HOST COMMUNITY AGREEMENT

This Host Community Agreement (the "**Agreement**") is entered into by and between the Town of Hopkinton (the "**Town**"), acting by and through its Board of Selectmen (the "**Selectmen**"), and Legacy Farms LLC (the "**Developer**"), a Massachusetts limited liability company having its principal office at c/o Boulder Capital, LLC, 21 Center Street, Weston, MA 02493 . This Agreement represents the understanding between the Town and the Developer (the "**Parties**") with respect to the commitments by the Developer in connection with the development of Legacy Farms as an open-space mixed-use project (the "**Project**") on approximately 733 acres of land off East Main Street in the Town of Hopkinton (the "**Site**") and the agreements by the Town to support the Project. A map of the land included within the Site is attached hereto as **Exhibit A**.

RECITALS

WHEREAS, at a Special Town Meeting held on June 11, 2007, the Town voted not to exercise its "right of first refusal" to purchase those portions of the Site that were subject to *M.G.L.* c.61A;

WHEREAS, by vote taken March 24, 2008, the Hopkinton Planning Board recommended approval of an article on the warrant of the 2008 Annual Town Meeting to amend the Hopkinton Zoning Bylaws by adding a new Article (the "**OSMUD Article**"), defining and regulating an Open-Space Mixed-Use Development (OSMUD) overlay district, and to adopt a map amendment (the "**OSMUD Map Amendment**"), which would locate the Site within such District;

WHEREAS, if approved by a two-thirds vote of the Hopkinton Town Meeting, the OSMUD Article and OSMUD Map Amendment would allow the Developer to seek a Master Plan Special Permit from the Planning Board authorizing the Project which will consist of components required, permitted or permissible pursuant to the OSMUD Article and more specifically set forth in this Agreement;

WHEREAS, the Parties wish to enter into this non-regulatory Agreement to memorialize their mutual understandings and undertakings with respect to the Project and certain permits to be considered for the Project, as well as other agreements between the Developer and the Town on the terms and conditions hereinafter set forth; and

WHEREAS, the provisions of this Agreement are available for consideration by the Planning Board in reviewing any application for a Master Plan Special Permit authorizing the Project.

NOW, THEREFORE, in consideration of the mutual promises of the parties contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties hereby agree as set forth herein. Capitalized terms used herein that are not otherwise defined shall have the same meaning as such terms are defined in the OSMUD Article.

A. Implementation of the Project Components

1. The Project shall be based on low-impact design principles, a set of strategies that seek to maintain natural systems during the development process by creating development that, to the extent feasible, is integrated into the landscape and not imposed on it.

2. The Parties mutually intend and anticipate that the Project will have a positive financial impact on the Town both during the build-out period and at full build-out, in that the incremental revenue to the Town through increased real estate taxes, excise taxes, building permit and other construction-related permit fees is expected to exceed the incremental operational and capital costs to the Town incurred as a result of the Project, while leaving the Developer flexibility to take advantage of market opportunities as they arise. Toward that end, the Developer agrees not to seek Certificates of Occupancy for any component of the Project that is anticipated to have a negative financial effect on the Town unless that effect is expected to be offset by the prior issuance of Certificates of Occupancy for components that are anticipated to have at least as great a positive financial impact on the Town; provided, however, that, the computation of Project component offsets pursuant to this paragraph shall include only the positive financial impacts of Project components that have not previously been considered as offsetting prior Project components with negative financial effects.

The computation of Project component offsets shall be determined utilizing the following matrix (the "**Matrix**"), which is based on analysis prepared for the Town by the Town's fiscal consultant, as adjusted for the purposes of this Agreement (and which solely reflects anticipated increases in real estate taxes and excise taxes and does not include building permit and other construction-related permit fees).

Base Line Discrete Component	**Projected Base Assessed Value (Town Consultant)**	**Fiscal Estimate $ Gain (Loss)**	**$ Gain (Loss)/ Dwelling Unit**	**$ Gain(Loss) /SF**
240 Rental Apartments	$120,649/ apartment or $28,955,800 for entire component	($264,000)	($1,100)	----------
Alternative to 240 Rental Apartments: 94 affordable plus 146 market rate units	----------	----------	----------	----------
Townhomes (affordable @ 47 units)	$166,600/unit	($68,150)	($1,450)	----------
Townhomes (market rate @ 73 units)	$479,000/unit	$208,050	$2,850	----------

Base Line Discrete Component	Projected Base Assessed Value (Town Consultant)	Fiscal Estimate $ Gain (Loss)	$ Gain (Loss)/ Dwelling Unit	$ Gain(Loss) /SF
Simplex or Duplex (affordable @47 units)	$166,600/unit	($44,650)	($950)	----------
Simplex or Duplex (market rate @ 73 units)	$338,000/unit	$102,200	$1,400	----------
50 Single Family Homes	$780,000/home	($357,000)	($7,150)	----------
325 Townhomes	$479,000/unit	$926,250	$2,850	----------
325 Simplex and Duplex	$338,000/unit	$455,000	$1,400	----------
93,000 SF Retail	$170/SF	$120,900	----------	* $1.30
357,000 SF General Commercial	$95/SF	$285,600	----------	* $0.80
Alternative: 120,000 SF Hotel	$160/SF	$420,000	----------	$3.50
Alternative: 200,000 SF Assisted Living/CCRC	$125/SF	$200,000	----------	$1.00

*93,000 SF and 357,000 SF are estimates. The SF rate is to apply to all retail and other commercial approved under Site Plan Approvals.

