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BY:

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December 7, 2015

Chris Claussen, Manager
Sudbury Station LLC
2134 Sevilla Way
Naples, FL 34109

Re: The Village at Sudbury Station
Project Eligibility/Site Approval
MassHousing ID # 790

Dear Mr. Claussen:

This letter is in response to your application as “Applicant” for a determination of Project Eligibility (Site Approval) pursuant to Massachusetts General Laws Chapter 40B (“Chapter 40B”), 760 CMR 56.00 (the “Regulations”) and the Comprehensive Permit Guidelines issued by the Department of Housing and Community Development (“DHCD”) (the “Guidelines” and, collectively with Chapter 40B and the Regulations, the “Comprehensive Permit Rules”), under the New England Fund (“NEF”) Program (“the Program”) of the Federal Home Loan Bank of Boston (“FHLBB”).

Sudbury Station LLC has submitted an application to MassHousing pursuant to Chapter 40B. The Project will include 250 units of rental housing in 12 multifamily buildings and a clubhouse on 26.42 acres (13.45 buildable acres) located on Peters Way in Sudbury (“the Municipality”).

In accordance with the Comprehensive Permit Rules, this letter is intended to be a written determination of Project Eligibility (“Site Approval”) by MassHousing acting as Subsidizing Agency under the Guidelines, including Part V thereof, “Housing Programs In Which Funding Is Provided By Other Than A State Agency.”

MassHousing performed an on-site inspection of the Site, which local boards and officials attended, and has reviewed the pertinent information for the Project submitted by the Applicant, the Municipality and others in accordance with the Comprehensive Permit Rules.

Municipal Review and Comments

Pursuant to the Regulations, the Municipality was given a thirty (30) day period in which to review the Site Approval application and submit comments to MassHousing. In response to a

*Sudbury Village, Sudbury
MassHousing # 790
Project Eligibility Letter*

request from the Director of Planning and Community Development this was extended to 45 days. The Chairman of the Sudbury Board of Selectmen, Patricia Brown, submitted a letter (received by MassHousing November 5, 2015) summarizing comments from municipal officials, staff and members of the public. The Selectmen's letter included several attachments including letters from the Conservation Commission, the Chief of Police, Director of Planning and Community Development, and the Sudbury Housing Trust.

In summary, with the exception of the letter from the Sudbury Housing Trust, the Municipal comments expressed opposition to the project, and urged MassHousing to deny the application. Municipal concerns focused on the size and scale of the Project, and its potentially negative traffic, environmental, and visual impacts on the surrounding area. They also questioned the completion and accuracy of the application and feasibility of the Project, noting that the Site's steep slopes and lack of existing utility connections posed significant challenges.

The Selectmen's letter asserted that the Municipality had made steady progress towards increasing its inventory of affordable housing including the issuance of Comprehensive Permits for "nine 40B developments with over 200 units of housing over the past 15 years." The Selectmen's letter explained further that they were currently actively working with another developer on a similarly-sized rental 40B Project proposed for the former Raytheon site. They noted that either one of the two 40B Projects being proposed would individually fulfill the Town's obligation under Chapter 40B to provide 10% affordable housing, and concluded that after careful consideration the Board of Selectmen "had determined that it would welcome the Raytheon project and oppose the Sudbury Station Project."

The following additional concerns were identified:

- That the Site was not appropriate for a large multi-family development due to its many physical constraints including steep and varying topography, lack of utilities, limited vehicular access, and potentially negative impacts on natural, historic and cultural resources.
- That the plans were too schematic, and did not include sufficient information about proposed grading, utilities, stormwater management and wastewater treatment to allow for an adequate review of the Project's environmental impacts and general feasibility.
- The Municipality identified numerous traffic and safety concerns relative to the proposed access in and out of the Site at both Hudson Road and Concord Roads, and speculated that that it would be difficult to mitigate these concerns. They noted that the Hudson Road access would present multiple conflicts with existing driveways and traffic flow on Hudson Road, and expressed concern about limited sight distance from the proposed Project access/egress on Concord Road.
- That the height of the proposed multi-family buildings exceeded height limits established by local zoning. Public safety officials noted that no elevators were proposed for the three and four story buildings, which would make emergency access difficult.

