additional twenty-five-year periods of water supply unless written notice of termination is delivered to the other party no later than ninety (90) days prior to the expiration of the then current term. This Agreement shall remain in full force and effect until such time as the City, terminates same for cause, and only as provided for in this Agreement, or 702 or its Successors and Assigns voluntarily disconnect from and cease using the Water Main Extension and taking water from the Water Supply System; provided, however, that the City shall provide eighteen (18) months prior written notice of its intention to terminate this Agreement for cause, which Notice shall include the specific reason for termination and a reasonable cure period If 702 or its Successors and Assigns voluntarily disconnects from the Water Supply System, said party shall provide the City with twelve (12) months prior written notice of its intention to do so ("Property Owner Notice of Termination") and shall pay for any and all maintenance, repairs, or modifications to the Water Main Extension necessary to maintain and preserve the integrity and proper functioning of said Water Main Extension and Project Water Main.. For purposes of this Agreement "cause" shall mean that 702 or its Successors and Assigns are in default of

this Agreement, including but not limited to failing to pay a water bill as provided for in Paragraph 10 or repeatedly failed to maintain or repair the Project Water Main Extension, or have otherwise created, through their connection to the Water Supply System, a risk of substantial harm to the said System. In the event that 702 or its or its Successors and Assigns fails to cure such default as provided for herein they shall make alternative arrangements for its water supply for the 702 Property, which arrangements shall not result in a violation of any local, state or Federal law and which arrangements shall be complete within ninety (90) days of the expiration of the Cure Period..

13. Transfer of Title. This Agreement shall survive any and all subsequent transfers of title to the 702 Property or any portion thereof. 702 and its Successors and Assigns hereby covenant and warrant that all future deeds and/or conveyances of the 702 Property, or any portion thereof, shall include covenants transferring the rights and duties contained in this Agreement to any subsequent owners of the 702 Property or any portion thereof. The organizational documents of any condominium or other property owner entity, association or trust organized by 702 for the purpose of supplying water to the then owners or occupants of the 702 Property or any such Additional Property shall be duly recorded at the Worcester District Registry of Deeds and shall specifically provide that the supply of water to any such property from the Project Water Main is subject to the terms of this Agreement.

14. Indemnification

A. General Indemnification. 702 and its Successors and Assigns agree to indemnify, defend and hold harmless the City, and those acting by or through the City, from any and all liabilities, damages, loss, costs and expenses (including reasonable attorneys' fees), causes of action, suits, claims, demands or judgment, or claims of any kind or nature whatsoever which may at any time be imposed upon, incurred, asserted or awarded against the City or its employees and arising from in law or equity or any violation of Federal, state, or local law or regulation, with or without court order, including without limitation claims asserted by state and federal agencies, which arise out of or in any way relate to this Agreement, including the termination of this Agreement in accordance with Paragraph 12, and any and all claims arising out of the Work, the Water Main Extension, the Project Water Main Extension, or connection or disconnection from the Water Supply System.

B. Environmental Indemnification. 702, and its Successors and Assigns, shall indemnify, defend, and hold harmless the City, and those acting by or through the City, from any and all liabilities, damages, loss, costs and expenses (including reasonable attorneys' fees), causes of action, suits, claims, demands or judgments, clean-up costs, waste disposal costs and those costs and expenses, penalties and fines (within the meaning of any environmental law), and claims of any kind or nature whatsoever which may at any time be imposed upon, incurred, asserted or awarded against the City and arising from any violation or alleged violation of environmental laws, environmental problems, or other environmental matter described herein, relating to the 702 Property, or as a consequence of any of the Work, the Water Main Extension, the Project Water Main Extension, or connection or disconnection from the Water Supply System, or any other use or operation of the 702 Property in relation to this Agreement

and that may be asserted against the City, including, without limitation, matters arising out of any breach of 702, or its Successors' and Assigns', covenants, representations and warranties.

