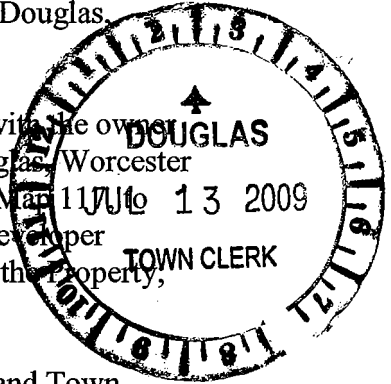


**AMENDED
MEMORANDUM OF
UNDERSTANDING**

This Amended Memorandum of Understanding, dated this 16 day of JUNE, 2009, by and between the Town of Douglas (hereinafter "Town"), acting by and through its Board of Selectmen, and NorthBrown, LLC, a Massachusetts limited liability company with a usual place of business at 28 Main Street, Douglas, Massachusetts 01516 (hereinafter "Developer")

WHEREAS the Developer has entered into an agreement with the owner of a certain parcel of land on North Street and Brown Road in Douglas, Worcester County, Massachusetts, shown as Parcel 61 on Douglas Assessors Map 11/10/09, to purchase the property (hereinafter the "Property"), subject to the Developer obtaining permits and approvals for the residential development of the Property, and



WHEREAS, on or about January 24, 2008, the Developer and Town entered into the original MOU (a copy of which is attached hereto as Exhibit A) for the development of a certain project pursuant to G.L. c 40B, §§20-23, under the so-called Local Initiative Program (LIP) administered by the Department of Housing and Community Development (DHCD); and

WHEREAS, on or about January 4, 2008, DHCD issued a so-called Project Eligibility letter endorsing the proposed project; and

WHEREAS, on or about April 15, 2008, pursuant to the original MOU, DHCD's endorsement and the provisions of c. 40B, §§20-23, the Developer filed a Comprehensive Permit Application with the Douglas Zoning Board of Appeals (ZBA); and

WHEREAS, due to certain constraints and limitations, the Developer has entered into discussions with the Town for a revision to the comprehensive permit application and the proposed development plans; and

WHEREAS, pursuant to the original MOU, a revised MOU is required to present the proposed revised plans for approval by the ZBA; and

WHEREAS, the Town and the Developer wish to ratify the binding terms of the original MOU and set forth additional terms to facilitate the proceedings on the application for the revised development plans; and

WHEREAS, the Town and Developer desire that the terms and conditions imposed in this agreement shall be set forth as conditions in any subsequent Amended LIP approval issued by DHCD.

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree that:

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1. The revised development proposal (the "Project") approved hereunder is shown on the "Project Parcel" on the plan prepared by Heritage Design Group, LLC, One Main Street, Whitinsville, Massachusetts, 01588, entitled "Concept Plan, 2 Unit Building Layout, "North Village", dated March 11, 2009, Revised: May 28, 2009 (the "Plan"). Any substantial deviation from or amendment to the Plan shall require prior approval from the Board of Selectmen prior to further proceedings before the ZBA. The determination of whether a deviation from or amendment to the Plan is "substantial" shall be made by the Douglas Town Engineer.
2. The Project shall consist of no more than the units at the ratios indicated in Table 1.

Table 1 – Proposed number of units and corresponding ratios.						
Type of Housing	Affordable		Market Rate		Total # of Units	
Townhouse:	31	25%	93	75%	124*	100%

* The 124 Duplex Townhouse units shall be Three bedroom units..

3. The Project, if approved by the ZBA and all other applicable permit granting authorities, shall connect to the municipal water system under conditions of approval administered by the Douglas Water & Sewer Superintendent and the Douglas Fire Chief, which conditions are attached hereto as Exhibit A.

