

**DEVELOPMENT COVENANT  
BY AND BETWEEN  
COMMISSIONERS OF CAMBRIDGE  
AND  
MASTER DEVELOPER OF SAILWINDS**

**THIS DEVELOPMENT COVENANT**, made this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_ (2014) (hereinafter referred to as the "COVENANT"), by and between the  
**COMMISSIONERS OF CAMBRIDGE**, a body corporate and body politic of the State of  
Maryland (hereinafter referred to as the "City"), located at 410 Academy Street, Cambridge,  
Maryland 21613, and \_\_\_\_\_ (hereinafter referred to as the "Developer," as such  
term is further defined herein) with a mailing address of \_\_\_\_\_.

**WITNESSETH:**

**WHEREAS**, on \_\_\_\_\_, **2015**, \_\_\_\_\_, a Maryland corporation (the  
"Master Developer") was selected by the State of Maryland under the RFP process to enter into  
negotiations and discussions with CITY that were intended to culminate in CITY's granting to the  
Master Developer an exclusive negotiation privilege in connection with the redevelopment of that  
certain property owned by MPA comprising approximately 11.826 acres+/- at the former  
Cambridge Marine Terminal known as the Sailwinds Project, located in Cambridge, Dorchester  
County, Maryland (the "Property"), into a mixed-use economic development project consistent  
with the City's Comprehensive Plan (and specifically, the City's Waterfront 2020 Plan contained  
therein (the "Vision Plan"), the RFP (the "Project"). The Property is more particularly described  
in Exhibit "A" attached hereto; and

**WHEREAS** "Master Developer" is herein defined as the developer which executes an  
MDA with the City for the development of the Property. As of the date of this Transfer Agreement,  
\_\_\_\_\_ is the designated Master Development, subject to the negotiation  
and execution of an MDA with the City.

**WHEREAS**, MDOT and the City have determined that the Project is more properly characterized as a local economic development project for which the City should have full and exclusive responsibility, including, by way of example only, the management of the Project and the Master Developer. Accordingly, by separate assignment agreement, MDOT has agreed to assign, and the City has agreed to assume the responsibilities of MDOT with respect to the ENP Agreement and the Project, (the “Assignment”).

**WHEREAS**, by Transfer Agreement dated April 30, 2014, the State of Maryland agreed to transfer and convey to the City 11.826 acres of land known and designated as the Cambridge Port Property; and

**WHEREAS**, by deed dated August 15, 2014, the State of Maryland transferred and conveyed title to the City, which deed is recorded among the Land Records for Dorchester County, Maryland, in Liber No. \_\_\_\_\_, Folio \_\_\_\_\_; and

**WHEREAS**, the City seeks to encourage high quality, mixed-use development on the Development Property, and such development shall make an important economic contribution to the City; and

**WHEREAS**, the City and the Developer acknowledge that the mutual promises contained in this Covenant are good and valuable consideration for the binding execution of this Covenant.

**WHEREAS**, as a component of the Master Development Agreement between City and Developer (the “MDA”), the Developer has prepared and submitted to the City a PRELIMINARY CONCEPT PLAN for the phased development of a mixed use (see listing of permitted uses set forth in paragraph no. 6 herein) project, which project shall be undertaken and completed pursuant to the terms of the MDA, the Transfer Agreement between the State of Maryland and City and this Covenant; and

**WHEREAS**, the Preliminary Concept Plan for the Development Project (the “Preliminary Concept Plan”) has been reviewed and found generally consistent with the City’s goals and objectives for the redevelopment of the Property; and

**WHEREAS**, after review and consideration of MDA and the Preliminary Concept Plan for the proposed Development Project, the City has determined that the proposed Development Plan by the Developer best serves the overall interests of the City in terms of financial, economic, social and land use benefits to be derived by the City within an acceptable time frame for development and completion of the Development Project; and

**WHEREAS**, the City has determined that it is in the best interest of the City and its residents for the City to enter into this Covenant and the MDA with the Developer for the purposes of setting forth in greater detail each party's rights and obligations in connection with the development and construction of the Development Project; and

