

**FIRST AMENDMENT TO
DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT**

By and Between

THE TOWN OF TRAPPE

and

TRAPPE EAST HOLDINGS BUSINESS TRUST

**FIRST AMENDMENT TO
DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT**

THIS FIRST AMENDMENT TO DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT (“**First Amendment**”) is made and entered into this _____ day of October, 2021, by and between TRAPPE EAST HOLDINGS BUSINESS TRUST, a Maryland business trust (“**TEHBT**”) (“**Petitioner**”) and THE TOWN OF TRAPPE, a municipal corporation, organized and existing under the laws of the State of Maryland (“**Town**”).

RECITALS

This First Amendment is entered into based upon the following facts:

A. The Town and predecessors of TEHBT entered into a Development Rights and Responsibilities Agreement dated March 1, 2006, which is recorded among the Land Records in Liber 1428, folio 86 (“**DRRA**”).

B. By an Assignment and Assumption Agreement dated March 11, 2009, which is recorded among the Land Records in Liber 1682, folio 303 (“**Assignment Agreement**”), TEHBT assumed the obligations arising under the DRRA upon their assignment to it by TEHBT’s predecessors-in-interest Trappe East LLC, Luthy Properties LLC, Lyons Trappe LLC, Whitemarsh Farm LLC, Trappe Ocean Gateway LLC, Barber Road Addition LLC and Trappe Wise LLC. By execution of the Assignment Agreement, the Town approved such assignments and assumption.

C. Since the execution of the DRRA, the Town has conducted several Good Faith Compliance Reviews and, in each instance, found the Petitioners and TEHBT to be in good faith compliance with the DRRA and the DRRA to be in full force and effect and not amended, modified or supplemented in any way except as provided by the Assignment Agreement. Estoppel letters executed by the Town on March 11, 2009, June 9, 2010, April 3, 2013 are recorded among the Land Records in Liber 1682, folio 310, Liber 1836, folio 357, and Liber 2081, folio 96, respectively. Estoppel letters executed by the Petitioner on June 9, 2010 and April 3, 2013 are recorded among the Land Records in Liber 1836, folio 358 and Liber 2018, folio 96, respectively.

D. By Ordinance No. 1-2020, the Town Council approved certain modifications to the PUD and PN plans and design guidelines for the Lakeside Planned Neighborhood zoning district. By resolution approved on _____, 2021, the Town Planning Commission approved certain minor amendments of the PUD Plan as described therein.

E. Petitioner petitioned Town to amend the DRRA and proceedings have been taken in accordance with the Development Agreement Statute and Enabling Ordinance.

F. Town and Petitioner acknowledge and agree that the provisions of this First Amendment are fair, just and reasonable and the assurances provided by this First Amendment provide the certainty that is needed for Petitioner to make the long-term commitments involved in developing the Property and providing the benefits to Town and the general public.

G. On [REDACTED], 2021, after a duly noticed public hearing, the Planning Commission considered and recommended approval of this First Amendment by Resolution No. 2021-[REDACTED], a copy of which is attached hereto as Exhibit L. The Planning Commission's recommendation is based, in part, upon its determination that the terms, provisions, conditions and obligations in this First Amendment are consistent with Town's Comprehensive Plan.

H. On [REDACTED], 2021, The Council of Trappe considered this First Amendment, the recommendations of the Planning Commission and public comments and approved this First Amendment by Ordinance No. 21-[REDACTED] ("**First Amendment Approving Ordinance**"), a copy of which is attached hereto as Exhibit M, after a duly noticed public hearing. The First Amendment Approving Ordinance, which is incorporated herein, contains a statement, with references to specific provisions of applicable law, regulations or plans, that the proposed development is consistent with the applicable development regulations and the Comprehensive Plan.

I. The DRRA, subject to the Assignment Agreement and as modified by this First Amendment, is intended to be, and should be construed as, a Development Rights and Responsibilities Agreement within the meaning of the Development Agreement Statute and the Enabling Ordinance. Town and Petitioner have taken all actions mandated by and have fulfilled all requirements set forth in the Development Agreement Statute and the Enabling Ordinance, including requirements for notice, public hearings, findings, votes, and other procedural matters.

J. All parties entered into this First Amendment voluntarily and in consideration to the benefits of and the rights and obligations of the parties.

NOW, THEREFORE, in consideration of the foregoing recitals, which are not merely prefatory but are hereby incorporated into and made a part of this First Amendment, and the mutual covenants and agreements set forth below, and other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, Town and TEHBT hereby agree as follows:

AGREEMENT

1. Recitals. The recitals above are incorporated herein as material terms of this First Amendment.

2. Defined Terms. Terms used but not defined herein shall have the same meaning as defined in the DRRA.

3. Exhibits. Exhibits referenced herein but not attached hereto shall be the same as included in the DRRA. The following exhibits are attached hereto and incorporated herein and added to the list of Exhibits referenced by Section 1.2 of the DRRA:

L-FA ¹	Planning Commission Resolution Regarding First Amendment
M-FA	Town Council Ordinance Approving First Amendment

¹ Exhibits to this First Amendment are referenced as (#-FA) to differentiate them from exhibits to the original DRRA.

- F-FA Existing and Required Development Approvals and Permits
- J-FA Amended Public Open Space Exhibit
- K-FA Amended Trail Construction Exhibit

4. Precedence. If the terms and conditions of this First Amendment conflict with any of the terms of the DRRA, the terms and conditions of this First Amendment shall take precedence, shall prevail and shall be binding upon Town and Petitioner.

5. Supplementation of DRRA Section 2.2.1. As of the date of this First Amendment, TEHBT holds legal title to all property subject to the DRRA with the exceptions of: (i) the property identified in Section 2.2(j), which is owned by Elizabeth Slaughter, and (ii) a parcel of land conveyed to Delmarva Power & Light Company by a deed dated November 22, 2010 and recorded among the Land Records in Liber 1848, folio 209.