*Sudbury Village, Sudbury
MassHousing # 790
Project Eligibility Letter*

- That should both this Project and this 40B project proposed for the Raytheon property gain approval it “may create an excessive supply of similar housing type.” (Market demand and Project feasibility at the Site Approval phase is addressed in the findings outlined in Attachment 1.)

- That the Project would have negative impacts on significant natural, historic and cultural resources:
 - The Town noted that approximately half of the development site is within a priority area under the Natural Heritage Endangered Species Program (NHESP), and may not be developed. They expressed concern that the implications of the NHESP designation and the bounds of the jurisdictional area had not been determined.

 - The Sudbury Conservation Commission noted that the Site is included in Sudbury’s Open Space and Recreation Plan (OSRP), and asked that the Developer provide evidence justifying the use of the land for development instead of open space preservation as designated in the OSRP.

 - The Town noted that, if built, the Project would be visible from the abutting National Register District, which could potentially compromise its historical integrity. They speculated, further, that the Site may contain potentially significant archeological resources, and recommended that a comprehensive archeological study be performed to ensure a finding of “no impact” before development plans could proceed.

- The Town identified several perceived inconsistencies, omissions and errors in the Application, including the Applicant’s responses to the Sustainable Development Scorecard. The Conservation Commission expressed particular concern that the application did not identify requests from the local wetland bylaw, did not specify proposed provisions to address stormwater run-off into nearby wetlands, and did not discuss the use of Low impact Development (LID techniques) in the site plan.

Community Comments

In addition to the official Town Comments, MassHousing received two letters from individual residents, and a Petition signed by eighty (86) residents, all echoing the concerns identified by the Selectmen, and expressing opposition to the project.

MassHousing also received a letter from the Sudbury Housing Trust dated October 16, 2015, expressing conditional support for the Project, and offering the following suggestions to the Town and the developer:

- Expand the local preference definition to include employees of local businesses;
- Add to the number of three-bedroom affordable units;
- Reserve affordable units for disabled individuals;
- Use renewable energy sources;
- Use Town CPA funds to provide financial assistance for buyers of the affordable units.

Finally, the Trust pointed out that while proposed rents are affordable under the NEF Program, which follows HUD Guidelines, for the one and two-bedroom units they are higher than current Section 8 voucher amounts. They expressed concern that this project would not address the existing scarcity of units available to Section 8 voucher holders in Sudbury and throughout Metrowest area.

Comments Outside of the Findings

While Comprehensive Permit Rules require MassHousing, acting as Subsidizing Agency under the Guidelines, to “accept written comments from Local Boards and other interested parties” and to “consider any such comments prior to issuing a determination of Project Eligibility, “ they also limit MassHousing to specific findings outlined in 760 CMR 56.04(1) and (4). The following comments submitted to MassHousing identified issues that are not within the scope of our review:

- The Town explained that the current access to the property from Peters Way (off Concord Road) was created through a land swap between the Town and current property owner approved by the Sudbury Town Meeting in 2011. The Municipality charged that the property owner misled Town Meeting through representations that they only intended the Site to be developed for one, single-family lot.
- The Director of Planning and Community Development noted that should both this Project and the development proposed for the Raytheon site be built, that it would place undue strain on municipal services.

MassHousing Determination

MassHousing staff has determined that the Project appears generally eligible under the requirements of the Program, subject to final review of eligibility and to Final Approval. As a result of our review, we have made the findings as required pursuant to 760 CMR 56.04(1) and (4). Each such finding, with supporting reasoning, is set forth in further detail on Attachment 1 hereto. It is important to note that Comprehensive Permit Rules limit MassHousing to these specific findings in order to determine Project Eligibility. If, as here, MassHousing issues a determination of Project Eligibility, the Developer may apply to the Zoning Board of Appeals of the Municipality for a comprehensive permit. At that time local boards, officials and members of the public are provided the opportunity to further review the Project to ensure compliance with

applicable state and local standards and regulations.