**NOW, THEREFORE**, it is agreed upon as of the date set forth above by the City and Developer that this COVENANT, together with the Master Development Agreement (MDA), shall serve as the formal agreement by which the Developer shall obtain approval for the Development Plan and proceed with development of the Property. The parties agree and covenant to the following:

1. The Developer shall strictly comply with all terms of the Master Development Agreement ("MDA") which MDA is incorporated herein by reference.
2. The Approved Site Plan for the Development Project shall strictly comply with all applicable terms of the Transfer Agreement and Guiding Principles set forth therein.
3. The Developer shall strictly comply with all terms all Public Works Agreements developed by the City for the Development Project.
4. The Developer shall timely post all performance bonds in sufficient amounts as determined by the City for the timely construction and installation of utilities and other infrastructure, improvements or amenities identified on the Approved Site Plan for public use and/or public dedication.
5. In the development and submission of the Concept Plan to the Planning & Zoning Commission, the Developer agrees to abide by the Methodolgy and Process set forth in Developer's response to the RFP.
6. Notwithstanding the uses permitted as of right or by special exception in the Corridor Mixed Use (CMU) and Open Space (OS) district, to which the Mixed-Use Waterfront

Overlay District is applicable, only the following **PERMITTED USES** shall be permitted, developed and approved for the Development Project:

- a. **Residential, including multi-family residential;**
- b. **Commercial sales, service and repair, including boat and marine sales and servicing;**
- c. **Artisan Shops;**
- d. **Personal Services such as salons, barbershops, etc.**
- e. **Offices and shops for professional and business services, such as real estate, tax and accounting, travel agency, etc.**
- f. **Professional offices such as physician, lawyer, architect;**
- g. **Office buildings, generally;**
- h. **Studios for art, music, dance, etc.**
- i. **Restaurants;**
- j. **Pubs, bars, dance halls, nightclubs;**
- k. **Café, coffee shops;**
- l. **Resorts;**
- m. **Marina uses, including boat repair, storage, marine-related manufacturing (excluding salvage);**
- n. **Health care-related institutions and facilities, including Continued Care Retirement Communities, nursing care institutions, intermediate care institutions;**
- o. **Museums, art galleries, art and cultural centers and similar uses, including facilities for training and instruction in the arts, crafts, woodworking, boatbuilding and marine-related instruction;**
- p. **Environmental research, education and nature centers;**
- q. **Theatres, cinemas;**
- r. **Activity conducted entirely within a building or structure for tennis and squash courts, yoga, indoor athletic and exercise facilities and similar uses;**

- s. **Activity conducted primarily outside enclosed buildings or structures as recreational facilities such as yacht clubs, swimming or tennis clubs (excluding rifle or pistol ranges);**
  - t. **Neighborhood service;**
  - u. **Festival, events of public interest, special events, occasional, outdoor events;**
  - v. **Senior-assisted residential housing and related accessory uses;**
7. Notwithstanding the uses permitted as of right or by special exception in the Corridor Mixed Use (CMU) and Open Space (OS) district, to which the Mixed-Use Waterfront Overlay District is applicable, the following uses **SHALL NOT** be permitted, developed or approved for the Development Project:
- a. **Day care centers/homes;**
  - b. **Group homes;**
  - c. **Boarding houses;**
  - d. **Homeless shelters;**
  - e. **Convenience stores;**
  - f. **Tattooing, body art, body piercing;**
  - g. **Nursery for plants, greenhouses;**
  - h. **Building material and supply, farm implements storage and sales, feed and grain storage and sales, heavy equipment sales and service;**
  - i. **Animal hospital, veterinarian clinic;**
  - j. **Kennel or catery;**
  - k. **Funeral Parlor;**
  - l. **Motor vehicle sales or rentals (excluding sale or rental of boats and marine craft which are expressly permitted);**
  - m. **Filling stations, service stations (excluding marine fuel sales, which are expressly permitted);**
  - n. **Automotive repair and service, body shop, repair garage;**
  - o. **Contractor shops, plumbing, construction, etc., service and repair;**