The Parties acknowledge that the Matrix is based on assumed assessed valuations of improvements within the Project as projected by the Town's consultant, and that the Developer anticipates that the actual sales and rental prices for improvements within the Project will be in excess of the levels projected by the Town's consultant. Accordingly, at the request of either Party, the Matrix shall be amended from time to time to reflect the amount by which assessed values for portions of the Project theretofore constructed, as adjusted to reflect May 2008 values i) based (with respect to dwelling uses) on the S&P/Case-Shiller Boston Home Price Index or comparable index in the event the S&P/Case-Shiller Boston Home Price Index ceases to be published, ii) based (with respect to office or light industrial uses) on the CB Richard Ellis Route 495 Mass Pike West Market Snapshot Index or comparable index in the event the CB Richard Ellis Route 495 Mass Pike West Market Snapshot Index ceases to be published, and iii) based (with respect to retail uses) on the Marcus Millchap Index or comparable index in the event the Marcus Millchap Index ceases to be published (the "**Index**"), exceed the Projected Base Assessed Value set forth in the Matrix. From and after any amendment of the Matrix to reflect adjustment in assessed values (the "**Adjusted Assessed Value**"), the Adjusted Assessed Value shall be applied with respect to Certificates of Occupancy to be issued until a subsequent amendment of the Matrix becomes effective. However, in the event the average assessed values,

as adjusted to reflect 2008 values based on the Index, for any component in the Project thereafter constructed are below the Adjusted Assessed Value, the Matrix shall be amended to reflect such reduction of the Adjusted Assessed Value of such component which shall be applied to subsequent determinations under this paragraph. By way of reference, as of January 2008 the S&P/ Case-Shiller Boston Home Price Index is 160, the CB Richard Ellis Route 495 Mass Pike West Market Snapshot Index for office use is $19.39/SF rent for office use, and the Marcus Millchap Index is $34.70/SF rent for retail use.

Such adjustment shall be made as follows :

Step 1: For dwelling units, each $1,000 in Adjusted Assessed Value per dwelling unit in excess of the Projected Base Assessed Value shall be multiplied by $14.15. By way of example, if the first 50 town-homes, which have a Projected Base Assessed Value of $479,000, are sold and assessed at $600,000, the difference in the Projected Base Assessed Value versus Adjusted Assessed Value is $121,000. Divided by $1000 would provide a quotient of 121. This 121 would be multiplied by $14.15 and then multiplied by the number of town-homes (50) to arrive at a product of $85,607.50.

Similarly, for retail and commercial uses, each $10 in Adjusted Assessed Value per SF of retail and commercial uses in excess of the Projected Base Assessed Value shall be multiplied by $1.415. By way of example, if retail space, which has a Projected Base Assessed Value of $170/ square foot is assessed at $180/ square foot for 10,000 SF, the difference in the Projected Base Assessed Value versus Adjusted Assessed Value is $10/SF. The $10 would be multiplied by $1.415 and then multiplied by the 10,000 SF to arrive at a product of $14,150.

Step 2: The number determined under Step 1 shall be multiplied by a fraction. For dwelling units, the numerator of the fraction shall be the total number of the dwelling units of the particular component set forth in the Matrix, and the denominator of the fraction shall be the remaining number of dwelling units of the particular component that had not yet received Certificates of Occupancy. By way of example, if 50 town-homes have received Certificates of Occupancy, the fraction would be 325/275. For retail and commercial uses, the numerator of the fraction shall be the total amount of SF of the particular component set forth in the Matrix and the denominator of the fraction shall be the remaining amount of SF of the particular component which has not yet received Certificates of Occupancy. By way of example, if 10,000 SF of retail use have received Certificates of Occupancy, the fraction would be 93,000/83,000.

Step 3: The number determined under Step 1 shall be multiplied by the fraction determined under Step 2. With respect to dwelling units, to extend the example of 50 town-homes constructed and assessed at $600,000, the product of $85,607.50 would be multiplied by 1.181 (which is 325/275) for an adjustment of $101,172.49. With respect to retail and commercial uses, to extend the example of the 10,000 SF retail use constructed and assessed at $180/SF, the product of $14,150 would be multiplied by 1.12 (which is 93,000/83,000) for an adjustment of $15,848.

Step 4: The number determined under Step 3 shall then be added to the Fiscal Estimate $Gain (Loss) for the particular component. To extend the example of 50 town homes constructed and assessed at $600,000, the number $101,172.49 would be added to $926,250 for a

revised Fiscal Estimate of Gain of $1,027,422.40 or $3,161.30 per town-home dwelling unit. To extend the example of the 10,000 SF retail use constructed and assessed at $180/SF, the number of $15,848 would be added to $120,900 for a revised Fiscal Estimate of Gain of $136,748 or $1.47/SF.

In order to give the Developer the level of reliance needed to go forward with construction and financing of the Project, any adjustments to the Matrix shall in no event result in a decrease in projected gain or an increase in projected loss than as shown as the Projected Base Assessed Value in the Matrix. Further, prior to commencing construction of any building in the Project, the Board of Selectmen shall issue, if so requested by the Developer, a certification which may be relied on by the Developer that, on the basis of the Matrix as in effect as of the date of the application for the building permit, the Developer may seek a Certificate of Occupancy for such component of the Project upon completion of such building or component with respect to which the certification is issued.

The Parties further agree that, in the event that either (i) a payment is made pursuant to Paragraph 24 of this Agreement, or (ii) the Town does not proceed to construct a fire substation or public safety facility to serve the East Hopkinton area, either exclusively or jointly with a portion of the Town of Ashland, within 15 years from the filing of a Notice pursuant to the provisions of §210-172 of the OSMUD Article, the amount of $500,000 shall be added to the total $Gain set forth in the Matrix allocated to any component(s) designated by the Developer, provided that the total credit does not exceed $500,000, to offset the fact that it would no longer be appropriate to include the cost of a fire substation or public safety facility as a cost element to be incurred by the Town.