Based on MassHousing's site and design review, and in light of feedback received from the Municipality and members of the community, the following issues should be addressed in your application to the Sudbury Zoning Board of Appeals, and you should be prepared to explore them more fully in the public hearing process:

1. Development of this Site will require compliance with all state and federal environmental laws, regulations and standards applicable to existing conditions and to the proposed use related to building construction, stormwater management, wastewater collection and treatment, and hazardous waste safety. The Applicant should expect that the Municipality will require evidence of such compliance prior to the issuance of a building permit for the Project.
2. The Applicant should provide a detailed traffic study assessing potential impacts of the Project on area roadways, including traffic volumes, crash rates, and the safety and level of service (LOS) of area intersections, and identifying appropriate traffic mitigation in compliance with all applicable state and local requirements governing site design. In particular, the Applicant should be prepared to verify the adequacy of sight distances at the proposed intersection of the site drive with Concord Road. The Applicant reported that they have hired a qualified traffic consultant and will submit a full Traffic Impact and Analysis Statement (TIAS) with their comprehensive permit application to the Sudbury ZBA.
3. In response to the concerns raised by public safety officials, the Applicant should be prepared to describe emergency access provisions within Project buildings and throughout the Site.
4. The Applicant should be prepared to address Municipal and abutter concerns relative to the size, scale, and appearance of the proposed multi-family buildings and to discuss appropriate measures to address potentially negative visual impacts. The Applicant's efforts to mitigate Project massing and scale are discussed further in the findings discussed in Attachment 1.
5. The Applicant should be prepared to address municipal concerns relative to the Project's potential impacts on the integrity of the Sudbury Center Historic District and area historic and cultural resources. MassHousing is confident that to the extent that there are documented historic resources they will be subject to the appropriate state review and regulation.
6. The Applicant should be prepared to address municipal concerns relative to the implications of the NHESP designation of a portion of the Site as a Priority Species Habitat for the Blue Spotted Salamander. The Applicant has provided MassHousing with a determination from the Division of Fisheries and Wildlife dated October 29, 2015 stating that the proposed Project as currently proposed "will not result in a prohibited 'take' of state-listed rare species."
7. The Applicant should be prepared to address Municipal concerns relative to the feasibility and effectiveness of proposed wastewater and stormwater management measures given

*Sudbury Village, Sudbury
MassHousing # 790
Project Eligibility Letter*

existing topographic conditions. As noted above, the Project will be subject to all relevant environmental laws, regulations and standards.

8. The Applicant should be prepared to address Municipal concern about the local real estate market's capacity to absorb the large number of multi-family rental housing units currently proposed in Sudbury. The Applicant commissioned a Market Analysis Study dated May 18, 2015 prepared by LDS Consulting Group, LLC indicating "sustained demand for rental housing" based on current data, market conditions and conclusions. (An Executive Summary of this report was included in the Project application) MassHousing's Appraisal and Marketing Division performed a preliminary analysis further supporting Project feasibility, but recommending additional market analysis prior to financing and Final Approval.

MassHousing has also reviewed the application for compliance with the requirements of 760 CMR 56.04 (2) relative to Application requirements, and has determined that the material provided by the Developer in the application is sufficient to show compliance.

This Site Approval is expressly limited to the development of no more than 250 rental units under the terms of the Program, of which not less than 25% shall be restricted as affordable for low income persons or families as required under the terms of the Guidelines. It is not a commitment or guarantee of NEF financing and does not constitute a site plan or building design approval. Should you consider, prior to obtaining a comprehensive permit, the use of any other housing subsidy program, the construction of additional units, a reduction in the size of the Site, a change in tenure type or a substantial change to the overall Site Plan, you may be required to submit a new site approval application for review by MassHousing.

For guidance on the comprehensive permit review process, you are advised to consult the Guidelines. Further, we urge you to review carefully with legal counsel the M.G.L. c.40B Comprehensive Permit Regulations at 760 CMR 56.00.

This approval will be effective for a period of two years from the date of this letter. Should the Applicant not apply for a comprehensive permit within this period this letter shall be considered to be expired and no longer in effect unless MassHousing extends the effective period of this letter in writing. In addition, the Applicant is required to notify MassHousing of the following: (1) the Applicant applies to the local ZBA for a Comprehensive Permit, (2) the ZBA issues a decision and (3) any appeals are filed.

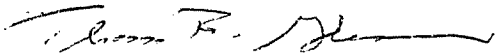
Should a comprehensive permit be issued, please note that prior to (i) commencement of construction of the Project or (ii) issuance of a building permit, the Applicant is required to submit to MassHousing a request for Final Approval of the Project (as it may have been amended) in accordance with the Comprehensive Permit Rules (see especially 760 CMR 56.04(07) and the Guidelines including, without limitation, Part III thereof concerning Affirmative Fair Housing Marketing and Resident Selection). Final Approval will not be issued unless MassHousing is able to make the same findings at the time of issuing Final Approval as required at Site Approval.