702 and its Successors and Assigns shall be solely responsible and shall assume full responsibility for paying any and all liabilities, damages, loss, costs, expenses, causes of action, suits, claims, demands or judgments (including, without limitation reasonable attorneys' fees, experts' fees, and expenses, clean-up costs, waste disposal costs, and other costs, expenses, penalties and fines within the meaning of any law, regulation, code or ordinance) that arise or are related to the use, contamination, or spillage of Hazardous Materials, as defined herein, in the course of the Work, or the use or operation of the 702 Property in relation to this Agreement and that may be successfully asserted against the City. Hazardous Material shall mean any chemical, waste or other substance (A) which now or hereafter becomes defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollution," "pollutants," "regulated substances," or words of similar import under any laws pertaining to the environment, health, safety or welfare, (B) which is declared to be hazardous, toxic, or polluting by any Governmental Authority, (C) exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority, (D) the storage, use, handling, disposal or release of which is restricted or regulated by any Governmental Authority, or (E) for which remediation or cleanup is required by any Governmental Authority.

The provisions of this Paragraphs 14.A and 14.B shall survive the expiration or earlier termination of this Agreement; and in addition to the covenants and indemnities of 702 and its Successors and Assigns contained herein shall survive any exercise of any remedy under this Agreement arising out of or related to this Agreement.

15. Liability Insurance. 702 and its Successors and Assigns shall, at its own expense, directly or through affiliates, secure and maintain in force, through and including the completion of the Work and the connection to the Water Main Extension, General Liability Insurance, with competent and qualified issuing insurance companies, including the following coverages: Professional Liability; Automobile Liability; Hazard of Premises/Operations (including explosion, collapse and underground coverages); Independent Contractors; Products and Completed Operations; Blanket Contractual Liability (covering the liability assumed in this Agreement); Personal Injury (including death); and Broad Form Property Damage in policy or policies of insurance such that the total available limits to all insured will not be less than Two Million Dollars ($2,000,000.00) Combined Single Limit for each occurrence and Two Million Dollars ($2,000,000.00) aggregated for each annual period with a deductible not exceeding Five Hundred Thousand Dollars ($500,000) per claim. 702 and its Successors and Assigns shall also carry such insurance as will protect it from all claims under any applicable Workers Compensation laws in effect.

Such insurance may be provided in policy or policies, primary and excess, including the so-called Umbrella or Catastrophe forms. 702 and its Successors and Assigns shall

notify the City not less than thirty (30) days in advance of the effective date of any policy cancellation, change, or modification. All policies required by this Paragraph 15, with the exception of Worker's Compensation Insurance, shall, to the extent possible, be endorsed to designate the City as an additional insured, as its interest may appear; require the insurance companies to notify the City at least thirty (30) days prior to the effective date of any cancellation or material modification of such policies; shall specify that the policy shall apply without consideration of other policies separately carried, and shall state that each insured is provided coverage as though a separate policy had been issued to each, except the insurer's liability shall not be increased beyond the amount for which the insurer would have been liable had only one insured been covered and only one deductible shall apply regardless of the number of insured covered.

16. Restriction on Use. Notwithstanding specific provisions contained within the Zoning Bylaw of the Town of Lancaster which may otherwise allow for such uses by right or by special permit, in additional consideration of the City's agreement to supply water as provided for herein, 702 for itself its Successors and Assigns covenants (1) that that it will neither construct or develop any building or facility on, and/or lease or sell any portion of the 702 Property to any person or entity for the retail purposes specifically set forth on **Exhibit B** attached hereto and by reference incorporated herein; 2) that it will not allow any Additional Property engaged in any such activity set forth on **Exhibit B** to connect to the Project Water Main or otherwise supply such Additional Property with water obtained from the City pursuant to this Agreement. This covenant shall be deemed to run with the land; is intended to be a restriction on the use of the 702 Property pursuant to G.L. c.184, s.26 and a limitation on the right to supply water to Additional Properties, is intended as a restriction to be held by a governmental body and intended to benefit the City, for the longest period permitted by law.