3. The Developer agrees that it will not apply for endorsement by the Planning Board of any plan purporting to create lots having frontage on any portion of the Project's so-called "Spine Road" (shown on **Exhibit A**), such as pursuant to *M.G.L.* c.41, §81P, unless creation of such lots is authorized by the approved Master Plan Special Permit. The foregoing shall not restrict the endorsement as so-called "Approval Not Required" lots of parcels of land, containing existing buildings that have frontage on public ways in existence as of the date of this Agreement.

4. Consistent with the Parties' mutual desire to ensure that the traffic and public safety impacts of the commercial development component of the Project proposed to be located in the Commercial Subdistrict at the northernmost portion of the Site (known as "Legacy Park") are properly mitigated, the Developer agrees that it will not seek a Certificate of Occupancy for any portion of such Project component until after the Northern Spine Road component of the Project is constructed and available for travel and any Performance Guarantee required by the Planning Board for the Northern Spine Road pursuant to the Town's Subdivision Control Rules and Regulations has been provided.

5. The Project shall include no more than 940 Dwelling Units. The 940 Dwelling Units may contain a mix of one-bedroom, two-bedroom, three-bedroom and four-bedroom units, but shall not exceed 1943 bedrooms in the aggregate.

Of the 940 Dwelling Units, the Project shall include not fewer than 240 Dwelling Units that are eligible for inclusion in the Massachusetts Department of Housing and Community Development's Subsidized Housing Inventory. Such rental development shall contain not more than 378 bedrooms in the aggregate, allocated as follows: 112 one-bedroom units; 118 two-bedroom units; and 10 three-bedroom units.

As provided in the OSMUD Article, the foregoing paragraph shall not apply in the event that, prior to the issuance of a building permit for the rental development, either *M.G.L.* c.40B, §§20-23 or the rules, regulations or guidelines issued thereunder are modified so as no longer to provide that all of the units in a rental development that contains at least 25% affordable housing are eligible for inclusion in the Affordable Housing Inventory; provided, however, that, in such case, the Project shall include ninety-four (94) dwelling units of affordable housing which shall contain not more than 145 bedrooms in the aggregate, allocated as follows: 46 one-bedroom units; 45 two-bedroom units; and 3 three-bedroom units.

6. The Project may include up to 450,000 square feet of commercial development, of which no more than 200,000 square feet may be used for one or more Continuing Care Retirement Communities, Assisted Living Facilities, Skilled Nursing Facilities or similar uses. Such uses shall be limited to 150 units or beds, which may contain a maximum of 50 units classifiable as "separate living quarters" by the U.S. Census Bureau (The U.S. Census Bureau currently defines "separate living quarters [as] those in which the occupants live and eat separately from any other persons in the building and which have direct access from the outside of the building or through a common hall." Federal Register, Vol. 73, No. 30, February 13, 2008 Issued by Department of Commerce, Bureau of the Census Entitled Program for the 2010 Census—Final Criteria). The Developer will use best efforts to receive administrative or staff guidance from the U.S. Census Bureau as to whether the units in any such use will be classifiable as separate living quarters. With respect to the number of units, if any, that are classifiable as separate living quarters by the U.S. Census Bureau, either: (i) 10% of such number of units shall be "Affordable" if *M.G.L.* c.40B, §§ 20-23 is in effect; or (ii) the Developer may contribute funds to the Town of Hopkinton Affordable Housing Trust Fund or Hopkinton Community Housing Task Force, Inc. in an amount mutually agreed upon by the Developer and the Planning Board. In addition, as a condition to the issuance of a building permit for any units classifiable as separate living quarters by the U.S. Census Bureau, the Developer shall contribute an amount equal to $3,000 multiplied by the number of market rate units so classified to be held in a gift account to be used for public safety purposes.

7. Consistent with the Town's desire to obtain the affordable housing benefits of the rental housing component of the Project in the event that *M.G.L.* c.40B, §§20-23 remains in effect and the rules, regulations or guidelines of the Massachusetts Department of Housing and Community Development issued pursuant to *M.G.L.* c.40B, §§20-23 continue to provide that all the units in a rental development that contains at least 25% affordable housing units are eligible for inclusion on the Subsidized Housing Inventory, the Developer agrees to apply for the necessary building permits for the full 240 units of rental housing proposed within one year of obtaining final Site Plan Approval therefor.

B. Traffic-Related Community Benefits

8. The Developer shall undertake two (2) Off-Site Traffic Improvements proposed in the Traffic Impact and Access Study dated March 2008 prepared by Developer's Consultant, Vanasse Hangen Brustlin, Inc. (the "**TIAS**") as follows:

(a) The Developer shall itself undertake upgrades to the traffic controls at the intersection of Routes 85 and 135 to improve the downtown intersection, as more specifically described in the TIAS as "Minor Modification--Upgrades to the Traffic Controls for the Main Street, Cedar Street Intersection" (Page 10); and

(b) The Developer shall itself undertake or reimburse the Town for the full reasonable cost of relocating the pedestrian cross-walk at the intersection of West Main Street and Wood Street from its current location over Route 135 to the western approach to that intersection, as more specifically described in the TIAS on Pages 11 and 12.

As provided in Paragraph 30 of this Agreement, the work specified in this paragraph shall be performed forthwith after approval of the OSMUD Article and OSMUD Map Amendment by the Attorney General, without a challenge to the OSMUD Article having been filed or, if filed, upon final resolution of such challenge in a manner favorable to the OSMUD Article and OSMUD Map Amendment not later than one (1) year from the date of adoption by Town Meeting of the OSMUD Article and OSMUD Map Amendment; provided, however, that, notwithstanding the foregoing, the work specified in this paragraph shall be performed forthwith in the event of the filing of a Notice pursuant to the provisions of §210-172 of the OSMUD Article; and provided further that such work shall be subject to review and approval by the Department of Public Works.