*Sudbury Village, Sudbury
MassHousing # 790
Project Eligibility Letter*

Please note that MassHousing may not issue Final Approval if the Comprehensive Permit contains any conditions that are inconsistent with the regulatory requirements of the New England Fund Program of the FHLBB, for which MassHousing serves as Subsidizing Agency, as reflected in the applicable regulatory documents. In the interest of providing for an efficient review process and in order to avoid the potential lapse of certain appeal rights, the Applicant may wish to submit a "final draft" of the Comprehensive Permit to MassHousing for review. Applicants who avail themselves of this opportunity may avoid significant procedural delays that can result from the need to seek modification of the Comprehensive Permit after its initial issuance.

If you have any questions concerning this letter, please contact Katy Lacy at (617) 854-1098.

Sincerely,



Thomas R. Gleason
Executive Director

cc: Chrystal Kornegay, Undersecretary, DHCD
Patricia Brown, Chairman, Sudbury Board of Selectmen
Jonathan F.X. O'Brien, Chairman, Zoning Board of Appeals
Melissa Murphy Rodrigues, Town Manager
Jody Kablack, Director of Planning and Community Development

Attachment 1

760 CMR 56.04 Project Eligibility: Other Responsibilities of Subsidizing Agency
Section (4) Findings and Determinations

The Village at Sudbury Station

MassHousing hereby makes the following findings, based upon its review of the application, and taking into account information received during the site visit and from written comments:

(a) That the proposed Project appears generally eligible under the requirements of the housing subsidy program, subject to final approval under 760 CMR 56.04(7);

The Project is eligible under the NEF housing subsidy program and at least 25% of the units will be available to households earning at or below 80% of the Area Median Income (AMI), adjusted for household size, as published by the U.S. Department of Housing and Urban Development (“HUD”). The most recent HUD income limits indicate that 80% of the current median income for a four-person household in Sudbury is \$69,700.

Proposed gross rent levels of \$1307 for a one bedroom, \$1468 for a two-bedroom, and \$1812 for a three-bedroom unit reflect gross affordable rent levels for the Boston-Cambridge-Quincy HMFA under the NEF Program.

	Project Rent	Project Utilities	Gross Tenant Costs	HUD Affordable Rent
One Bedroom	\$1190	\$117	\$1307	\$1307
Two Bedroom	\$1419	\$145	\$1468	\$1568
Three Bedroom	\$1629	\$163	\$1812	\$1812

A letter of interest to provide financing under the NEF Program was provided by Citizens Bank, a member bank of the Federal Home Loan Bank of Boston.

(b) that the site of the proposed Project is generally appropriate for residential development, taking into consideration information provided by the Municipality or other parties regarding municipal actions previously taken to meet affordable housing needs, such as inclusionary zoning, multifamily districts adopted under c.40A, and overlay districts adopted under c.40R, (such finding, with supporting reasoning, to be set forth in reasonable detail);

Based on a site inspection by MassHousing staff, internal discussions, and a thorough review of the application, MassHousing finds that the Site is suitable for residential use and development, that such use would be compatible with surrounding uses, and would directly address the local need for affordable housing. With the exception of the 26.42-acre northern portion of the property, which is subject to an Agricultural Preservation Restriction, the Site is zoned for single-family residential development, suggesting that it is appropriate for residential use. While there is no municipal sewer in the area, it appears that connections to municipal water, electricity

*Sudbury Village, Sudbury
MassHousing # 790
Project Eligibility Letter*

and telecommunication are possible. The location is in close proximity to area commuter routes and services.

Section IV-A (3) (a) of the Guidelines provide guidance to Subsidizing Agencies for evaluating a municipality's actions intended to meet affordable housing needs. MassHousing carefully reviewed the information provided by the Sudbury Board of Selectmen describing previous municipal actions intended to provide affordable housing. The Selectmen's letter identified a variety of municipal actions including the development of a Housing Production Plan, the use of CPA funds for the development of affordable housing, and the issuance of Comprehensive Permits for "nine 40B developments with over 200 units of housing over the past 15 years." The Selectmen's letter explained further that they were currently actively working with another developer on a similarly-sized rental 40B Project proposed for the former Raytheon site, and noted that they felt that this was a more appropriate site for development.