6. Amendment of DRRA 2.5.1. Section 2.5.1 of the DRRA is hereby amended to extend the term of the rights and obligations established by the DRRA as follows:

2.5.1 *Term.* Except as to those Provisions of this Agreement which specifically provide for a longer duration, the term of this Agreement shall commence on the Effective Date and shall continue ~~for a period of until~~ thirty (30) years thereafter the date of recordation of the First Amendment to the Agreement, unless this term is modified, extended, or terminated pursuant to the provisions of this Agreement.

7. Updated Notice Addresses. Pursuant to Section 2.8 of the DRRA, the parties acknowledge and agree that all notices to the Petitioner or landowners under the DRRA shall be sent to the following addresses unless the same are hereafter supplemented or revised:

Trappe East Petitioner-DRRA
 c/o Rocks Engineering Company
 1960 Gallows Road
 Suite 300
 Vienna, Virginia 22182
 Telephone (703) 556-4000
 Attn: Nicholas P.H. Rocks
 Michael Rocks

with copies to:
 Trappe East Petitioner-DRRA
 c/o McAllister, DeTar, Showalter & Walker
 100 N. West Street
 Easton, Maryland 21601
 Telephone (410) 820-0259
 Attn: Ryan D. Showalter, Esq.

Robert D. Rauch & Associates, Inc.
 106 N. Harrison Street
 Easton, Maryland 21601
 Telephone (410) 770-9081
 Attn: Robert D. Rauch

Notices relating to Tax Map 55, Parcel 38:
 Delmarva Power & Light Company
 P.O . Box 340014
 Nashville, Tennessee 37203

with a copy to:
 Delmarva Power & Light Company
 Bay Regional Office–Real Estate & Facilities
 2530 N. Salisbury Blvd.
 Salisbury, Maryland 21801

Notice relating to Tax Map 55, Parcel 13:

Elizabeth Slaughter
29584 Timberwind Lane
Trappe, Maryland 21673-1966

Notices and communications to Town shall be addressed to, and delivered at, the following addresses:

The Town of Trappe
P.O. Box 162
4011 Powell Avenue
Trappe, Maryland 21673-0162
Telephone (410) 443-0087
Attn: President, Town Council
with copies to the Town Council

with a copy to:
Booth, Cropper and Marriner, PC
130 N. Washington Street
Easton, Maryland 21601
Telephone (410) 822-2929
Attn: Lyndsey Ryan, Esq.

8. Amendment of DRRA Section 4.1.4. Section 4.1.4 of the DRRA is hereby amended to defer application of the ten percent lot sale requirement until after the first one hundred-twenty Residential Dwelling Units by included the following text at the end of the section.

The foregoing 10% lot sale requirement shall be deferred for the first 120 residential lots subdivided from the Property. Upon recordation of a plat creating the 121st residential lot, Petitioner shall implement this requirement by offering unimproved residential lots for sale to the public generally, including 12 lots to satisfy the 10% requirement for the first 120 Residential Dwelling Units and such additional lots as desired by Petitioner and as necessary for compliance with this provision. The 10% allocation by total number of Residential Dwelling Units or lots shall apply to all subsequent phases of the Project, but the unimproved single family lots offered for sale to the public generally are not required to be allocated within each phase of the Project. For example, units within a development phase consisting of apartments or townhomes shall be considered in determining the number of unimproved single family lots required under this Section, but such lots are not required to be located in the same development phase as the apartments or townhomes.

9. Amendment of DRRA Section 4.1.8. Section 4.1.8 of the DRRA is hereby amended as follows:

4.1.8 *Development Phases/Subdivision Sections.* The Town will not review or approve development Phases or subdivision or site plan sections of the Property that exceed ~~three two-hundred sixty~~ **three hundred sixty** (300260) residential lots, exclusive of any nonresidential lots. Parties acknowledge and agree that Petitioner may, sequentially and/or concurrently and in its discretion, elect to commence, maintain, continue, suspend, or complete any subdivision plat review or approval and/or construction activities in one or more, contiguous or noncontiguous, portions and/or subdivision sections of the Property. The

Parties agree that each Phase of development shall be implemented with a final subdivision plat for that particular Phase of section of the Project.

10. Amendment of DRRA Section 4.1.9. Section 4.1.9 of the DRRA is hereby amended as follows:

4.1.9 *HOA's*. ~~There will be a minimum of three (3) HOA's. In addition, the Petitioner will divide any HOA greater than 300 residential units into individual districts of 300 units or less.~~ Petitioner shall present the HOA documents for any Phase to the Town Council for review before recording the same. ~~The HOA documents for any Phase or portion of the Project will require the following after two or more districts exist and after the Petitioner relinquishes control of the HOA to the unit owners:~~

- ~~(a) That each HOA district elect its own board; and~~
- ~~(b) That each HOA district board elect one or two of its board members to serve on the HOA Board of Directors;~~
- ~~(c) That no district or HOA board member serve for more than one term; and~~
- ~~(d) That the president or chairman of any HOA board be rotated annually among the various districts within the HOA.~~
- ~~(e) No HOA Board of Directors shall consist of more than five (5) members.~~

11. Amendment of DRRA Section 4.1.10. Section 4.1.10 of the DRRA is hereby amended as follows:

4.1.10 *Population Diversity*. Petitioner recognizes the Town's goal to attract a diverse population of families who will contribute to the overall economic, cultural and social well-being of the Town of Trappe and the Talbot County community. Town recognizes Petitioner's current intent to impose age restrictions upon certain Phases of the Project, in accordance with the Federal Housing for Older Persons Act (§§ 42 USC 3607 *et seq.*) and other applicable laws. The Parties agree that the maximum number of age restricted Residential Dwelling Units created within the Project ~~shall not exceed~~ may be up to 1,25050% of the total number of Residential Dwelling Units within the Project. With respect to any portion of the Project for which Petitioner intends to impose age restrictions, the Petitioner shall provide the Town the proposed age restrictions applicable to any specific Phase or portion thereof as part of the subdivision plat approval process for such Phase. If Petitioner decides, subsequent to subdivision plat approval, to establish age restrictions for all or a portion of any Phase of the Project, Petitioner shall notify the Town of its intent and provide Town with the proposed age restrictions. ~~Petitioner further agrees that at all times during the build-out of the Project, there will be lots or Residential Dwellings Units within a non-age restricted phase available for rent or purchase until 1,250 non-age restricted lots or Residential Dwelling Units are rented or under contract. Petitioner agrees that all lots or Residential Dwelling Units located within Phases 1B and 1C will be available for purchase or rent and occupancy without regard to age.~~

12. Supplementation of DRRA Section 4.1.12. The parties acknowledge “Lakeside” to be the Project Name, as approved by Town Resolution No. 1-2006 on April 5, 2006.