17. Assignment. This Agreement shall not be assigned by either party, including any Successors and Assigns, without the prior written consent of the other party, except that 702 or its Successors and Assigns may assign this Agreement to (i) any subsequent owners or occupants of the 702 Property or any portion thereof; (ii) any person or company with whom 702 or its Successors and Assigns merge or combine, or (iii) a successor which acquires substantially all of the assets 702 or its Successors and Assigns, without the consent of the City, provided the use remains consistent with the uses and activities approved by the City, and provided further that 702 or its Successors and Assigns is not in breach or default of this Agreement.

18. Compliance. All Work performed under this Agreement shall be conducted in compliance with all applicable Federal, state, or local law, including but not limited to the payment of minimum wages, posting of statutory bonds, and obtaining of worker's compensation insurance and any and all necessary permits and approvals.

19. Entire Agreement. This Agreement, executed in duplicate originals, including all documents attached hereto and incorporated by reference, constitutes the entire integrated agreement between the parties with respect to the matters described herein. This Agreement supersedes all prior agreements, negotiations, and representations, either written or oral, and shall not be modified or amended except by a written document executed by the parties hereto or any Successors and Assigns.

20. Severability. If any provision of this Agreement shall be unenforceable, the remaining provisions of this Agreement shall be unaffected thereby and shall continue in force and effect so that full effect is given to the intent of the parties.

21. Dispute Resolution. To the extent the parties cannot resolve any disputes that may arise hereunder, the parties agree to first submit such dispute to non-binding mediation and failing resolution, to a court of competent jurisdiction in Worcester County, Massachusetts.

22. Governing Law. The laws of the Commonwealth of Massachusetts shall govern this Agreement.

23. Recording. A copy of this Agreement shall be duly recorded by 702 at the Worcester District Registry of Deeds within sixty days of the Effective Date. Failure to timely record shall not affect the validity of the Agreement.

IN WITNESS WHEREOF, the parties to this Agreement have hereto set their hands and seals on the date and year first above written.

CITY OF LEOMINSTER,

Mayor, City of Leominster

702, LLC, LLC

Authorized Representative
Name: William A. Depietri
Title: Manager

CONSENTED TO:

The Town of Lancaster, by and through its Board of Selectmen hereby confirms that it has reviewed and approved the sale of water by the City of Leominster to 702, LLC as provided for in the within Agreement.

Town of Lancaster

By:

CERTIFICATE OF TAX COMPLIANCE

Pursuant to Chapter 62C of the Massachusetts General Laws, Section 49A(b), I, the undersigned, authorized signatory for the below named contractor/vendor, do hereby certify under the pains and penalties of perjury that said contractor has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Signature

Date: 12/2/20

Name: William A DePietri
(Print Name)

Title: MGr

Contractor/Vendor: 702 LLC

241360/99999/0003

Exhibit G

INTERMUNICIPAL AGREEMENT BETWEEN

CITY OF LEOMINSTER AND TOWN OF LANCASTER

FOR THE PROVISION OF WATER SERVICE

This agreement, made and entered into this 17th day of March, 2021, by and between the City of Leominster, a municipal corporation within the County of Worcester, Commonwealth of Massachusetts, acting through its Mayor, hereinafter referred to as "the City" or "Leominster," and the Town of Lancaster, a municipal corporation within the County of Worcester, Commonwealth of Massachusetts, acting through its Board of Selectmen, hereinafter referred to as "the Town" or "Lancaster" (hereinafter the "Agreement").

WITNESSETH

WHEREAS, the City owns and operates a water treatment and distribution system (the "water system"); and

WHEREAS, the City has received a third-party request to connect certain property located within the Town to the City's water system, such property being identified by the Lancaster Assessors' Maps as follows: Map 8, Parcel 45; and as described in a deed dated November 8, 2019 and recorded with the Worcester Registry of Deeds at Book 59673 Page 28 (the "Property"); and

WHEREAS, the City and the Town agree it is in the parties' mutual interests to connect said Property to the City's water system; and

WHEREAS, the City is willing to permit the connection of the Property to its water system under the terms and conditions set forth in this Agreement and the Development Agreement entered into between the City and the Property owner, 702, LLC (the "Owner"), which is attached hereto as Exhibit 1 and incorporated herein by reference (the "Development Agreement"); and