- p. Adult bookstore/entertainment;**
  - q. Research and development activities;**
  - r. Schools and colleges (excluding facilities for training and instruction in the arts, crafts, woodworking, boatbuilding and marine-related instruction, which are expressly permitted);**
  - s. Buildings for religious assembly;**
  - t. Cemeteries;**
  - u. Social and fraternal clubs and lodges;**
  - v. Libraries;**
  - w. Airport;**
  - x. Golf courses/driving range.**
8. All lots, structures, improvements, phases and components of the Development Project shall strictly comply with the following development regulations applicable to Corridor Mixed Use (CMU) Lots or Open Space (OS) Lots:

**Table 3: DIMENSIONAL AND DENSITY REQUIREMENTS**

Zoning District	Minimum Dimensional Requirements								Maximum Residential Density
	Lot Area (sf)		Lot Area Per Unit (sf)		Lot Width (ft)		Lot Depth (ft)		Dwelling Units (per acre)
	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.	
<b>Residential (R) District Lots <sup>1</sup></b>									
residential, single-family detached	7,500	10,000	7,500	10,000	50	80	125	190	5.8
residential, single-family attached	2,000	-	2,500	-	20	-	90	115	8.0
residential, duplex	12,500	14,500	6,250	7,250	50	80	125	190	7.0
residential, multi-family	2 acres	5 acres	5,400	5,400	100	-	125	-	10.0
civic, educational, cultural, religious	20,000	n/a	n/a	n/a	100	-	125	-	-
institutions for care /treatment of persons	2 acres	n/a	n/a	n/a	200	-	125	-	n/a
recreational (excluding public parks)	2 acres	n/a	n/a	n/a	200	-	125	-	n/a
<b>Institutional (I) Lots</b>									
civic, educational, cultural, religious	20,000	-	-	-	100	-	125	-	n/a
institutions for care /treatment of persons	20,000	-	-	-	100	-	125	-	n/a
recreational (excluding public parks)	20,000	-	-	-	100	-	125	-	n/a
other	20,000	-	-	-	100	-	125	-	n/a
<b>Corridor Mixed Use (CMU) Lots</b>									
residential, single-family detached	5,400	7,500	5,400	7,250	50	65	100	125	12
residential, single-family attached	1,200	-	3,000	-	18	-	60	65	14
residential, multi-family	20,000	5 acres	1,200	3,500	80	-	125	-	36
civic, educational, cultural, religious	20,000	-	n/a	n/a	100	-	125	-	-
institutions for care /treatment of persons	20,000	-	n/a	n/a	100	-	125	-	n/a
recreational (excluding public parks)	20,000	-	n/a	n/a	100	-	125	-	n/a
commercial, other	5,000	-	n/a	n/a	n/a	n/a	n/a	n/a	-
<b>Commercial (C) Lot</b>									
civic, educational, cultural, religious	20,000	-	n/a	n/a	-	-	125	-	n/a
institutions for care /treatment of persons	20,000	-	n/a	n/a	100	-	125	-	n/a
recreational (excluding public parks)	20,000	-	n/a	n/a	100	-	125	-	n/a
commercial, other	20,000	-	n/a	n/a	50	-	100	-	n/a
<b>Industrial (I) Lots</b>									
contractor yards, small-scale	5,000	-	n/a	n/a	50	-	100	-	n/a
warehousing, salvage, manufacturing,	40,000	-	n/a	n/a	100	-	100	-	n/a
<b>Open Space (OS) Lots</b>									
agricultural, forestry, other	3 acres	-	n/a	n/a	-	-	-	-	n/a
other	2 acres	-	n/a	n/a	200	-	-	-	n/a
<b>Resource Conservation (RC) Lots</b>									
single-family detached	10 acres	-	10 acres	-	-	-	-	-	0.1
other	5 acres	-	n/a	n/a	-	-	-	-	n/a

<sup>1</sup>No lot in the Residential district shall be created through the resubdivision of an existing lot that has a lot width smaller than 12 percent of the average of the existing lots on the same block face.