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4. Upon approval of the connection to the municipal water system and upon acquisition of the land comprising the Project Parcel the Developer shall cause to be conveyed to the Town of Douglas, for consideration of One Dollar, the parcel shown as "Water Tower Parcel" on the "Remaining Land" all as shown on the Plan, together with an easement to use the "ROW Easement" shown on the Plan for all purposes for which streets and ways are used in the Town of Douglas. The parties agree that the cash purchase price for the "Water Tower Parcel" is less than the fair market value, and the difference between the fair market value less the cash purchase price is intended to be a "Noncash Charitable Contribution" from the grantor to the Town of Douglas. The Town of Douglas shall cooperate with the grantor in executing such documentation as may be reasonably required to document said charitable contribution. The Developer shall bear all costs associated with such documentation. The construction of said "ROW Easement" and all site work associated with the "Water Tower Parcel" shall be at the sole cost and expense of the Town of Douglas. In the event that the owner of the "Remaining Land" shall, at any time, desire to relocate said "ROW Easement", any such relocation shall be at the sole cost and expense of the owner of the "Remaining Land", shall conform to all required standards and regulations for construction of such a right of way, and shall not, in any way, interfere with or impede access to the "Water Tower Parcel." Building and occupancy permits for the Project's first six dwelling units may be obtained prior to the construction of a booster pump to serve the project, as described in Exhibit A or the Water Tower, provided however that in the event that the Town commences construction of the Water Tower prior to the issuance of the first building permit for the Project, the Developer shall pay to the Town, the sum of \$82,000.00 toward the cost of constructing the Water Tower. "Commencement of construction" in this regard shall be defined as construction of the foundation and/or footings for the Water Tower. The payment of said \$82,000.00, if due, shall be made in installments of \$2,000.00 per unit for the Project's first 41 units, said installments to be paid at or prior to the issuance of the occupancy permit for each of said 41 units. If construction of the Water Tower has commenced but is delayed, additional building permits, beyond the initial six, may be issued without the requirement for construction of a booster pump, subject to the approval of the Building Inspector and Douglas Fire Chief.

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5. The Project shall connect to the municipal sewer system under conditions of approval as administered by the Douglas Water & Sewer Commissioners and the Douglas Water & Sewer Superintendent, which conditions are attached hereto as Exhibit B :

6. Prior to the commencement of construction or major site work, the Project shall be submitted to and receive any required approvals under the Massachusetts Endangered Species Act (MESA) required by the state Natural Heritage and Endangered Species Program (NHESP) or, if no such approval is required shall submit evidence that is satisfactory to the ZBA regarding the lack of required approvals. Nothing herein shall constitute a waiver of any local jurisdiction over wildlife issues.

7. A list of requests for waivers from applicable local by-laws, regulations and requirements is attached hereto as Exhibit C. The Board of Selectmen supports waiver requests that will allow construction of the number of units on the locations and lots depicted on the Plans. As to all other waiver requests, including with particularity waivers on strictly technical requirements, the Board of Selectmen shall defer to the Town Engineer on the degree to which any such waiver may be warranted. Any additional waiver requests must be approved by the Board of Selectmen prior to being presented to the ZBA, provided that additional insubstantial or purely technical waiver requests may be endorsed by the Town Engineer, without Board of Selectmen approval.

8. During the hearing before the ZBA, the Applicant shall be required to demonstrate that the Project's stormwater management system complies with all Department of Environmental Protection (DEP) Guidelines and Best Management Practices (BMPs). The Applicant shall provide the Town's Engineer and/or any ZBA peer reviewer with sufficient information to determine whether the system is compliant with DEP Guidelines and BMPs.

9. The Developer shall assist the Town Housing Partnership or other designated municipal entity with the Development and Implementation of an Affordable Housing Plan that meets the requirements of the Massachusetts Department of Housing and Community Development in an effort to obtain a two-year grace period from Comprehensive permit development projects. To assist the Town in this endeavor, the Developer has provided the sum of \$4,000.00 to the Town. Such consultant shall be selected and such funds shall be deposited in accordance with G.L. c. 44, §53G.