WHEREAS, the parties are authorized by General Laws Chapter 40, Sections 4 and 4A to enter into an Intermunicipal Agreement for the purpose of the City of Leominster supplying water service to the Town of Lancaster, subject to authorization by the Leominster City Council and the Lancaster Board of Selectmen;

NOW, THEREFORE, in consideration of the promises and mutual benefits to be derived by the parties hereto, the parties agree as follows:

General Terms

1. The City agrees to permit the water connection to serve the Property located in the Town of Lancaster. The Property currently consists of approximately 378.95 +/- acres of land identified on the Lancaster Assessor's Map 8, Parcel 45; and as described in a deed dated November 8, 2019 and recorded with the Worcester Registry of Deeds at Book 59673 Page 28. This Agreement does not apply to any other property, and no other Lancaster property shall be allowed to tie into the water system without a written agreement between the parties or a written amendment to this Agreement.

2. Lancaster shall bear no responsibility for the costs associated with the design and construction of the connection of the Property to the City's water system, or for any maintenance and repairs required for the upkeep of the Property, the Property's connection to the water system, or the water system. All costs associated with the water system connection contemplated by this Agreement, including but not limited to all construction and maintenance costs relating to the Property's connection to the water system, shall be allocated amongst the City and the Owner, or its successors and assigns, as set forth in the Development Agreement.

3. The connection to the Property shall consist of a water main extension, a dedicated water meter, and additional pumps, pipes, and conduits the City and the Owner deem reasonably necessary and appropriate, all of which shall comply fully with all applicable federal, state and local laws, rules and regulations applicable to such water services. Lancaster shall have the right to review and approve all specifications and plans prepared by the City and/or the Owner for said water system connection prior to the commencement of any construction, said approval not to be unreasonably withheld. Upon completion of construction, the City's Department of Public Works will provide the Town with an as-built plan of the Property's connection to the City's water supply as a condition precedent to the actual supply of service by the City.

4. The maximum flow transferred from Leominster to the Property pursuant to this Agreement shall be a total of 100,000 gallons per day, unless the Owner's water supply allocation is increased or otherwise altered pursuant to Section 6 of the Development Agreement, in which case the flow allowable into the Town under this provision shall automatically be increased or altered consistent with the terms agreed to between the City and the Owner. The City shall provide the Town with reasonably prompt notice in writing of any changes to the Owner's water supply allocation, which notice shall become an addendum to this Agreement. Pursuant to Section 1 of this Agreement, no increase in the Owner's water supply allocation may be used to serve any other property in the Town, including such other or neighboring properties the Owner, or its successors and assigns, may acquire in the future without approval of the Town and a written amendment to this Agreement.

5. The City shall ensure the Owner obtains all necessary permits, approvals and rights in real property required by federal, state and local law, rules and regulations for the excavation and construction associated with the Property's connection to the City's water system, and shall maintain same in full force and affect throughout the term of this Agreement.

6. Subject to the terms and limits of this Agreement and of applicable state and federal law, the City, acting through its Department of Public Works, will provide water service to the Property in the Town, in consideration for the Owner's payment of applicable water connection and user rates and fees. The City shall be responsible for maintenance of the portion of the water main extension, as defined in Exhibit 1, within its jurisdictional boundaries, and the Owner shall be responsible for the portion of the water main extension, as defined in Exhibit 1, within the Town. Lancaster shall not be responsible for the maintenance of the water main extension, or any other conduits or service lines within the Town's jurisdictional bounds, constructed and maintained for the purpose of providing water to the Property. The Town reserves the right to perform any maintenance or repairs if the City or the Owner, or its successors and assigns, fail to perform such maintenance or repairs in a timely manner, following notice to the City and the Owner and a reasonable time to cure, as well as the right to perform emergency repairs as necessary, without prior notice to the City and the Owner, with notice to be provided to the City and the Owner as soon as practicable. The costs of all such maintenance and emergency repairs shall be borne by the City and allocated in its discretion consistent with Section 9 of the Development Agreement. Leominster and Lancaster have the right to inspect facilities and equipment in Lancaster that may affect

the City's water system. These inspections and any inspections permitted under this Agreement may include any and all reasonable tests Leominster deems necessary. Lancaster hereby consents to Leominster's entry onto or into the Property for the purpose of any inspection or repair, installation or maintenance which Leominster deems necessary under this Agreement.