9. The Project shall include transportation mitigations as set forth in the TIAS including, but not limited to, the following, subject to the approval by the Planning Board in the Master Plan Special Permit and the Department of Public Works:

(a) Northern and Southern Spine Road bypass of Downtown Hopkinton (subject to approval by Conservation Commission);

(b) The relocation of Frankland Road and Peach Street; and

(c) The abandonment of a portion of Phipps Street, if required.

10. In any application for a Master Plan Special Permit for the Project, the Developer shall propose phased implementation of traffic improvements that are consistent, to the extent feasible, with maintaining the community character of the Town. Towards that end, the Developer shall, to the extent feasible, minimize widenings of roadways or rights of way, except if required to alleviate a Level of Service (LOS) F condition or conditions that are deemed to be detrimental to the public safety anticipated to result, in whole or in part, from the Project's implementation. The Developer shall consider and study all reasonable alternative mitigation

measures and demonstrate the results to the Planning Board prior to recommending to the Planning Board the implementation of roadway or rights of way widening.

11. Implementation of the Project shall incorporate Traffic Demand Management ("**TDM**") measures to minimize or lessen the impact of vehicular traffic. Such TDM measures shall, at a minimum, include the elements discussed in the TIAS on Pages 14-17.

12. With the exception of the Northern Spine Road and the Southern Spine Road (as shown on **Exhibit A**), which shall become public ways upon acceptance by the Town pursuant to the applicable standards and processes of the Town, all other roads within the Project shall be privately owned and maintained. The Developer agrees that it will never petition the Town to accept such other roads as public ways.

C. Undertakings Pertaining to Restricted Land

13. The Project shall include not less than 500 acres of Restricted Land to be maintained via a Landowners' Association or agreements by particular land owners, easement holders or lessees within the Project to ensure stewardship at no cost to the Town (excepting costs related to improvement or maintenance of any portion that may be conveyed to the Town or subject to a grant of easement or lease to the Town for active recreation or other municipal uses). Except for the land to be used for agricultural purposes or as open space for the benefit of specific neighborhoods within the Project or land used for cemetery or other municipal uses approved by 2/3 vote of Town Meeting, all the remaining Restricted Land shall be used as open space, including active and passive recreation, in which shall be ensured public access, through internal and intra-municipal connecting trails, subject to appropriate rules and regulations.

14. The Developer shall make available to the Town or its nominee, as part of the Restricted Land, a certain parcel of approximately 19 acres, shown on **Exhibit B,** which may be used as two (2) athletic playing fields, together with parking and other accessory uses related thereto (the "**Athletic Fields Parcel**"). Additionally, the Developer shall make available to the Town or its nominee, as part of the Restricted Land, a certain parcel of approximately 21 acres, shown on **Exhibit B**, which may be used for other municipal uses if the Board of Selectmen so elect; provided, however, that such land shall not be used for municipal uses other than active or passive recreation or cemetery use unless specifically approved by a 2/3 vote of Town Meeting. Further, (a) if land areas not to exceed 1,600 SF in the aggregate are approved by 2/3 vote of Town Meeting for use as one or more municipal sewage pump stations, each not to exceed 300 SF in surface area and 10 feet in height for a flat roof or 15 feet in height for a peaked or gabled roof, the Developer shall make such land areas available to the Town or its nominee, and/or (b) if the Department of Public Works and the Developer jointly determine based on a distribution system evaluation study that a water storage structure or tank for use by the OSMUD District should be located on the Site, the Developer shall make the required areas available to the Town for the location of such water storage structure serving all or a portion of the OSMUD District; provided, in each such case, that the Developer determines that a suitable location is available therefor, taking into consideration the improvements for the Project constructed or proposed, and that the location, plans, exterior appearance and landscaping of such municipal facility are approved by Developer.

The foregoing parcels and land areas shall be made available to the Town by means of conveyance executed after April 1, 2010, or by means of an easement or lease, for no monetary consideration payment by the Town. The Developer shall have the right to approve the plans and specifications for any improvements to be made by the Town or its nominee to such parcels or land areas, and approve the coordination of the timing of work by the Town with the Developer's work in constructing the Project.

15. In order to facilitate pedestrian connections to the athletic fields to be located on the Athletic Fields Parcel, the application for the Master Plan Special Permit shall, to the extent feasible, propose, as part of the Project, the creation of meandering pedestrian connections along East Main Street from Ray Street to the Athletic Fields Parcel and pedestrian connections from areas within the Site (both northerly and southerly of East Main Street) to the Athletic Fields Parcel, which shall consist of pervious or impervious durable surfaces; provided, however, that the Town shall be responsible for any land takings required to construct such pedestrian connections along East Main Street and that no utility relocations shall be required to be made at the Developer's expense.

16. Provided that the Commonwealth of Massachusetts Department of Agricultural Resources agrees that the following shall fulfill the obligations of the Town to mitigate the use of eleven (11) acres of Town-owned land suitable for agricultural use for the site of the high school facility, as set forth in an Agreement between the Town and the Commonwealth dated August 16, 1999, eleven (11) acres of land within the Project designated by the Developer to be part of the land to be used by Weston Nurseries, Inc. shall be made subject to an Agricultural Preservation Restriction, in satisfaction of Executive Order 193 and the Agreement between the Town and the Commonwealth dated August 16, 1999; provided, however, that the Developer shall have no obligation with respect to Executive Order 193 in the event the Commonwealth does not approve the eleven (11) acres of land designated by Developer to be used by Weston Nurseries, Inc. in satisfaction of the foregoing.

17. The North Parcel (as shown on **Exhibit A**) shall be made subject to a Restricted Land Covenant that will control development and protect the North Parcel as open space Restricted Land to be left in substantially its natural state, restored or landscaped so as to protect the North Parcel's view characteristics.