13. Amendment of DRRA Section 5.3. Section 5.3 of the DRRA is hereby deleted in its entirety and in lieu thereof replaced with the following:

5.3 Town Public Works Facility and Equipment.

5.3.1 *Town Public Works Site.* By future agreement, the Town and Petitioner shall designate an area of land as the “Public Works Site”. The Public Works Site shall be sized to accommodate the Public Works Improvements (as defined in Section 5.3.2). The parties currently expect that the Public Works Site will be located either: (i) on the site of the Town’s existing wastewater treatment plant, (ii) near the water tower to be constructed on the Property, or (iii) near the wastewater treatment plant to be constructed on the Property. The final location of the Public Works Site may be adjusted and approved by agreement of the Town and Petitioner without further amendment to this Agreement. If the Public Works Site is owned by the Town, it shall of sufficient size, configuration and soil bearing capacity to accommodate conventional commercial construction. If the Public Works Site is not owned by the Town, the Petitioner shall be responsible for: (i) subdivision and dedication of the Public Works Site to the Town upon substantial completion of the Public Works Improvements, and (ii) all maintenance and insurance expenses related to the Public Works Site until the Public Works Site has been dedicated to and accepted by the Town.

5.3.2 *Public Works Improvements.* The Petitioner shall construct the following improvements on the Public Works Site (“Public Works Improvements”), all of which shall be designed, engineered and constructed at Petitioner’s expense, to the Town’s specifications, including all grading, stormwater management, entrances, exits, parking, stormwater management and fencing: (a) a 3,000 square foot public works/administrative building, which shall include space for a meeting room, and public works workshop and office space; and (b) a 900 square foot pad (under roof) for storage of equipment and/or materials. The Public Works Improvements described in Section 5.3.2 may be constructed in conjunction with improvements required for the Lakeside wastewater treatment plant, but the space described above shall be in addition to any office/lab space required for the wastewater treatment plant as provided. A conceptual plan for the Public Works Improvements is attached hereto as Exhibit FA-1.

Petitioner shall be responsible for all design, architectural and engineering, construction and construction inspection costs associated with the Public Works Improvements, as well all exterior improvements, including landscaping, paving and lighting, provided that the Petitioner’s total financial responsibility for the Public Works Improvements shall not exceed Seven Hundred Ninety Thousand Dollars (\$790,000.00). The Town shall select the inspectors for such improvements, and all reasonable costs, expenses and fees associated with their efforts shall be reimbursed to the Town by Petitioner. The Public Works Improvements shall be constructed and available for occupancy upon the earlier of: (i) issuance of an occupancy permit for the 850th Residential

Dwelling Unit on the Property, or (ii) the Town's acceptance of any new subdivision streets constructed within the Property unless the Petitioner is continuing to maintain or is reimbursing the Town for the maintenance of such dedicated streets, in which case the Public Works Improvements are deferred until such maintenance or reimbursement ceases or condition (i) above is satisfied.

5.3.3 *Equipment.* Petitioner shall provide the Town with a new public works 4x4 extended cab utility truck and a street sweeper (or cash equal to the value of a new street sweeper in lieu of providing the street sweeper) on or before the earlier of: (i) issuance of a building permit for the 650th Residential Dwelling Unit on the Property, or (ii) the Town's acceptance of any new subdivision streets constructed within the Property unless the Petitioner is continuing to maintain or is reimbursing the Town for the maintenance of such dedicated streets, in which case the Public Works Improvements are deferred until such maintenance or reimbursement ceases or condition (i) above is satisfied. The truck shall be a new Ford F-250 XLT Super Duty 4x4 (extended cab) or comparable vehicle.

14. Amendment of DRRA Section 5.4. Section 5.4 of the DRRA is hereby amended as follows:

5.4 Town Police Department. In the Annexation Agreement, the Petitioner agreed to fund the first year's operations of a Trappe Police Department consisting of three police officers, two police vehicles, and a public safety communications system. ~~Alternatively, in addition to the agreement to fund two police cars and a public safety communications system, the parties agree that the Town may elect that the Petitioner Pursuant to the terms of the DRRA, the Town elected to have the Petitioner~~ fund one police officer position for three years as opposed to three police officer positions for one year. The Parties hereby agree that the Petitioner's costs ~~were shall be~~ the actual costs to the Town of providing and training such personnel (including liability and health insurance and an appropriate pension plan) and acquiring, operating and installing such equipment. Petitioner's obligations to fund such operations ~~shall commenced, upon the Town's request, in November 2006. The Petitioner provided funding to for the Trappe Police Department in the following amounts: Salary (\$778,460.35), Vehicle (\$40,229.79), and Equipment and Miscellaneous (\$89,673.67). The Petitioner made salary contributions to the Town for approximately 10.5 years—7.5 years longer than required under the DRRA. Petitioner contributed approximately \$556,000.00 to the Town in salary support for the Town Police Department in excess of Petitioner's obligations under the Agreement. Accordingly, Town and Petitioner agree that Petitioner shall have no further obligations under this Section 5.4. at such time as the Town delivers written notice to the Petitioner that the Town has implemented or will implement its police force.~~