However, Municipal actions to date have not resulted in housing production of a "character and scale to create significant opportunities as-of-right to meet the municipality's need for affordable housing as measured by the Statutory Minima." According to DHCD's Chapter 40B Subsidized Housing Inventory (SHI), updated through December, 2014, Sudbury has 354 Subsidized Housing Inventory (SHI) units (6.0 % of its housing inventory). An additional 218 units in total would be required for the Town to achieve the 10% threshold of 592.

The need for additional affordable housing is further supported by U.S. Census data from the 2009-2013 American Community Survey (ACS), which indicates that of the 5,783 households in the Town of Sudbury, approximately 32.2% earned less than the HUD published AMI (\$98,500), approximately 15.2% earn less than 80% of the 2015 AMI, and approximately 10.2% earned less than 50% of the 2015 AMI.

Sudbury has a DHCD-approved Housing Production Plan (HPP) dated July 14, 2011. The Village at Sudbury Station appears to comply with municipal affordable housing goals as identified in this plan. The HPP notes that "Sudbury has the lowest percentage of rental housing of its neighboring communities"...and lays out a specific strategy for reaching the 10% threshold required under Chapter 40B, including the development of an additional 233 affordable units created through private 40B developments by 2016. Given that more than half of the Town's existing affordable units (.53%) are age restricted, while the 2010 Census shows only 12.2% of the population over age 65, the Project will directly address Goal #1 from the HPP, which is to "Promote a diversity of housing types in Sudbury to meet the needs of a changing and diversified population, particularly with increased production of rental units, development of multi-family buildings, duplexes, and single-family attached dwellings..."

(c) that the conceptual project design is generally appropriate for the site on which it is located, taking into consideration factors that may include proposed use, conceptual site plan and building massing, topography, environmental resources, and integration into existing development patterns (such finding, with supporting reasoning, to be set forth in reasonable detail);

Relationship to Adjacent Building Typology (including building massing, site arrangement,

The Project includes a clubhouse building and 12 residential structures; three, larger four-story apartment buildings; two, mid-sized, three-story apartment buildings; and eight, residentially scaled, two-story buildings containing between 5-13 units each. Buildings are laid out around a central open space which serves much like a town common, and the entire developed portion of the Site is largely surrounded by protected open space, limiting visibility to or from surrounding development. In this way, the Project establishes its own building typology, though with reference to the surrounding traditional New England village context.

The proposed conceptual elevations are schematic, but show architectural detailing intended to provide variety between the 12 residential structures and to reduce the mass of the buildings with varying roof lines and building setbacks for the three garden-style apartment buildings as well as the smaller townhouse style structures. Decorative features include “Shingle-Style” details including porches, steeply sloped roof and window dormers, and six-over-one paired windows on all floors. Building materials include stone and brick bases, and clapboard siding. The smaller, two-story townhouse-style structures located closer to the cemetery (Buildings 6, 7, 8 and 9) feature traditional, single-family residential forms including peaked roofs and front entry porticos. Ground floor elevations give the appearance of single-family homes, with eye-level front windows, and foundation planting.

Relationship to adjacent streets/Integration into existing development patterns

The Project will be accessed by a new roadway linking Hudson Road, to the south, through the Site and out to Concord Road (to the east). Immediately across from the project’s entrance on Hudson Road is a low-scale, mixed-use commercial development including two restaurants and a variety of professional services. Existing development on Hudson and Concord Road consists of larger single-family homes set back from the road on spacious, wooded lots. Development within the Site, in contrast, consists of variably-sized buildings clustered around a central common open area, similar to the development pattern in the nearby historic town center

Density

The Project has a gross density of 6.27 units per acre (18.59 units per buildable acre). Perceptions of Project density are ameliorated, however, through the presence of a landscaped central open area, and the surrounding ring of undeveloped land, providing attractive open vistas within and out from the proposed development.

Conceptual Site Plan

Project buildings are linked by the site drive, which leads into the Site from Hudson Road, passes by the existing home at 30 Hudson Road, loops around a central common open space, and continues out on Concord Road. As described below under Topography, the smaller-scale, two and three-story buildings line both sides of the site drive along the Site’s higher elevations to the east, with the taller, four-story structures on lower elevations to the west. A central, landscaped open area reminiscent of a traditional town common serves as a central organizing principle. Pathways and sidewalks provide pedestrian access throughout the site, linking Project buildings to shared open spaces and each other. Submitted materials indicate that existing vegetative borders along the property lines will be preserved for screening and separation.