D. Other Project Elements

18. The Developer shall work with the Town to develop the Alprilla Farms Well and associated public water supply infrastructure, in accordance with the Alprilla Farms Well Agreement between the Developer and the Board of Selectmen, the Planning Board and the Department of Public Works, dated March 12, 2008 (the "**Alprilla Farms Well Agreement**"). The Developer agrees that, in no event, shall the Town have the obligation to allocate water to customers located on the Site in excess of the total aggregated volume of gpd (average daily flow) of the Alprilla Farms Well Expansion (as defined in the Alprilla Farms Well Agreement). Further, the Town's obligations to allocate water to customers located on the Site shall be subject to adjustment to the total aggregated volume permitted by DEP or other State authority or

otherwise available to be withdrawn and distributed from the Alprilla Farms Well in the event that such permitted or available volume is reduced below 170,000 gpd due to regulatory action or a change in safe yield or water quality and, consistent with the Alprilla Farms Well Agreement, shall be subject to proportionate adjustment to reflect any conservation or use restrictions imposed under federal or state law which are applicable generally to users of water throughout the Town.

19. The Project shall include the development and operation of a private wastewater treatment facility and associated sewerage infrastructure to serve the Site at no cost to the Town. Such facility and infrastructure, including specifically infrastructure located in public rights of way, shall be privately owned and operated. Subject to the requirements of applicable law and the requirements imposed on all landowners served by such private wastewater treatment facility, the Developer shall make the opportunity available to up to 29 single-family homes outside of the Site in the area of Clinton Street, Linden Street and Curtis Road, at the sole cost and expense of the owners of such homes for all matters related to extension of the sewer service to such homes, to be served by the private wastewater treatment facility being developed for the Project at usage rates equal to those available to comparable users within the Site.

20. Reference is made to the fact that the buildings located at 82 East Main Street, 83 East Main Street, 26 Clinton Street, and 97 East Main Street (the Pearson House) are listed on the *Inventory of Historical and Archaeological Assets of the Commonwealth.* The Developer agrees that these structures will not be demolished, although they may be renovated and expanded and 97 East Main Street (the Pearson House) may be relocated on the Site or elsewhere within Town. The foregoing shall not be modified unless consented to by the Hopkinton Historical Commission.

E. Additional Financial Matters

21. The Landowners' Association documents referred to in the OSMUD Article shall include a restriction for the benefit of the Town that no property within the Site, other than Restricted Land approved by the Planning Board, shall be conveyed to a tax-exempt entity unless: (i) such entity agrees that the property will be subject to taxation under *M.G.L.* c.59, without any claim of exemption on the basis of the entity's tax-exempt status; or (ii) such entity enters into an agreement for Payment in Lieu of Taxes ("**PILOT Agreement**") that provides for payments in lieu of taxes and /or other benefits to the Town not less than the amount that would otherwise be due to the Town in property taxes and personal property excise taxes under *M.G.L.* c.59 for as long as the entity continues to be exempt from such property or excise taxation. The restrictions set forth in this paragraph shall apply to any lease by an owner of property within the Site to a tax-exempt entity if the legal effect of such lease would otherwise be to exempt the owner or lessee of the leased property from the payment of real estate taxes.

22. In the event that enrollment in the Hopkinton public schools by residents of the Project exceeds 250 students during the period expiring six (6) years from the date of issuance of the first Certificate of Occupancy for a Dwelling Unit in the Project, the Developer shall make a one-time payment of $500,000 to the Town to be held in a gift account for purposes of use by the Hopkinton School Committee.

Additionally, in the event enrollment in the Hopkinton public schools by residents of the Project exceeds 266 students at any time during the period expiring one (1) year after the date of issuance of a Certificate of Occupancy for the final Dwelling Unit authorized by the Master Plan Special Permit or the expiration of eighteen (18) years from the filing of a Notice pursuant to the provisions of §210-172 of the OSMUD Article, whichever is earlier, the Developer shall make a one-time payment, for each increment of 30 students at the end of the Fiscal Year in which the excess over a 30-student increment first occurs, in the amount of $270,000 based on $9,000 per pupil (in October 2008 dollars, to be compounded at 4% annually), to be held in a gift account for purposes of use by the Hopkinton School Committee.

23. The Developer has agreed to reimburse the Town for the costs of various consultants to the Town providing peer review and other services related to the Project as set forth in that certain Fee Letter transmitted to Town Counsel on January 28, 2008 and accepted by the Town through Town Counsel (the "**Fee Letter**"), as it may be amended from time to time, and in the Alprilla Farms Well Agreement. The payment of such costs shall not be deemed to affect the right of the Planning Board or other Town permitting authorities under applicable law to set review fees in connection with applications filed by the Developer for the Project or any component thereof with respect to fees which are not currently subject to reimbursement under the Fee Letter.

24. Upon the issuance of a building permit for a fire substation or public safety facility to serve the East Hopkinton area, either exclusively or jointly with a portion of the Town of Ashland, the Developer shall make a payment to the Town in the amount of $500,000, to be held in a gift account for the purpose of defraying the Town's capital costs of such facility. The foregoing obligation shall remain in effect for 15 years from the filing of a Notice pursuant to the provisions of §210-172 of the OSMUD Article.

25. At the request of the Town, the Developer will cooperate with the Town to support legislative authorization for a mechanism to allow some or all of the incremental revenue expected to accrue to the Town through increased real estate and excise taxes as a result of the Project to be earmarked for use to defray the Town's incremental capital and/or operating costs associated with the Project, as determined by the Board of Selectmen; provided that such support shall not require any expenditures by the Developer (other than incidental expenditures such as those involved in attendance at meetings or preparing letters of support), result in any increased anticipated taxation or other requirement for monetary contribution, or result directly or indirectly in a delay of the Project.