15. Amendment of DRRA Section 5.5. Sections 5.5.2 and 5.5.3 of the DRRA are hereby amended as follows:

5.5.2. *Firehouse Improvements.* Petitioner shall pay to the Trappe Volunteer Fire Department, Inc. the following amounts to support the costs of improvements to the Trappe

Firehouse, which improvements could be extensive if taller residential units are constructed on the Property: (a) Ten Thousand Dollars (\$10,000) upon commencement of construction of the first residential unit in the Project, or any infrastructure or Public Facilities within the Project, and (b) ~~Two Hundred Forty Thousand Dollars (\$240,000) within twelve (12) months of commencement of construction of the Project~~ (i) Eight Hundred Eighty Dollars (\$880.00) per Residential Dwelling Unit upon issuance of each building permit for the first five hundred (500) Residential Dwelling Units, and/or (ii) if the sum of Four Hundred Forty Thousand Dollars (\$440,000.00) has not been paid pursuant to (b)(i) prior to issuance of a building permit for a residential structure containing three or more occupied stories above ground, then the remaining balance of such obligation shall be accelerated and paid in conjunction with issuance of the building permit for the first such 3+ story structure.

5.5.3. *Emergency Sensors.* ~~Petitioner shall reimburse the Trappe Volunteer Fire Department, Inc. for its expenses and costs in adding sensors to its emergency vehicles, and to the existing traffic light (Barber Road) within the Town of Trappe, to permit the emergency vehicles to alter the traffic light timing sequence for safe emergency passage of emergency vehicles. The reimbursement shall be made within thirty (30) days of submission to the Petitioner of the invoices therefor.~~ Petitioner's transportation improvement obligations of Section 7.3 shall include installation of appropriate sensors to new signalized intersections (Piney Hill Road and North Entrance) at the time such intersections are signalized to permit emergency vehicles to alter the traffic light timing sequence for safe passage of emergency vehicles.

16. Amendment of DRRA Section 5.7. Section 5. of the DRRA is hereby deleted in its entirety and in lieu thereof replaced with the following:

5.7 Town Improvement Fund. Town agrees to establish and administer an Improvement Fund to fund programs, projects, and initiatives, in the Town's discretion. Town shall have exclusive authority and responsibility for administering the Improvement Fund. Petitioner agrees to pay to the Improvement Fund One Thousand One Hundred Twenty-Five Dollars (\$1,125.00) per dwelling unit for the first one thousand (1,000) Residential Dwelling Units within the Project. After the issuance of building permits for the first 1,000 Residential Dwelling Units, Petitioner agrees to pay to the Improvement Fund One Thousand Five Hundred Dollars (\$1,500.00) per dwelling unit for the remaining Residential Dwelling Units within the Project. Such fees shall be paid to the Improvement Fund concurrent with the issuance of the building permit for each Residential Dwelling Unit.

17. Amendment of DRRA Section 5.8. Section 5.8 of the DRRA is hereby deleted in its entirety and in lieu thereof replaced with the following:

5.8. Town Administrative Building. Upon request by the Town, Petitioner agrees to dedicate land within the Project that is suitable for a 3,000 square foot municipal building ("Town Administrative Building") and related improvements (access, parking, stormwater management, etc.) ("Town Site"), or to collaborate with the Town to provide

the Town Administrative Building on land otherwise owned or acquired by the Town. The design of the Town Administrative Building and the location and configuration of the Town Site shall be subject to the Town's input and reasonable approval. Petitioner agrees to construct or cause to be constructed a 3,000 square foot building, which construction shall commence on or before issuance of the building permit for the 450th Residential Dwelling Unit constructed on the Property and shall continue to completion in a commercially reasonable manner. Petitioner shall be responsible for all costs of insurance and maintenance of the Town Administrative Building until construction is complete and possession thereof is delivered to the Town. The Town will determine the interior space allocation and configuration to accommodate such offices, meeting rooms, and other administrative spaces as it determines are necessary and appropriate in the Town's sole discretion. A conceptual design of the Town Administrative Building based on the Town's input is attached hereto as Exhibit FA-2. Petitioner shall be responsible for all design, architecture, engineering, construction, and construction inspection costs associated with the Town Administrative Building, as well all exterior improvements, including landscaping, paving, sidewalks and lighting, provided that the Petitioner's total financial responsibility for the Town Administrative Building and, if applicable, a Town Site provided by Petitioner, shall not exceed One Million Five Hundred Fifty Thousand Dollars (\$1,550,000.00), of which Seventy-Five Thousand Dollars (\$75,000.00) shall be allocated to the Town Site if it is provided by the Petitioner within the Project.

18. Amendment of DRRA Section 6.6. Section 6.6 of the DRRA is hereby amended to adjust the timing of dedication of the LaTrappe Heights Park as follows:

6.6. LaTrappe Heights Park. ~~Within twenty four (24) months after the commencement of construction of any Phase of the Project or any infrastructure or Public Facilities within the Project,~~ The Petitioner shall offer to dedicate to the Town four (4) acres of land in the vicinity of adjacent to LaTrappe Heights for use as a park. The property to be conveyed to the Town shall be prepared for passive use (cleared of underbrush), but shall remain wooded. The Petitioner shall pay all costs and expenses associated with the dedication and conveyance of the property to the Town. Such land shall be offered for dedication to the Town within twenty-four (24) months after the commencement of residential dwelling construction within the phase or land bay located adjacent to such land and through which the road access for such park will be constructed.

19. Updated PUD Plan; Amendment of DRRA Exhibits F, J and K (Open Space and Trails). For purposes of Section 4.3, the Parties acknowledge that the Town approved updates and refinements to the PUD Plan for the Project by adoption of Town Ordinance No. 1-2020 on December 2, 2020 and the Planning Commission further approved a minor amendment to the PUD Plan on June [REDACTED], 2021. Exhibits F, J and K of the Agreement are hereby deleted in their entirety and in lieu thereof replaced with Exhibits F-FA, J-FA and K-FA attached hereto. All references in the Agreement to Exhibits F, J or K, respectively, shall be deemed to refer to Exhibits F-FA, J-FA or K-FA, respectively. Exhibit F-FA reflects current approvals. Amendment of this

Agreement or of Exhibit F-FA is not required for each development approval or permit, except as provided by Section 4.3.