Insurance

7. The City shall obtain and maintain during the period of construction of the water maintain extension, as defined in Exhibit 1, the following insurance coverage in companies licensed to do business in the Commonwealth of Massachusetts, and acceptable to the Town.

The amounts of such insurance shall be for each policy, not less than:

a) Bodily injury liability, including death - $1,000,000.00 on account of any one person and $2,000,000.00 aggregate limit.

b) Property damage liability - $1,000,000.00 on account of any one accident, and $2,000,000.00 aggregate.

All policies shall identify the Town as an additional insured and shall provide that the City shall receive written notification at least 30 days prior to the effective date of any amendment or cancellation. The City shall provide the Town with appropriate certificate(s) of insurance evidencing compliance with this provision prior to the commencement of any construction.

Failure to provide or to continue in force such insurance shall be deemed a material breach of this Agreement and may result in termination of this Agreement.

User Fee and Billing

8. All connection and user fees, charges, water rates, costs, and expenses incurred in relation to the Property's connection to the City's water system shall be borne exclusively by the Owner or its successors and assigns. Lancaster will incur no debt or obligation, financial or otherwise, for payment of any connection fees, users fees, water rates, costs, expenses, or any other charges or assessments that may be incurred or imposed in relation to the Property's connection to the City's water system. The City shall bill or invoice the Owner, and its successors and assigns, for all water service contemplated under this Agreement and the Development Agreement and water system upgrades consistent with the terms and conditions of the Development Agreement. Lancaster acknowledges and consents to Leominster's right and ability to pursue all lawful means to collect any and all unpaid fees, charges, or rates issued in relation to the Property's connection to the City's water system. The Town shall not unreasonably interfere with the City's collection efforts or exercise of any and all rights and remedies contained in the Development Agreement, including but not limited to the City's ability to lien property within the Town.

9. Leominster shall furnish to Lancaster with the quarterly water meter readings for the Property by the subject connection.

Remedies

10. Either party may terminate the water service provided under this Agreement for any breach of the terms of this Agreement pursuant to the terms set forth herein, including but not limited to Section 13 of this Agreement.

11. Either party to this Agreement shall notify the other party in writing if it obtains actual notice of the Owner's failure to maintain and operate the water supply connection provided for in this Agreement and the Development Agreement in

compliance with all applicable rules and regulations of the City and the Town, and all federal and state laws, rules and regulations. Nothing herein shall be interpreted to impose an affirmative duty upon either party to monitor or inspect the Property, or to impose any responsibility or liability on either party for the Owner's, or its successors or assigns', failure to comply with any and all applicable laws, rules, or regulations.

12. In the case of an emergency creating a threat to the public health or safety as determined by the City, the City may suspend or terminate water service immediately and without prior written notice. Written notice shall be provided as soon as practicable thereafter.

13. In addition to the remedies, power and authority that the Department of Public Works has under the ordinances of the City of Leominster, the following remedies apply:

a) If either party fails to fulfill any obligation or condition of this Agreement, the other party has the right to terminate this Agreement by giving ninety (90) days notice, in writing, of its intent to do so. Upon receipt of such notice the party shall have the right to prevent termination by curing the default within sixty (60) days. Termination shall not release the Owner from its obligation to pay all bills or sums due in accordance with the Development Agreement.

b) Both parties reserve the right, either in law or equity, by suit, and complaint in the nature of mandamus; or other proceeding, to enforce or compel performance of any or all covenants herein.

c) This Agreement shall terminate automatically in the event the Development Agreement is terminated or expires without renewal.