F. Undertakings by the Town

26. The Selectmen shall support the adoption of the OSMUD Article and the OSMUD Map Amendment at the Town Meeting, and shall encourage other Town Boards and departments to support adoption of the OSMUD Article and OSMUD Map Amendment. The Selectmen shall, to the extent appropriate, cooperate with the Developer and shall encourage other Town Boards and departments to cooperate with the Developer in issuing local and state permits and approvals required for the Project in a timely and expeditious manner, including, without limitation, approvals by the Planning Board, Conservation Commission and Department

of Public Works, cooperation in MEPA review and other state permit review of both the Project and the Alprilla Farms Water System Expansion.

27. Without limitation of the foregoing, the Selectmen shall support and undertake action required to effectuate the following in a timely manner upon applications by Developer, subject to requirements of law:

(a) The Selectmen shall, subject to the applicable processes and standards of the Town, grant two (2) licenses for the sale of all alcoholic beverages to be drunk on the premises and one (1) package store license if applied for by the Developer or its designee(s), subject to construction of facilities, for land located within the Project. Such licenses shall be transferable to successor tenants or Developers of facilities at the Project from time to time, after customary review by the Selectmen of the identity and suitability of the transferees. In reviewing the suitability of transferees, the Selectmen shall be allowed to take into account their judgment as to whether the nature of an establishment, based upon its ambiance, signage, employee dress and similar factors, is suitable for a neighborhood in Hopkinton that contains residential units and is adjacent to a neighborhood of single-family homes in Hopkinton. The Developer's application for all such licenses shall be on the condition, and the licenses shall so state, that the licenses may not be exercised in any geographical location other than the Project.

(b) The Selectmen shall approve and execute a so-called "Local Initiative Project" ("**LIP**") application to the Massachusetts Department of Housing and Community Development and take such other action as may be necessary for the 240 rental housing component of the Project to be eligible for inclusion on the Subsidized Housing Inventory.

(c) The Selectmen shall, as necessary, grant the Developer such licenses to enter onto Town land to perform any mitigation or fulfill any other obligation set forth in this Agreement.

(d) The Selectmen shall exercise the powers and authorities granted to them to allow the abandonment or relocation of public ways (Peach Street, Frankland Road, Phipps Street, Curve Street, and East Main Street) as required for Developer's traffic mitigation as approved by the Planning Board, shall grant temporary and permanent easements for construction and utilities, and shall grant curb cut approvals for the Project consistent with applicable Town standards and processes; provided, however that the Developer shall arrange for the conveyance to the Town of any easements required for existing utilities within any rights of way to be abandoned unless such utilities are relocated to other rights of way.

(e) The Selectmen shall recommend to Town Meeting the acceptance of the Northern and Southern Spine Road Components as public ways after satisfactory completion thereof pursuant to the applicable standards and processes of the Town.

G. Conditions to Agreement

28. Except as otherwise provided in Paragraphs 29, 30 and 31 of this Agreement, the obligations of the Parties under this Agreement shall be contingent upon the following:

(a) The adoption by Town Meeting of the OSMUD Article and OSMUD Map Amendment in the form recommended for approval by the Planning Board on March 24, 2008, or in a form and condition satisfactory to Developer, and approval of such Article and Amendment by the Attorney General, with all challenge periods having passed, no challenges pending or, if such Article or Amendment is challenged, the same having been finally disposed of favorably to the Article or Amendment not later than one (1) year from the date of adoption by Town Meeting.

(b) The issuance, in a form and condition satisfactory to the Developer, of a Master Plan Special Permit for the Project, with all appeal periods having passed, no appeals pending, or if any such Master Plan Special Permit is appealed, the same having been finally disposed of favorably to the Developer not later than one (1) year from the issuance of the Master Plan Special Permit.

(c) The issuance, in a form and condition satisfactory to the Developer, of all other state and local approvals applied for and required for the Project, with all appeals periods having passed, no appeals pending, or if any such permit or approval is appealed, the same having been finally disposed of favorably to the Developer not later than one (1) year from the issuance of the permit or approval which is subject of the appeal.

(d) The filing by the Developer of the Notice under section 210-172 of the OSMUD Zoning Article.

(e) The obligations of the Developer under Paragraph 22 of this Agreement shall be contingent upon the adoption by the Hopkinton School Committee of a resolution in support of the adoption of the OSMUD Article and OSMUD Map Amendment by the Town Meeting.

(f) Without limitation of the foregoing, the obligations of the Developer under this Agreement shall be contingent upon the following actions by the Planning Board undertaken in a timely and expeditious manner in a form and condition satisfactory to Developer, subject to the requirements of law:

(i) Issuance of a Master Plan Special Permit for the Project and subsequent issuance of Site Plan Approvals for the Development Projects within the OSMUD District;

(ii) Confirmation in the Master Plan Special Permit that traffic mitigation measures identified in the Master Plan Special Permit and acceptable to the Developer will be approved by the Planning Board under Site Plan approvals to be issued thereunder for the various Development Project components of the Project as generally sufficient to mitigate the Project's traffic impact on community roadways and to support the full Intensity of Uses permitted under the OSMUD Article; provided, however, that additional mitigation measures may be required during the Site Plan review process if deemed necessary based on analysis of more detailed information relative to site design and actual use;

(iii) Support of the waiver of, or amendment to, the Town's Subdivision Regulations as may be appropriate to allow definitive subdivision approval or endorsement as

so-called "Approval Not Required" lots to be granted consistent with the requirements of the OSMUD Zoning Article and the Master Plan Special Permit including Design Guidelines to be incorporated therein which reflect the width and configuration of roadways appropriate to their setting;

(iv) Approval of the acceptance of the Northern and Southern Spine Road Components as public ways after satisfactory completion thereof pursuant to the applicable standards and processes of the Town.