20. Amendment of DRRA Section 7.3.6. Section 7.3.6 of the DRRA is hereby deleted in its entirety.

21. Amendment of DRRA Section 8. Section 8 of the DRRA is hereby amended as follows:

8. Water

8.1 Design and Construction. Petitioner shall construct water treatment, storage and distribution facilities within the Property as necessary and desirable for the development of the Project as depicted on final subdivision plats and construction plans approved by Town, including a system of wells, pipes, water mains, laterals, service lines, **an automated meter reading system,** hydrants, feeders, regulators, fixtures, connections and attachments and other desirable appurtenances necessary or proper for the purposes of withdrawing, treating, storing, distributing, supplying and selling water for domestic, commercial, municipal and fire protection purposes and for any other purposes for which water may be used by the residents of the Property, including supplying any computer equipment or software necessary for the operation, maintenance, administration, and billing interconnection with the water and sewer utility services (collectively, the “Water Facilities”). The design and construction of such Water Facilities shall be subject to approval by consulting engineers selected by the Town, and shall comply with federal and state standards, as well as Town’s standards in effect at the time of written Town approval of the construction plans for such facilities, and shall generally comply with the water system improvements plan as set forth by the Wastewater and Water Facility Plan. The Water Facilities will be looped to connect to the existing Trappe water system via an existing interconnection pipe under Maryland Route 50 at Piney Hill Road.

8.2 Wells. Petitioner agrees to design, permit, drill, construct and dedicate to Town all wells required to serve the water demands of the Project. Petitioner agrees that, upon completion of the Project, the wells shall provide, at a minimum, sufficient water to produce an average daily flow rate of 650,000 gallons, with a 16 hour per day well pump run time. Petitioner may provide the water by a combination of two or more wells, as generally indicated in the Wastewater and Water Facility Plan or as otherwise approved by Town and its consulting engineers. **On or before such improvement is determined to be operationally required by the Town’s engineer and following at least nine (9) months advance written notice, Petitioner shall construct and connect a well in the Piney Point aquifer to the Town’s water distribution system. Such initial well connection shall include water disinfection treatment and any additional treatment required to meet State and Federal Safe Drinking Water Standards for such well and is intended to be connected to the Town’s 10” water main in the vicinity of Piney Hill Road. Wells, treatment and associated controls shall be integrated into the Town’s existing remote monitoring system.** Except for the first well, the timing of drilling, construction and connection of such wells shall be at Petitioner’s discretion, provided that

each such well is complete and operating prior to such time as the well is required to provide additional water system capacity for Development of the Property. Petitioner agrees that the Town will not issue a building permit for a use or structure of the Project unless the Project's water system has sufficient capacity to serve the proposed use or structure.

8.3. Elevated Storage Tank. Petitioner shall construct an elevated storage tank ("Tank") with a minimum capacity of 250,000 gallons when and as ~~specified~~ **determined** by the Town's consulting engineers **to be hydraulically necessary**. The Town reserves the right to determine the size and design of the Tank based upon appropriate engineering specifications **provided, however, that Petitioner shall only be responsible for the Tank size required to serve the Property**. It is anticipated that the Tank will be located on the south side of Piney Hill Road, in the vicinity of the Storefront Area and/or the reserved regional commercial area. In accordance with the timing of Section 8.7, Petitioner will dedicate the Tank, related appurtenances and approximately one (1) acre of land on which the Tank and appurtenances are located to Town, together with a dedicated access easement.

8.4 Arsenic and Contaminant Removal. The Water Facilities shall comply with all applicable state and federal regulations, including regulations related to domestic water arsenic **and contaminant** levels. Subsequent to execution of the Annexation Agreement, the Town conducted appropriate testing and determined that no arsenic treatment or removal is required for the existing Town water system. Any necessary arsenic removal facilities constructed by Petitioner for the Property shall be located, designed, sized, and constructed in accordance with the advice and recommendation of Town's consulting engineers. Petitioner shall be responsible for all costs of design. Any construction expenses related specifically to an arsenic removal system constructed by or for Petitioner or for the benefit of the Project shall be borne by Petitioner.

8.5 Prior Approval by Town. Before the commencement of construction of public Water Facilities on the Property, Petitioner will submit to Town applicable plans and specifications therefor and obtain written approval of such plans and specifications by Town.

8.6 Operation and Maintenance. Petitioner shall maintain and operate the Water Facilities until the same are accepted by the Town, and conveyed to the Town by a valid instrument of conveyance. Following conveyance to Town, the operation and maintenance of the Water Facilities will be performed by the Town or its designee pursuant to its standard operating procedures and requirements. Petitioner shall reimburse the Town for any deficiency between the actual operation and maintenance costs (including, but not limited to administrative costs, all depreciation costs, appropriate capital reserves and all indirect costs such as liability insurance) of the Water Facilities and the user fees collected for the Water Facilities until the revenues generated from the Water Facilities are sufficient to cover the actual operation and maintenance costs and render the Water Facilities self-supporting.

8.7 Dedication to Town. The Water Facilities constructed or caused to be constructed by Petitioner shall be conveyed to and accepted by Town upon Completion of construction of such facility(s), subject to the Town's prior inspection and final approval of such facilities as constructed. Transfer of the Water Facilities will be by instrument approved by Town, free of liens and encumbrances. If Town's inspection of the facilities should reveal that same are not in compliance with the applicable standards, or otherwise deficient for their intended purposes, prior to approval and acceptance by Town, Petitioner shall, without undue delay, undertake such repairs, improvement, replacements and additions as are reasonably necessary to cause such facilities to comply with all requirements reasonably imposed by Town in connection therewith. Upon Completion, Petitioner shall furnish to Town a complete set of "as built" plans.