d) If an administrative agency, board, commission or division of the

state or federal government or any court impairs, alters, restricts or limits, directly or indirectly, Leominster's rights, powers or authority to maintain, sell, contract for, or permit water supply services as described in this Agreement, Leominster in its sole discretion may terminate and void this Agreement by written notice to Lancaster. The notice of termination shall be given within five business days after Leominster receives written notice of the action or decision of such agency, board, commission, division or court. It is the intent of this notice provision to give Lancaster as much advance notice as possible consistent with Leominster's need to terminate. Leominster will notify Lancaster of the formal institution of any proceedings or the issuance of any formal order so that Lancaster may, if it chooses, participate in such proceedings or challenge any such order.

e) If either party fails to perform any obligation under this Agreement, the other party may perform on behalf of the defaulting party and charge the reasonable costs thereof, including administrative time and attorneys fees, to the defaulting party as a sum due under the Agreement provided written notice is given to the defaulting party allowing it a reasonable time to cure the default.

f) The remedies set forth in this Agreement are cumulative. The election of one does not preclude use of another, at any time or the same time.

Term of Agreement

14. The term of this Agreement shall be for a period of twenty-five (25) years from date that the Owner connects to the meter at the City and Town line or that date on which the Owner receives its first permit for construction of a building or other use within the Town to which water will be supplied, whichever occurs later, unless sooner

terminated as herein provided. Thereafter there shall be three (3) automatic, additional twenty-five-year periods of water supply under the terms contained herein, unless written notice of termination is delivered to the other party no later than ninety (90) days prior to the expiration of the then current term, or the Development Agreement is terminated as set forth therein. This Agreement shall terminate automatically upon the termination or expiration without renewal of the Development Agreement.

Liability and Indemnification

15. Employees, servants, or agents of either municipality shall not be deemed to be agents, servants or employees of the other municipality for any purpose, including but not limited to either Workers' Compensation or unemployment insurance purposes. The parties shall be liable for the acts and omissions of its own employees, servants, or agents and not for those of the other party in the performance of this Agreement to the extent provided by the Massachusetts Tort Claims Act, G.L. c. 258. Neither party to this Agreement has waived any governmental immunity or limitation of damages which may be extended to it by operation of law.

16. The City shall indemnify and hold the Town harmless from and against any and all claims, demands, liabilities, actions, costs and expenses, including reasonable attorney's fees, arising out of this Agreement and the City's supplying water to the Property, or the negligence or willful misconduct of the City, or its agents or employees.

Service of Notice

17. All notices or communications permitted or required by this Agreement must be in writing except in emergencies, and shall:

a) As to Leominster, be delivered or mailed by certified mail, return receipt requested, to the Mayor's Office:

25 West Street, Leominster, MA 01453,

and the office of the Department of Public Works:

109 Graham Street, Leominster, MA 01453.

b) As to Lancaster, be delivered or mailed by certified mail, return receipt requested, to the Board of Selectmen's Office:

701 Main Street, 2nd Floor, Lancaster, MA 01523.

Regulatory Authority

18. This Agreement is subject to the lawful rules, regulations, decisions, order or directives of any agency of the state and federal government with jurisdiction over the parties or subject matter of this Agreement. Any and all conditions, rules, regulations, orders or other requirements heretofore or hereafter placed upon Leominster or Lancaster by the EPA or by the Department of Environmental Protection or any other agency, division, office or department of the United States or the Commonwealth of Massachusetts or by any court of competent jurisdiction and by any other applicable Federal, state or county agency, shall be construed to become a part of this Agreement unless the Agreement is terminated hereunder.

Governing Law

19. This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, and Leominster and Lancaster

submit to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this Agreement.

Entire Agreement

20. This Agreement, including all documents incorporated herein by reference, constitutes the entire integrated agreement between the parties with respect to the matters described. This Agreement supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the parties hereto. To the extent this Agreement and the Development Agreement conflict, this Agreement shall control.

Severability

21. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby, and all other parts of this Agreement shall remain in force and affect.

IN WITNESS WHEREOF, the parties to this Agreement have hereunto set their hands and seals on the date and year first above written.