(g) Without limitation of the foregoing, the obligations of the Developer under this Agreement shall be contingent upon approval by the Conservation Commission, in a timely and expeditious manner upon application by the Developer, and in a form and condition satisfactory to the Developer, of a so-called "Limited Project" for the Spine Road (as shown on **Exhibit A**), subject to requirements of applicable law.

(h) Without limitation of the foregoing, the obligations of the Developer under this Agreement shall be contingent upon such actions by the Department of Public Works, undertaken in a timely and expeditious manner and in a form and condition reasonably satisfactory to the Developer:

(i) such actions as are required under the Alprilla Farms Well Agreement;

(ii) the approval of the work as referenced in Section 8 of this Agreement;

(iii) the approval of the transportation mitigation in the TIAS as referenced in Paragraph 9 of this Agreement.

29. Notwithstanding the foregoing, it is agreed that the obligations of the Town under Paragraph 26 of this Agreement shall be in effect upon execution of this Agreement.

30. Notwithstanding the foregoing, it is agreed that the obligations of the Developer under Paragraph 8 of this Agreement shall be in effect following the adoption by Town Meeting of the OSMUD Article and OSMUD Map Amendment in the form recommended for adoption by the Planning Board on March 24, 2008, or in a form and condition satisfactory to Developer, and approval of such Article and Amendment by the Attorney General, with all challenge periods having passed, no challenges pending or, if any such zoning amendment is challenged, the same having been finally disposed of favorably to the Article or Amendment not later than one (1) year from the date of adoption by Town Meeting; provided, however, that, the work specified in Paragraph 8 of this Agreement shall be performed forthwith in the event of the filing of a Notice pursuant to the provisions of §210-172 of the OSMUD Article.

31. Notwithstanding the foregoing, it is agreed that all obligations of the Developer under this Agreement shall be in effect upon the filing of a Notice pursuant to the provisions of §210-172 of the OSMUD Article.

H. Miscellaneous

32. The Planning Board may choose to incorporate the terms of this Agreement by reference and make it a part of any Master Plan Special Permit issued for the Project.

33. All notices or requests required or permitted hereunder shall be in writing and addressed, if to the Town as follows:

Board of Selectmen
Town of Hopkinton
Hopkinton Town Hall
18 Main Street
Hopkinton, MA 01748

with a copy to:

J. Raymond Miyares, Esq.
Miyares and Harrington LLP
50 Leonard Street
Belmont, MA 02478

If to the Developer to:

Legacy Farms LLC
c/o Boulder Capital
21 Center Street
Weston, MA 02493

with a copy to:

Marilyn L. Sticklor, Esq.
Goulston & Storrs
400 Atlantic Avenue
Boston, MA 02110.

Each of the Parties shall have the right by notice to the other to designate additional parties to whom copies of notices must be sent, and to designate changes in address. Any notice shall have been deemed duly given if mailed to such address postage prepaid, registered or certified mail, return receipt requested, on the date the same is received or when delivery is refused, or if delivered to such address by hand or by nationally recognized overnight courier service, fees prepaid, when delivery is received or when delivery is refused, or if transmitted by facsimile or other electronic means with confirmatory original by one of the other methods of delivery herein described, on the date so transmitted by facsimile or other electronic means.

34. If and to the extent that either of the Parties is prevented from performing its obligations hereunder by an event of *force majeure*, such party shall be excused from performing hereunder and shall not be liable in damages or otherwise, and the Parties instead shall negotiate

in good faith with respect to appropriate modifications to the terms hereof. For purposes of this Agreement, the term *force majeure* shall mean any cause beyond the reasonable control of the affected party, including without limitation requirement of statute or regulation; action of any court, regulatory authority, or public authority having jurisdiction; acts of God, fire, earthquake, floods, explosion, actions of the elements, war, terrorism, riots, mob violence, inability to procure or a general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, actions of labor unions, condemnation, laws or orders of governmental or military authorities, or any other cause similar to the foregoing, not within the reasonable control of such party obligated to perform such obligation. With respect to any particular obligation of the Developer only, the term *force majeure* shall include the denial of, refusal to grant or appeals of any permit, approval or action of any public or quasi public authority, official, agency or subdivision and any litigation relating to such particular obligation, or any other cause similar to the foregoing, not within the reasonable control of such party obligated to perform such obligation, but the obligation of the Developer under Paragraph 8 of this Agreement shall not include any denial of, refusal to grant or appeal of any permit, approval or action identified in Paragraph 28 of this Agreement.

35. Failure by the Developer to perform any term or provision of this Agreement shall not constitute a default under this Agreement unless and until the Developer fails to commence to cure, correct or remedy such failure within thirty (30) days of the receipt of written notice of such failure from the Town to the Developer and thereafter fails to complete such cure, correction or remedy within sixty (60) days of receipt of such written notice or, with respect to defaults which cannot reasonably be cured, corrected or remedied within such sixty (60) day period, within such addition period of time as is reasonably required to remedy such default, provided the Developer exercises due diligence in the remedying of such default.

36. The obligations of the Developer, with the exception of those set forth in the Fee Letter, do not constitute the personal obligations of Developer or of the members, trustees, partners, directors, officers, or shareholders of Developer of any direct or indirect constituent entity of Developer or any of its or their affiliates or agents, and the Town shall not seek recourse against any of the foregoing or any of their personal assets for satisfaction of any liability with respect to this Agreement or otherwise. In no event shall Developer be liable for any damages, incidental, indirect, punitive or special or consequential damages, but the Town shall have the recourse to injunctive relief or specific performance to enforce this Agreement in the event of default by Developer.