8.8 User Fees, Rates and Policies. All fees, rates, policies, and regulations adopted by Town concerning delivery of water service, including service deposit requirements and collection of monthly charges for service, will be in full force and effect within the Property, except to the extent expressly limited by this Agreement. In consideration of Petitioner's infrastructure and operation and maintenance cost obligations set forth above, the Town agrees to waive all water tap, connection or capital charges for development of the Property. As provided by Section 8.6, Petitioner agrees to pay for the depreciation or reserve for replacement component(s) of the Water Facility. Petitioner agrees to provide and install, within 12 months of purchase, meters as specified by the Town for all connections to the Water Facilities and Town agrees to waive any charge otherwise applicable if the Town had provided or installed the meters. Any meters installed by the Town for the Project shall be at the expense of the Petitioner. The Town or its designee shall be solely responsible for meter reading, billing and collection within the Property and shall collect all revenues therefrom. Except as otherwise set forth herein, water service shall be provided to customers within the Property in substantially the same manner and under the terms, practices, conditions, fees, assessments and charges as Town has heretofore and may hereafter prescribe for its customers under applicable ordinances of Town, as the same may apply to the customers within Property. In the event that Petitioner shall operate the Water Facilities at its expense pursuant to Section 8.6 above, Petitioner shall receive a credit for all revenues collected from the Water Facilities against Petitioner's payment/deficiency obligation set forth by Section 8.6.

8.9 Allocation of Water Facilities Capacity. Determination of Water Facilities capacity shall be based upon actual use measured from time to time and such capacity shall be allocated in accordance with applicable Town or state standards. ~~Formulations such as gallons per day ("gpd") gpd/residential unit and gpd/type of commercial use for allocating capacity shall be adjusted, at least annually, with appropriate safety margin, based on actual average use.~~

8.10 Restrictions on Allocation of Water Facilities Capacity. It is intended that water system production and storage capacity provided by Petitioner shall be reserved for development of the Property. Unless agreed by Petitioner, until the Project is complete, the Town will only authorize connections to or use of Water Facilities by uses or properties

located outside the Property in the case of a water emergency or as necessary to properly manage the supply of safe, potable water throughout the Town.

22. Amendment of DRRA Section 9. Section 9 of the DRRA is hereby amended as follows:

9. Wastewater

9.1 Design and Construction. Petitioner shall construct wastewater treatment **and** collection system and facilities and effluent treatment, storage and disposal facilities within the Property and Easement Area (as defined in Section 9.6) as necessary or desirable for the Development of the Project and as depicted by construction plans approved by the Town, and any consulting engineer employed by the Town, and the Maryland Department of the Environment. **The wastewater treatment system will be designed and constructed in four or more phases.** The plans shall depict a system of pipes, wastewater mains, laterals, lift stations, manholes, treatment facilities, storage lagoon, irrigation equipment, connections and attachments and other desirable appurtenances necessary or proper for the purposes of collecting, transporting, treating, storing and disposing of wastewater generated within the Property, including supplying any computer equipment or software necessary for the operation, maintenance, administration, and billing interconnection with the water and sewer utility services (collectively, the “Wastewater Facilities”). The Wastewater Facilities shall also include a building to accommodate water and sewer administrative offices, storage, and laboratory space **and shall be constructed prior to acceptance and operation of the wastewater treatment system by the Town.** The Wastewater Facilities shall comply with all applicable state and federal standards, and the Town’s standards in effect at the time of written Town approval of the construction of such facilities and shall generally comply with the Wastewater and Water Facility Plan.

9.2 Prior Approval by Town. Before the commencement of construction of public Wastewater Facilities ~~on the Property~~, Petitioner will submit to Town applicable plans and specifications therefor and obtain written approval of such plans and specifications from the Town and its consulting engineers.

9.3 Dedication to Town. Except as otherwise provided by Section 9.6, the Wastewater Facilities constructed or caused to be constructed by Petitioner shall be conveyed to and accepted by Town following Completion of such facility(s), subject to the Town’s prior inspection and approval of such facilities. Transfer of the Wastewater Facilities will be by instrument approved by Town, free of liens and encumbrances. If Town’s inspection of the facilities should reveal that same are not in compliance with all applicable approvals, or otherwise deficient for their intended purposes, prior to approval and acceptance by Town, Petitioner shall, without undue delay, undertake such repairs, improvement, replacements and additions as are reasonably necessary to cause such facilities to comply with all requirements reasonably imposed by Town in connection therewith. Upon Completion, Petitioner shall furnish to Town a complete set of “as built” plans.

9.4 Operation and Maintenance. Petitioner shall maintain the Wastewater Facilities until the same are accepted by the Town. Following conveyance to Town, the Town or its designee shall operate and maintain the Wastewater Facilities pursuant to its standard operating procedures and requirements and applicable laws and best management practices. **The Wastewater Facilities shall be inspected by the Town during and upon completion of construction and, upon its completion in accordance with applicable plans and specifications, shall be accepted by and thereafter owned and operated by the Town, subject to such warranties as may be provided by the contractor and applicable manufacturers.** Petitioner shall reimburse the Town for any deficiency between the actual operation and maintenance costs (including, but not limited to administrative costs, all depreciation costs, appropriate capital reserves, and all indirect costs such as liability insurance) of the Wastewater Facilities and the user fees collected for the Wastewater Facilities until the revenues generated from the Wastewater Facilities are sufficient to cover the actual operation and maintenance costs and render the Wastewater Facilities a self-supporting operation.