CITY OF LEOMINSTER

Mayor, City of Leominster

TOWN OF LANCASTER
Board of Selectmen

748975v2/LANC/0001

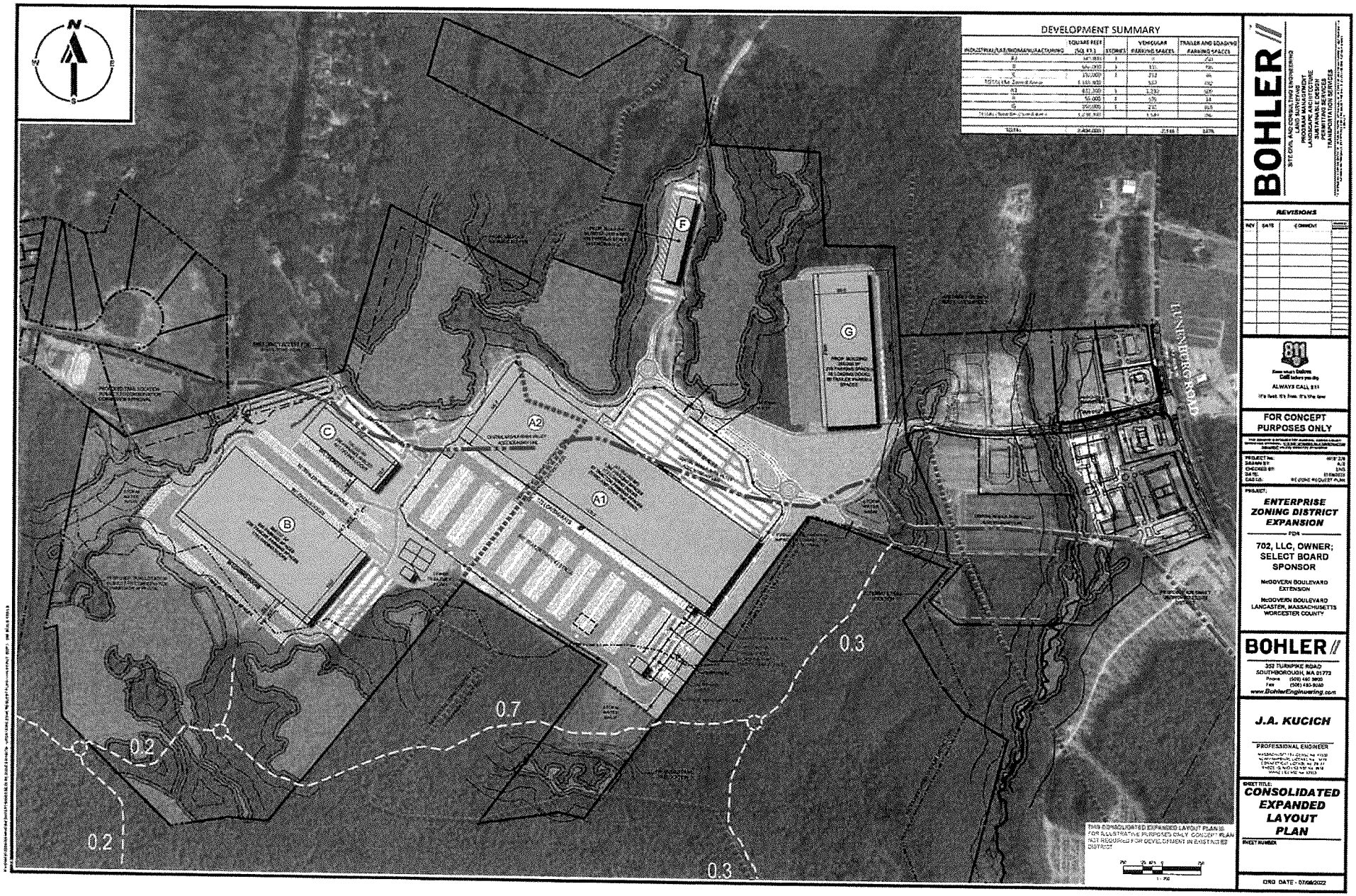
Exhibit H

Infrastructure Improvement Matrix

Project Segment	Functional Classification	NHS Roadway	Jurisdiction	Responsible Party for Construction	ROW Impacts	Grading Impacts	Environmental Impacts	Construction Timeline
Main Street [MassDOT Project No. 608779] – Route 70/117 Intersection Improvements	Urban Principal Arterial	Yes	Town of Lancaster	MassDOT	Minor ROW Acquisitions	Minor grading impacts	No Environmental Impacts	2022/2023
Main Street / Seven Bridge Road Intersection – Traffic Signal Optimization	**Urban Principal Arterial**	**Yes**	**Town of Lancaster**	**Capital Group Properties**	**N/A**	**N/A**	**N/A**	**Recurring for Project Milestones**
Main Street / Lunenburg Road Intersection – Traffic Signal Optimization	**Urban Principal Arterial**	**Yes**	**Town of Lancaster**	**Capital Group Properties**	**N/A**	**N/A**	**N/A**	**Recurring for Project Milestones**
Lunenburg Road / McGovern Boulevard Traffic Signal	**Urban Principal Arterial**	**No**	**Town of Lancaster**	**Capital Group Properties**	**Minor ROW Impacts**	**Minor grading impacts**	**N/A**	**2023 Prior to 1st Opening [a]**
McGovern Boulevard	**Local**	**No**	**Town of Lancaster**	**Capital Group Properties**	**N/A**	**Minor grading impacts**	**N/A**	**2023**
Lunenburg Road / Fort Pond Road – Temporary Traffic Signal	**Urban Principal Arterial**	**Yes**	**Town of Lancaster**	**Capital Group Properties**	**N/A**	**N/A**	**N/A**	**2023 [a]**
Route 2 Interchange 102 Improvements	Urban Minor Arterial / Freeway	Yes	MassDOT / Town of Lancaster	MassDOT	Significant ROW Impacts	Some grading Impacts	Some Environmental Impacts	2024/2025