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10. The Applicant shall be responsible for payment of the Town's outside consultant peer reviewer(s) in accordance with the Comprehensive Permit Rules adopted by the Douglas Zoning Board of Appeals (ZBA) on July 12, 2001, as may be amended, which reviewers may include, but not necessarily be limited to: legal (Town or Special Counsel) and engineering (water, environmental, sewer, traffic, civil, stormwater). The Town, with the assistance of the Applicant, may seek and apply for such grants and technical assistance as may be available from DHCD or other sources for review of the project, and the development of the Affordable Housing Plan. As evidence of Community Support of the project, as contained in the LIP Application, the Town shall support the Applicant in seeking waivers of the ZBA Comprehensive Permit Application fee for the project, and all building permit and all municipal connection fees for the affordable units within the project.
11. The Project shall include a playground or park along North Street on the land shown as "Playground" on the plan entitled "Concept Plan, 2 Building Layout, "North Village" Douglas, Massachusetts, March 9, 2009, Revised: May 18, 2009, 1"=100'", for use by residents of the Town of Douglas, which land, upon completion of the improvements, shall be deeded to the Town of Douglas. The design and construction standards of said park shall be approved by the ZBA with input from the Board of Selectmen and the Recreation Committee. The Playground shall be constructed on a separate parcel, shown on the Plan as "Playground", which shall be donated to the Town.
12. Except as may be contemplated hereunder, there shall be no further residential unit development on the portion of the Property that is the location of the proposed duplex condominiums, shown as the "Project Parcel" on the Plan. This restriction shall apply only to the "Project Parcel" as shown on the Plan, and shall be expressly included as a condition in any Comprehensive Permit issued by the ZBA.
13. The submittal shall conform to the requirements contained in the Comprehensive Permit Rules adopted by the Douglas Zoning Board of Appeals (ZBA) on July 12, 2001, as may be amended.

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14. The Developer shall, where permitted, construct bituminous concrete sidewalks with bituminous concrete vertical curbs along any portion of North Street that is being dug up or otherwise disturbed to install, sewer/water lines or other project infrastructure. Such sidewalks shall be constructed in accordance with any requirements imposed by the Town and shall be constructed prior to the receipt of any occupancy permits for the second phase of the Project, as defined in the phasing scheme shown on the Developer's Plans. Additionally, the Developer shall continue dialog with the Board of Selectmen regarding the construction of sidewalks along the remaining portions of North Street between Colonial Road and the North Street – Gilboa Street intersection, it being expressly understood that such dialog shall not bind the Developer or the Town to undertaking any particular additional action. To that end, the Developer shall, at its sole expense provide to the Town Community Development Department, surveyed and engineered plans showing the design of the sidewalks, along with a report on associated construction cost estimates. Engineering design drawings of these sidewalks shall be provided to the Town Engineer in AutoCAD R14 format, and thereafter. The Developer shall have no additional obligations with respect to sidewalk construction North Street between Colonial Road and the North Street – Gilboa Street intersection.
15. After installation of utilities in North Street, the Developer shall, at its sole expense, provide a full width paved overlay of all portions of North Street that are dug up or otherwise disturbed in order to install project utilities or infrastructure. Such repaving, which shall be completed in accordance with requirements imposed by the Douglas Highway Department, must be completed within two (2) years from the completion of work and the placement of a temporary patch in North Street. Additionally, such work shall be secured by a covenant, pass-book agreement, cash deposit agreement or tri-party agreement in a form approved by the Town.
16. During the Comprehensive Permit application process, consideration may be given for other off-site improvements that may be borne out of the ZBA's peer review consultant(s), provided such off-site improvements would not make the project uneconomic, in accordance with G.L. c. 40B.
17. The Town agrees that the Developer shall be given at least 48 hours advance notice of any meeting of the Board of Selectmen at which the project is scheduled to be discussed or where any vote is to be taken regarding any aspect of the project.

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18. The Town shall file this Amended MOU with the Town Clerk within seven days of full execution by the parties, and thereafter the Developer shall notify DHCD of the changes to the Project in accordance with 760 CMR 56.04 (5). The Town shall otherwise cooperate with the Applicant in obtaining any required DHCD approval of the Project. This Amended MOU shall expire exactly two years from the date of filing with the Town Clerk if a Comprehensive Permit from the ZBA is not issued prior to that date. Extensions may be granted for periods of no longer than one (1) year each and only if both parties agree in writing to said extension. Extensions must be requested prior to the expiration of this document or an agreed upon extension. However, if there is a third party appeal of any ZBA approval or any other permit or approval necessary for the construction of the project and the Developer is actively defending such appeal or review then this MOU shall be automatically extended for such period of time as is necessary to fully and completely determine such appeal(s) or review(s).
19. This Amended MOU is intended to modify, rather than replace the terms of the original MOU. All terms of the original MOU that are not modified or deleted by this Amended MOU are hereby ratified and incorporated herein.
20. This Amended MOU constitutes a binding Massachusetts contract between the parties and may be enforced, in equity, by a court of competent jurisdiction. The Developer may not seek relief from the Massachusetts Housing Appeals Committee for any alleged breach of this MOU, but the Developer otherwise retains and reserves the right to seek relief from the Massachusetts Housing Appeals Committee from any decision of the ZBA, as may be allowed by G.L. c. 40B, including, but not limited to, the review of any denial or conditional grant of a Comprehensive Permit by the ZBA. In the event that the Board of Selectmen is in support of any such decision by the ZBA, the Board may withdraw from its obligations hereunder, in which event, the LIP endorsement shall become null and void. In the event that the Developer breaches this Amended MOU, as determined by a court of competent jurisdiction, or this Amended MOU expires before a Comprehensive Permit is issued by the ZBA, any LIP endorsement by DHCD shall be considered null and void and, as a consequence, the requirements of 760 CMR 56.04(1)(b) shall be deemed NOT to be satisfied.