9.5 Initial Capacity Allocation. **Subject and pursuant to a Wastewater Capacity Allocation Agreement dated January 11, 2021, the Town allocated to the Project 120 equivalent dwelling units (EDUs) of wastewater capacity in the Town's existing wastewater treatment plant ("Initial Capacity").** ~~Petitioner shall construct such collection system improvements as necessary to convey wastewater to the Town's existing collection system in a manner and location approved by the Town. Notwithstanding any provision herein to the contrary, Petitioner shall be responsible for payment of all generally applicable Town tap, capacity, or connection fees and all user fees associated with the such wastewater Initial capacity. Petitioner shall may temporarily or permanently divert redirect the wastewater flow of the Initial Capacity from the residential units initially served by such allocation in the Town's existing system to the Project's wastewater plant when such new wastewater plant is constructed and ready for operation. if appropriate or beneficial to operation of the Project's wastewater treatment system and may, in consultation with the Town, Following redirection of wastewater flow of the Initial Capacity to the Project's wastewater plant, Petitioner reserves and may reallocate such Town treatment system capacity to otherfuture portion(s) of the Propertyproject only after the existing Town wastewater treatment plant is upgraded or replaced in a manner sufficient to achieve ENR levels of wastewater treatment (3 mg/l TN, 0.3 mg/l TP).~~ **Wastewater Plant Interconnection; Pumping Station and Foremain Connection.** ~~Petitioner agrees to construct a foremain to interconnect the Wastewater Collection system located on the Property to the Town's existing wastewater treatment plant and the Project's Wastewater Facilities ("InterconnectionPrimary Foremain"). The Interconnection shall include pump(s) for two-way operation to convey treated or untreated wastewater to/from either wastewater treatment plant, as approved by the Maryland Department of the Environment. The location of the InterconnectionPrimary Foremain shall be as specified by the Town, and shall utilize existing town or public rights of way unless Petitioner secures additional rights of way acceptable to the Town or the Town assists Petitioner by acquiring the right of way~~

~~preferred by the Town. It shall generally be located within the bed of Hennessy Lane and Maple Avenue.~~

~~Prior to completion of the Project, the Town agrees not to permit connection to the Interconnection by individual properties outside of the Project, unless the connection(s) is necessary for the public health, safety or welfare. The Town acknowledges that, subject to all applicable rules, regulations and permits, available treatment and spray irrigation disposal capacity may be temporarily used for disposal of wastewater from Town's existing treatment plant, but all disposal capacity of the Wastewater Facilities is and shall be reserved for and dedicated to the Property to the extent that such capacity is necessary to accommodate wastewater flows of and from the Property.~~

9.6 Land Application Spray Irrigation Facility. ~~Upon commencement of construction of the Wastewater Facilities,~~ Petitioner agrees to convey to Town a ~~perpetual~~ wastewater disposal easement for groundwater discharge of treated wastewater of the Project by an easement document approved by the Town and its counsel, which document is to be executed by the Town and recorded among the land records of Talbot County. The land application area ("Land Discharge Spray Site") ~~of the easement~~ shall encompass sufficient land area and related buffers as required by the Maryland Department of the Environment for groundwater discharge of the permitted capacity of the Wastewater Facilities and such additional area, if any, as necessary ~~the two areas proposed to MDE for spray irrigation of treated wastewater, 62 acres and 23 acres, respectively, and the 22-acre reserve area, or such other area(s) as approved by MDE (collectively, the "Easement Area").~~ The Easement Area shall also include ~~sufficient area~~ to permit access, construction and maintenance of the spray irrigation land application system. The Spray Land Discharge Site shall be actually permitted by MDE for groundwater disposal from the Wastewater Facilities prior to its acceptance by the Town.

The Land Discharge Site easement will continue, perpetually, subject to termination upon the following conditional events:

- (a) until such time as the ~~Easement Area~~ Land Discharge Site is no longer necessary for the purpose of disposing treated wastewater by land application spray irrigation for the Project, or
- (b) until such time as: (i) Petitioner secures alternative spray irrigation area(s) by perpetual easement to the Town, permitted by MDE, for disposal of the same or greater quantity of wastewater as permitted on the ~~Easement Area~~ Land Discharge Site and constructs all infrastructure necessary to discharge the Project's wastewater at such alternative location(s); and (ii) Town has approved relocation of the land application spray irrigation use to such alternative location(s).

Petitioner agrees to provide, construct and install all necessary land application spray irrigation equipment including pumps, distribution and irrigation equipment, and any other necessary appurtenances.

In the event that the spray irrigation areas designated pursuant to this provision shall become unavailable or unusable for the discharge of effluent, ~~Developer~~ Petitioner shall be responsible for providing appropriate replacement spray areas to be perpetually available to serve the Project. Notwithstanding any other provision of this Agreement, ~~Developer~~ Petitioner shall be required to provide economic security, approved by the Town, as a condition to the assignment of all or any obligations in this Section.

9.7 User Fees, Rates and Policies. All fees, rates, policies, and regulations adopted by Town concerning wastewater service, including service deposit requirements and collection of monthly charges for service, will be in full force and effect within the Property, except to the extent expressly limited by this Agreement. In consideration of Petitioner's wastewater treatment, storage and disposal and operation and maintenance cost obligations set forth above, Town agrees to waive any wastewater connection or capital charges for development of the Property, except as may relate to existing Town sewer capacity provided under Section 9.5. As provided by Section 9.4, ~~Petitioner's deficiency funding obligation includes contributions towards~~ ~~agrees to pay for the~~ depreciation or reserve for replacement component(s) of the Wastewater Facility. The Town or its designee shall be solely responsible for the setting of water and sewer rates, meter reading, billing and collection within the Property and shall collect all revenues therefrom. Except as otherwise set forth herein, wastewater service shall be provided to customers within the Property in substantially the same manner and under the terms, practices, conditions, fees, assessments and charges as Town has heretofore and may hereafter prescribe for its customers under applicable ordinances of Town, as the same may apply to the customers served within the Property. In the event that Petitioner shall operate the system at its expense pursuant to Section 9.4 above, Petitioner shall receive a credit for all revenues collected from the Wastewater Facilities against Petitioner's payment/deficiency obligation set forth by Section 9.4.