Route 2 Interchange 103 Improvements	Urban Minor Arterial / Freeway	Yes	MassDOT / Town of Lancaster	MassDOT	Significant ROW Impacts	Significant grading Impacts	Significant Environmental Impacts	TBD
Route 2 WB Interchange 103 Deceleration Lane Improvements	**Freeway**	**Yes**	**MassDOT**	**Capital Group Properties**	**N/A**	**Minor grading impacts**	**N/A**	**2023**
Route 2 WB Interchange 103 Acceleration Lane Improvements	**Freeway**	**Yes**	**MassDOT**	**Capital Group Properties**	**N/A**	**Minor grading impacts**	**N/A**	**2023**

[a] Subsurface infrastructure for traffic signal installed in 2023 prior to 1st site building opening. Above-ground infrastructure purchased in 2023 and installed upon meeting MUTCD traffic signal warrants.
[b] Full build out of McGovern Boulevard cross-section to be completed from Lunenburg Road to western limit of site plan where building occupancy is occurring.

Exhibit I



BOHLER

3RD CIVIL AND PERMITTING ENGINEERING
PROGRAM MANAGEMENT
LANDSCAPE ARCHITECTURE
LAND SURVEYING
PERMITTING SERVICES
TRANSPORTATION SERVICES

REVISIONS

REV	DATE	COMMENT

811 Know what's below. Call before you dig. ALWAYS CALL 811. It's fast. It's free. It's the law.

FOR CONCEPT PURPOSES ONLY

PROJECT No.: W19 328
DRAWN BY: AJS
CHECKED BY: SMS
DATE: 07/08/2022
CASE ID: RE-ZONE REQUEST PLAN

PROJECT:

ENTERPRISE ZONING DISTRICT EXPANSION

FOR

702, LLC, OWNER; SELECT BOARD SPONSOR

McGOVERN BOULEVARD EXTENSION

McGOVERN BOULEVARD
LANCASTER, MASSACHUSETTS
WORCESTER COUNTY

BOHLER

352 TURNPIKE ROAD
SOUTHBOROUGH, MA 01772
Phone (508) 480-9900
Fax (508) 480-9080
www.BohlerEngineering.com

J.A. KUCICH
PROFESSIONAL ENGINEER

SHEET TITLE:

CONSOLIDATED EXPANDED LAYOUT PLAN

SHEET NUMBER

DRD DATE - 07/08/2022