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- 21. Notwithstanding the binding effect of this Amended MOU, the Town may terminate the same if unforeseen environmental factors are discovered that will adversely impact the public health, safety, or welfare.
- 22. Any further amendments to this MOU shall be in writing, signed by all parties.
- 23. This MOU may not be assigned without the express written authorization of the Town.

Executed as a sealed instrument this 13 day of July, 2009.

NorthBrown, LLC

By: Edwin [Signature]
Its Manager, duly authorized

Town of Douglas, by its duly elected Board of Selectmen

[Signature]
Robert Bouchard
Paula Brouillette
[Signature]
[Signature]

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UNDERSTANDING

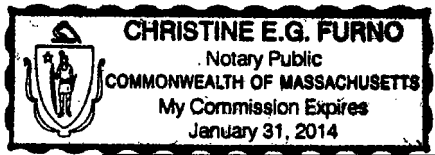
COMMONWEALTH OF MASSACHUSETTS

Worcester, ss

July 13, 2009.

On this day before me the undersigned notary public, personally appeared *Edwin E. Taipale*, who proved to me through satisfactory evidence of identification,

which was *personally known*, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily in his capacity for its stated purpose.



Christine E.G. Furno
Notary Public
My commission expires: Jan. 31, 2014

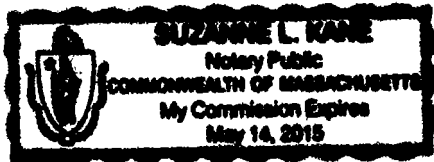
COMMONWEALTH OF MASSACHUSETTS

Worcester, ss

16 June, 2009.

On this day before me the undersigned notary public, personally appeared *Michael Hughes, John Bombala, Paula Beauvilette, Mitch Cohen & Scott Medeiros*

Board of Selectmen members, who proved to me through satisfactory evidence of identification, which was attached document, and acknowledged to me that they signed it voluntarily in their capacity for its stated purpose.



Suzanne L. Kane
Notary Public
My commission expires: 14 May 15

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UNDERSTANDING**

EXHIBIT A

- a. In the event that the Developer commences construction of the project prior to the Town of Douglas constructing a municipal water tower on the "Water Tower Parcel" the Developer shall install, at its own cost and expense, a in line booster water/fire pump capable of achieving a fire flow of 750 GPM at 20 PSI to serve the project. Final approval of the pump and its location will come from the Douglas Fire Chief, the Douglas Water Commissioners and their Engineers.
- b. The pump and water system within the Project is a private Fire Protection System to be owned by the Developer and/or the Condominium Association and shall conform to all standards set by the NFPA as well as state and local laws, bylaws, regulations and rules. The care and upkeep of the pump shall be the responsibility of the developer and/or the Condominium Association. Any violation of the fire protection rules and regulations shall be dealt with by legal action.
- c. Operation and maintenance manuals for the pump shall be furnished to the Douglas Fire Chief and the Douglas Water Commissioners. Weekly testing as well as maintenance shall be done on this unit and all records of this work shall be available for inspection by the Douglas Fire Department.
- d. A fire hydrant shall be located at the entrance to the project at or near the fire/water pump. Hydrants shall be installed at a minimum interval of 500 feet.
- e. All waterworks construction shall have a resident inspector to monitor construction, at the expense of the developer. The resident inspector shall also witness all testing and disinfection of new water facilities.
- f. Developer shall maintain minimum 5'-0" of cover on water main; observe DEP guidelines regarding sewer separation; maintain minimum 1'-0" clearance below drain crossings.
- g. All intersections shall have a three-way gate valve setup.
- h. Developer shall minimize use of bends. Use pipe deflection wherever possible.
- i. All mechanical joints shall be restrained using "Mega lugs."
- j. Water meters will be furnished and installed by the Town, at the expense of the Developer. Each condominium unit shall be supplied with its own 1 inch water service and meter.
- k. All materials specified shall be in accordance with Town of Douglas Water Department Policies and Specifications.
- l. Where cover is less than 5 feet water main shall be wrapped in polyethylene and encased in concrete. Water main installation in locations less than 50 feet from wetlands shall also be wrapped in polyethylene.
- m. An air release valve shall be included at the culvert crossings.