**Table 4: YARD AND BULK REQUIREMENTS**

Zoning District	Minimum Yard Requirements			Maximum Bulk Standards		
	Front Min. (ft) <sup>1</sup>	Side (ft) <sup>2</sup>	Rear (ft)	Height <sup>3</sup> (ft)	Building Coverage <sup>4</sup> (%)	Impervious Surface Coverage (%)
<b>Residential (R) Lots</b>						
residential, single-family detached	15 ft	8 ft	25 ft	33 ft	30%	35%
residential, single-family attached	25ft	25 ft	50 ft	33 ft	45%	50%
residential, duplex	15 ft	8 ft	25 ft	33 ft	30%	35%
residential, multiple-family	30 ft	25 ft	50 ft	35 ft	45%	50%
civic, educational, cultural, religious	30 ft	25 ft	30 ft	35 ft	45%	50%
institutions for care /treatment of persons	30 ft	25 ft	50 ft	35 ft	20%	30%
recreational (excluding public parks)	30 ft	50 ft	50 ft	35 ft	20%	30%
other	30 ft	25 ft	30 ft	35 ft	30%	35%
<b>Institutional (I) Lots</b>						
civic, educational, cultural, religious	30 ft	25 ft	30 ft	35 ft	45%	50%
institutions for the care or treatment of	30 ft	25 ft	30 ft	35 ft	45%	50%
recreational (excluding public parks)	30 ft	25 ft	50 ft	35 ft	20%	30%
other	30 ft	25 ft	30 ft	35 ft	45%	50%
<b>Corridor Mixed Use (CMU) Lots</b>						
residential, single-family detached	15 ft	8 ft	25 ft	33 ft	30%	40%
residential, single-family attached <sup>1</sup>	15 ft	8 ft	20 ft	33 ft	43%	45%
residential, multi-family	15 ft	8 ft	50 ft	50 ft	60%	65%
civic, educational, cultural, religious	15 ft	8 ft	30 ft	35 ft	45%	50%
institutions for care /treatment of persons	15 ft	8 ft	30 ft	35 ft	45%	50%
recreational (excluding public parks)	15 ft	8 ft	50 ft	35 ft	20%	30%
commercial	15 ft	8 ft	25 ft	50 ft	65%	75%
other	15 ft	8 ft	20ft	35 ft	43%	45%
<b>Commercial (C) Lots</b>						
civic, educational, cultural, religious	15 ft	20 ft	20 ft	50 ft	50%	60%
institutions for care /treatment of persons	15 ft	25 ft	20 ft	50 ft	50%	60%
recreational (excluding public parks)	15 ft	25 ft	20 ft	50 ft	50%	60%
commercial, all other	15 ft	8 ft	20 ft	50 ft	50%	60%
<b>Industrial (I) Lots</b>						
contractor yards, small-scale	30 ft	15 ft	50 ft	35 ft	65%	75%
manufacturing						
warehousing, salvage, manufacturing, industrial, other	50 ft	50 ft	50 ft	35 ft	65%	75%
<b>Open Space (OS) Lots</b>						
agricultural, forestry	50 ft	50 ft	100 ft	35 ft	20%	30%
all other	50 ft	50 ft	100 ft	35 ft	20%	30%
<b>Resource Conservation (RC) Lots</b>						
residential, single-family detached	100 ft	50 ft	100 ft	35 ft	1%	2%
all other	100 ft	50 ft	100 ft	35 ft	1%	2%

<sup>1</sup>Notwithstanding the requirements of this table, in all cases, the setback from the building to the property line along U.S. Route 50 shall be at least 50 feet.

<sup>2</sup> For attached units, the entire structure shall be considered a single building with respect to side yard requirements

<sup>3</sup> For residential single-family structures with sloped roofs, the mean height of a sloped roof shall be no greater than 28 feet.

<sup>4</sup> Accessory buildings shall be included in the calculation of maximum building coverage.

The parties agree and acknowledge that the aforesaid dimensional and density requirements are the MAXIMUM permitted under the zoning code, and shall be subject to modification resulting in a more restrictive standard as adopted by the Planning & Zoning Commission where said modifications are necessary to achieve compliance with the stated purposes of the Mixed-Use



Waterfront Overlay District (as set forth in Section 4.3.1 of the City's Zoning Ordinance), and for compliance with the terms of the MDA, Transfer Agreement and Guiding Principles set forth therein.