Environmental Resources

Much of the undeveloped northern portion of the Site is included in a Priority Habitat for the Blue Spotted Salamander in accordance with Natural Heritage and Endangered Species Act. The Applicant has provided MassHousing with a determination from the Division of Fisheries and Wildlife dated October 29, 2015 stating that the proposed Project as currently proposed “will not result in a prohibited ‘take’ of state-listed rare species.” Additionally, the existing home at 30 Hudson Road is included in the Old Sudbury Historic District. The developed portion of the Project is laid out so as to avoid disturbance of these protected areas.

The entire northeastern portion of the Site is subject to a local Agricultural Preservation Restriction (APR), a small area of which is currently farmed, and the remainder of which is heavily wooded. Additionally, the Site Plan shows the retention of a significant amount of existing vegetation around the perimeter of the developed area. Together with the cemetery to the east, and the Parkinson Parcel Park to the west, the broad ring of open space surrounding the Project serves to enhance views out from the Site, and retain the semi-rural character of the surrounding area by minimizing views of project buildings from adjacent neighborhoods and roadways.

Topography

The site slopes down from the Old Town Cemetery to the east to the rail trail bounding the property to the west. The proposed plans indicate that slopes on the site exceed 10% in places, with slopes in some areas in excess of 20%. The proposal makes use of the sloping nature of the site by siting the taller buildings at the lower points (to the west along the rail trail) where they will be visible only from the adjacent commercial warehouse property and municipal playing field, and lower buildings on higher ground near the cemetery. Schematic site sections are included indicating that thought has been given to site lines into the Project from neighboring properties and Concord and Hudson roads.

(d) that the proposed Project appears financially feasible within the housing market in which it will be situated (based on comparable rentals or sales figures);

The Applicant proposes the construction of 250 apartments to be financed under the NEF Program. There will be 187 market-rate units with proposed average rent levels of \$1,950 for the one-bedroom units, \$2,300 for the two-bedroom units, and \$2,850 for the three-bedroom units. MassHousing’s Appraisal and Marketing Division (A&M) reviewed comparable rental developments in the area and has noted that proposed market rents fall within (though at the upper end of) the adjusted range of comparable rents for one, two and three-bedroom units. A&M’s review indicate that between 2010 and 2015 the inventory of rental housing in the West/Northwest suburban submarket expanded by 1.3% on year on average. Despite this expansion, rents in this region have continued to rise since 2015 by 17% on average, and vacancy rates have remained relatively steady at 3-4% on average. A&M estimated that the location will attract interest given its proximity to area commuter route and services.

(e) that an initial pro forma has been reviewed, including a land valuation determination consistent with the Department's Guidelines, and the Project appears financially feasible and consistent with the Department's Guidelines for Cost Examination and Limitations on Profits and Distributions (if applicable) on the basis of estimated development costs;

MassHousing has commissioned an as "As-Is" appraisal which indicates a land valuation of \$3,500,000. Based on a proposed investment of \$8,698,326 in private equity the pro forma appears to be financially feasible and within the limitations on profits and distributions. Project costs for site work fall on the higher end of the usual allowance, perhaps due to the need to construct a private wastewater treatment plant.

(f) that the Applicant is a public agency, a non-profit organization, or a Limited Dividend Organization, and it meets the general eligibility standards of the housing program; and

The Applicant must be organized as a Limited Dividend Organization. MassHousing sees no reason this requirement could not be met given information reviewed to date. The Applicant meets the general eligibility standards of the NEF housing subsidy program and has executed an Acknowledgment of Obligations to restrict their profits in accordance with the applicable limited dividend provisions.

(g) That the Applicant controls the site, based on evidence that the Applicant or a related entity owns the site, or holds an option or contract to acquire such interest in the site, or has such other interest in the site as is deemed by the Subsidizing Agency to be sufficient to control the site.

The Applicant controls the Site by virtue of two Purchase and Sale Agreements as follows

- A. Purchase and Sale Agreement dated October 8, 2014 between JOC and JRH Trust (seller) and Christopher G. Claussen
- B. Purchase and Sale #2 dated January 9, 2015 between Mathew S. Gilmartin and Molly F. Gilmartin (seller) and Christopher J. Claussen