- n. **As-Built plans of all water system appurtenances, including but not limited to the water main, fire hydrants, gate valves and services, shall be submitted to the Douglas Water Department upon successful completion of the project.**

EXHIBIT B

- a. Air release valves shall be installed as necessary
- b. The sewer force main shall be 4" AWWA C-900
- c. The pump station final operating points shall be adjusted to provide the manufacturer's recommended number of start/stops per hour
- d. A telemetry system for alarms shall be installed and coordinated with the Town of Douglas, if required by the Douglas Water & Sewer Commissioners, and the Douglas Water & Sewer Superintendent..
- e. A biannual report shall be submitted to the Douglas Sewer Department detailing inspection and maintenance of the pump station.
- f. The sewer system within the Project is a private sewer system to be owned by the Developer and/or the Condominium Association and shall conform to all state and local laws, bylaws, regulations and rules. The care and upkeep of the system shall be the responsibility of the developer and/or the Condominium Association. Any violation of the applicable rules and regulations shall be dealt with by legal action.

Exhibit C

**WAIVER LIST
NORTH VILLAGE
NORTH STREET**

TOWN OF DOUGLAS, ZONING BY-LAW

Section 3.1.3 Waive the Table of Use Regulations

Section 4.1.3 Waive the Table of Dimensional Requirements

Section 4.2 Waive the Phased Development By-law

Section 7.2.4 Waive the requirement of the issuance of a special permit issued by the Planning Board.

Section 7.2.7 Waive the Basic Maximum Number of Dwelling Units.

Section 7.2.11 Waive the requirement to build the roadway serving the site to conform with the standards of the Town.

Section 7.2.16 Waive the requirement that stormwater management shall be consistent with the requirements for subdivisions.

Section 7.2.17 Waive the requirement for the Planning Board to approve or deny an application for a Flexible Development.

**WAIVER LIST
NORTH VILLAGE
NORTH STREET**

**TOWN OF DOUGLAS, RULES AND REGULATIONS GOVERNING THE
SUBDIVISION OF LAND**

Section II.A Waive the requirement that subdivision shall be created without first submitting to the Planning Board with a Definitive Plan.

Section III.A Waive the requirement to submit a Preliminary Plan to the Planning Board.

Section III.B Waive the requirement to submit a Definitive Plan to the Planning Board.

Section III.B.3.m Waive the requirement to perform test pits at 100 foot intervals along the centerline of the proposed roadways to determine the foundation material.

Section III.B.5 Waive the requirement that a performance bond is secured prior to the approval of the Definitive Plan.

Section IV.A.b Waive the requirement that proposed streets shall conform to the Master or Study Plan as adopted by the Board.

Section IV.A.c Waive the requirement for providing the proper projection of streets to adjoining property.

Section IV.A.2 Waive the requirement for the minimum right of way width to be fifty (50) feet.

Section IV.A.3.e Waive the requirement that the grades at all intersections shall not exceed 2% for a distance of one hundred fifty feet (150').

Section IV.A.4.a Waive the requirement that dead end street shall not be longer than five hundred (500) feet.

Section V.B Waive the requirement to use granite curbing in all locations.

Section V.D Waive the requirement for cement concrete sidewalks.

Exhibit C

**WAIVER LIST
NORTH VILLAGE
NORTH STREET**

TOWN OF DOUGLAS, WETLANDS PROTECTION REGULATIONS

Waive the entirety of the regulations.