Amendments to Plan and Schedule. (a) The parties acknowledge that, due to the scale and mixed-use nature of the Development Project and in light of changing economic conditions and changes in the relevant commercial and residential markets, as well as seasonality of the existing hotel and other factors, it may be appropriate to alter the type of development and the timing of the development required by the Development Plan and/or as set forth in the Phased Development Schedule it being understood that it is the intent of the parties that the project proceed as expeditiously as possible.

City Approval of Site Plan and Subdivision Plan.

(a) The Developer shall at its own cost and expense, shall prepare a Development Site Plan in strict compliance with this Covenant, the MDA, the Transfer Agreement, and the City's Zoning Ordinance.

(b) The Developer hereby acknowledges and agrees that any deviations from the Approved Site Plan which the Planning & Zoning may require must be submitted to the City and its professionals for its review and approval prior to Developer's re-submission to the Planning & Zoning Commission.

Vesting. Developer's rights to carry out the Development Project in accordance herewith and subject to the provisions hereof shall, notwithstanding any amendment to the Development Plan subsequent to the date hereof, be vested for the term of this Development Covenant.

Reporting; Status Reports. The Developer shall, during the construction and development phases, submit to the City, at such times as the City may reasonably request, but not more frequently than monthly, a written report shall include the following:

1. Executive Summary
2. Design- Site and Building
3. Permits/Approvals

4. Budget
5. Schedule
6. Task Lists
7. Flash Reports
8. Meeting Minutes
9. Progress Photos (if applicable)
10. Punch List and Bond Release

Reciprocal Easements. All site plan maps prepared in accordance with this Covenant shall contain or reference appropriately located reciprocal easements pursuant to which the owners of any of the other parcels of land within the Development: (i) shall have, during the term of this Covenant, for use by themselves, their successors, assigns, invitees and guests, easements for access on, over, under and across the sidewalks and walkways within the Development for use by pedestrian traffic; and (ii) shall have the right of flow and passage through common utility facilities. As appropriate, declarations of reciprocal (or cross) easements, in form and content prepared by the Developer, and subject to the approval of the City and its professionals, which approval shall not unreasonably be withheld, conditioned or delayed, shall be executed and recorded for the purposes of implementing the provisions of this Section.

On-Site Improvements. The Developer shall install and maintain, at its own expense, all On-Site Improvements. In the construction of On-Site Improvements, the Developer agrees to comply with the relevant Federal, State and municipal laws and regulations setting forth specifications applicable thereto. In addition, should the Developer desire to relocate the above-ground utilities underground as part of the Development Project, the Developer shall do so at its own expense. The City agrees to cooperate with the Developer in securing the necessary approvals to do such work.

Project Modifications.

(a) The Developer hereby acknowledges and agrees that the development and construction of the Development Project shall be in strict compliance and accordance with: the

Approved Development Plan, the MDA, the Transfer Agreement and Guiding Principles contained therein, and all applicable building codes. In the event the Development Project undertaken is changed or modified, notwithstanding the fact that such change or modification is authorized by the Development Plan, the City's prior written approval must be secured prior to development of the proposed altered Development Project. The City reserves its rights to contest any material modifications that may potentially arise in the course of the construction of the Development Project.

(b) The Developer may not modify, alter or amend the Approved Final Site Plan at any time without the express prior written approval of the City Planning & Zoning Commission pursuant to the Mixed-Use Waterfront Overlay District and other applicable provisions of the City's Zoning Ordinance, the MDA and the Transfer Agreement, provided, however, that the Developer may make those modifications, alterations and amendments to the Approved Final Site Plan that have been mutually deemed to be "minor" by the City (as evidenced by the prior written approval of the City and its professionals that such proposed modification is indeed minor) and Developer.

Dedication of Streets. The Site Plan and the subdivision map, if applicable, shall show the dedication and conveyance of any public rights of way or vacations and the Public Improvements that are to be dedicated to the City or other municipal agency or City. If applicable, the Redeveloper is obligated to dedicate and convey to the City or other Governmental Agency or City such rights of way and such other Public Improvements and vice versa, and this shall serve as the City's consent to such dedications and conveyances. With respect to street trees dedicated to the City, the Redeveloper shall be responsible to replace any such trees that die within THREE (3) years of planting by Developer or its agents by posting sufficient bond to cover said cost of replanting.