37. This Agreement shall be binding upon the Parties and their successors and assigns, and shall run with the land. However, from and after the issuance of a Certificate of Occupancy with respect to any Buildable Area within the Site, such Buildable Area and any Restricted Land made subject to a Restricted Land Covenant in connection with such Buildable Area, shall not be subject to, and shall be released from, any further liability under this Agreement.

38. Each Party agrees from time to time, upon not less than twenty one (21) days' prior written request from the other, to execute and deliver a statement in writing certifying that this Agreement is in full force and effect (or if there have been any modifications, setting them

forth in reasonable detail), and that there are no uncured defaults of either Party under this Agreement, in form reasonably acceptable to and which may be relied upon by any prospective purchaser, tenant, mortgagee or other party having an interest in the Project.

39. Whenever the consent or approval of any party is required under this Agreement, such consent or approval shall not unreasonably be withheld, delayed or conditioned. Such approvals shall be deemed given if no written response is received within ten (10) business days of the request for approval having been so delivered; provided, however, that, in the event that the Town Manager or his designee provides notice within such ten (10) business day period that additional time is needed for the Town to provide such written response not to exceed twenty (20) additional business days, the requested approval shall not be deemed given if a written response is received as soon as practicable but not later than the expiration of the time specified in such notice.

40. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

41. This Agreement sets forth the entire agreement of the Parties with respect to the subject matter thereto. The failure of any party to strictly enforce the provisions hereof shall not be construed as a waiver of any obligation hereunder. This Agreement may be modified only in a written instrument signed by the Selectmen and the Developer. The Parties do not intend for any third party to be benefited hereby.

Executed under seal.

LEGACY FARMS LLC

By: _____

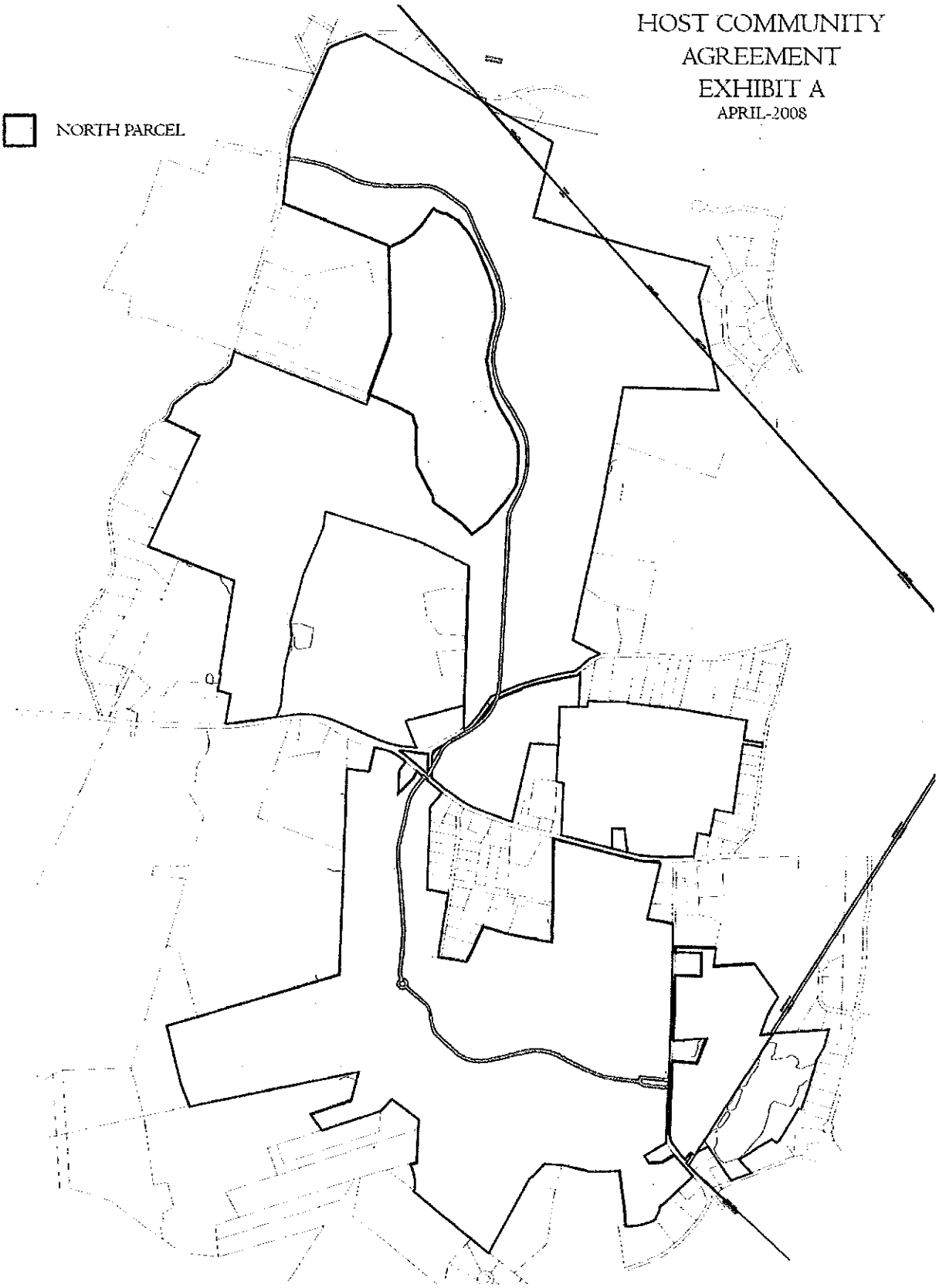
TOWN OF HOPKINTON BOARD OF SELECTMEN

By: _____
Its Chair
Hereunto duly authorized

By: _____
Town Counsel as to Form

HOST COMMUNITY
AGREEMENT
EXHIBIT A
APRIL-2008

NORTH PARCEL



HOST COMMUNITY
AGREEMENT
EXHIBIT B
APRIL-2008