9.8 Allocation of Wastewater Facilities Capacity of the Project ~~Trappe East Sewerage Facility.~~ Determination of Wastewater Facilities ~~C~~capacity shall be based upon actual use measured from time to time and such capacity shall be allocated in accordance with applicable Town and state standards. ~~Formulations such as gpd/residential unit and gpd/type of commercial use for allocating capacity shall be adjusted, at least annually, with appropriate safety margin, based on actual average use.~~

9.9 Restrictions on Allocation of ~~Trappe East~~ Wastewater Facilities Capacity. Except as provided in Section 9, all treatment and disposal capacity constructed by Petitioner shall be reserved for development of the Property. Until Development of the Property is complete, the Town will only authorize connections to or use of the Wastewater Facilities outside the Project if the connection(s) is necessary for the public health, safety or welfare, unless otherwise agreed upon by Petitioner and the Town.

23. Amendment of DRRA Section 11.2. Section 11.2 of the DRRA is hereby deleted in its entirety and in lieu thereof replaced with the following:

11.2. Capital Asset Impacts. After undertaking an impact study to evaluate the capital asset impact of the residential phases of the Project, the Town determined that the general fund capital asset impacts caused by the development of the Project are equal to \$2,761 per Residential Dwelling Unit. In consideration of certain capital assets contributed directly to the Town such as the construction of the New Town Office Building, Public Works Improvements and other capital contributions set forth herein, the Town agrees to give the Petitioner a credit by waiving the impact fee assessed upon the **first equivalent of five hundred (500) Residential Dwelling Units.** **Upon issuance of a building permit for each of the first 500 Residential Dwelling Units on the Property, Petitioner agrees to pay the Town \$1,656.60. Upon issuance of a building permit for each of the 501st through the 1,000th Residential Dwelling Units on the Property, Petitioner agrees to pay the Town \$1,404.40. Commencing Upon the issuance of a building permit for the 1,001st five hundred first (501st) residential building permit Residential Dwelling Unit and for each Residential Dwelling Unit constructed on the Property thereafter,** Petitioner agrees to pay the Town \$2,761 per dwelling unit for all remaining Residential Dwelling Units within the Project. The impact fee shall be paid to the Town upon the issuance of the building permit for each Residential Dwelling Unit.

24. Good Faith Compliance Review. Town and Petitioner each acknowledge and agree that both parties have operated in good faith compliance from the Effective Date through the date of this First Amendment. For purposes of Section 13 of the DRRA any omitted Periodic Review is hereby waived by the parties. Future Periodic Reviews shall commence in the Spring of 2022 and continue in accordance with the provisions of Section 13 thereafter.

25. Recordation of First Amendment. This First Amendment shall be recorded in the Land Records within twenty (20) days of the latest Execution Date of this First Amendment, at no expense to the Town.

26. No Party Deemed Drafter. The final language of this First Amendment is the result of extensive negotiations. Each Party has thoroughly reviewed and revised this First Amendment and has had the advice of counsel prior to execution hereof, and the Parties agree that none of them shall be deemed to be the drafter thereof.

27. Counterparts. This First Amendment may be executed by the parties hereto in one or more counterparts, each of which will constitute an original agreement, but all of which together will constitute a single agreement.

28. Ratification of DRRA. Except as expressly modified herein or previously by the Assignment Agreement, all terms and conditions of the DRRA shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates set forth in the notary acknowledgments following the signatures below.

SIGNATURES ON FOLLOWING PAGES

WITNESS:

**THE TOWN OF TRAPPE, a Maryland
municipal corporation**

Erin Braband
Town Administrator-Clerk/Treasurer

By: _____
_____, President

APPROVED AS TO FORM:

By: _____
Lyndsey Ryan, Esq.
Town Attorney

STATE OF MARYLAND, COUNTY OF TALBOT, TO WIT:

I HEREBY CERTIFY, that on this ____ day of _____, 2021, before me, a Notary Public of the State aforesaid, personally appeared _____, who acknowledged himself to be the President of the Town of Trappe, a Maryland municipal corporation, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within First Amendment to Development Rights and Responsibilities Agreement, and acknowledged that he executed the same for the purposes therein contained as the fully authorized agent of said Town of Trappe by signing the name of the Town by himself as President.

IN WITNESS WHEREOF my hand and Notarial Seal.

Notary Public

My Commission expires: _____

WITNESS:

PETITIONER

TRAPPE EAST HOLDINGS BUSINESS TRUST, a Maryland business trust

By: Trappe East Holdings, LLC, a Delaware limited liability company, as sole shareholder and Trustee

By: _____
Nicholas P.H. Rocks, President

APPROVED AS TO FORM:

By: _____
Ryan D. Showalter, Esq.
Attorney for Petitioner

COMMONWEALTH OF VIRGINIA, COUNTY OF FAIRFAX, to wit:

On this ____ day of _____, 2021, before me, the undersigned officer, personally appeared *Nicholas P.H. Rocks*, who acknowledged himself to be the President of Trappe East Holdings, LLC, a Delaware limited liability company (the “Company”), and sole shareholder and Trustee of Petitioner, and that he as such President of such Company, acting as President of the Company, and being authorized so to do, executed the foregoing First Amendment to Development Rights and Responsibilities Agreement for the purposes therein contained by signing the name of the Company by himself as President of the Company, acting as sole shareholder and Trustee of Petitioner.

In witness whereof I hereunto set my hand and official seal:

Notary Public

My Commission Expires: _____

EXHIBIT L-FA

PLANNING COMMISSION RESOLUTION NO. 2021-___

EXHIBIT M-FA

TOWN COUNCIL ORDINANCE NO. 21-_____

*TO BE ATTACHED FOLLOWING TOWN COUNCIL APPROVAL, BUT PRIOR TO
RECORDATION*

EXHIBIT F-FA

EXISTING AND REQUIRED DEVELOPMENT APPROVALS AND PERMITS

EXHIBIT K-FA

OPEN SPACE PLAN – DRRRA EXHIBIT K (REVISED _____ 2021)

EXHIBIT J-FA

TRAILS PLAN – DRRA EXHIBIT J (REVISED _____ 2021)