

COMMONWEALTH OF MASSACHUSETTS

IN THE MATTER OF)	BROWNFIELDS COVENANT
)	NOT TO SUE AGREEMENT
PLYMOUTH REDEVELOPMENT AUTHORITY)	
and ACUITY MANAGEMENT, INC., An)	
Affiliate of REVERE COPPER AND BRASS)	DEP RTN 4-00770
INCORPORATED)	

AMENDMENT TO AGREEMENT TO MODIFY
AFFORDABLE HOUSING COMPONENT OF PROJECT

WHEREAS, a Brownfields Covenant Not to Sue Agreement (the "Agreement") was entered into on March 3, 2006 by the Office of the Attorney General (the "OAG") on behalf of the Commonwealth of Massachusetts (the "Commonwealth"), the Plymouth Redevelopment Authority ("PRA"), and Acuity Management, Inc., and amended on May 30, 2006, to add Arnold B. Tofias and Theresa H. Boucher as trustees of the Harborview II Nominee Trust, Eastport Bayside, LLC, and the Town of Plymouth as parties to the Agreement;

WHEREAS, the Agreement is entered into pursuant to the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, as amended and codified in Massachusetts General Laws, Chapter 21E ("G.L. c. 21E"), and the OAG's Brownfields, Covenant Not to Sue Agreement Regulations at 940 CMR 23.00 ("Brownfields Covenant Regulations"), with reference to the Massachusetts Contingency Plan, 310 CMR 40.0000 (the "MCP"), and involves the remediation and redevelopment of the former Revere Copper and Brass manufacturing facility at the corner of Water and Lothrop Streets in Plymouth, Massachusetts (the "Revere Copper Project" at the "Property");

WHEREAS, Section IV.A.2.a. of the Agreement currently requires the PRA to include the building of affordable housing units in the Revere Copper Project, and states more fully:

PRA intends to purchase the former Revere Copper property. Upon purchase, PRA will undertake appropriate Response Actions and offer the Property for sale to a redeveloper. PRA has commissioned a market and feasibility study that indicates that the highest and best use of the Property is housing. This project will provide the following significant public benefits: demolition and removal of the current deteriorated industrial building, cleanup of the contaminated Property, and construction of housing units, with at least 10% of the units comprising affordable housing;

WHEREAS, the PRA has requested that the Agreement be modified to replace the requirement of building affordable housing on the Revere Copper property with a requirement to

help finance the Cherry Hill II Project, an affordable housing project in downtown Plymouth to be built by the Plymouth Housing Authority;

WHEREAS, the Cherry Hill II Project is the Town of Plymouth's first priority in its plan for developing affordable housing in accordance with the Town's January 2006 Affordable Housing Plan;

WHEREAS, the PRA purchased the Property and then sold it to Southern Dunes LLC with the requirement that Southern Dunes LLC build housing on the Property consistent with the PRA's obligations under the Agreement;

WHEREAS, the OAG has considered the factors in 940 CMR 23.06 and believes that this amendment is fair, consistent with G.L. c. 21E and 940 CMR 23.06, and in the public interest;

NOW, THEREFORE, all parties agree as follows:

1. The current Section IV.A.2.a. of the Agreement is stricken and replaced with this paragraph:

PRA shall enter into an agreement with Southern Dunes LLC that requires Southern Dunes LLC to pay to the Town \$600,000, as a "calculated fee" consistent with the Town of Plymouth's Inclusionary Housing Bylaw, in lieu of building units on the Property which meet the Commonwealth's definition of "affordable." The money paid by Southern Dunes LLC to the Town pursuant to this paragraph shall be placed in the Plymouth Affordable Housing Trust Fund and used to fund the Plymouth Housing Authority's Cherry Hill II housing development. The Cherry Hill II Project shall include 39 units of rental housing which meet the Commonwealth's definition of "affordable." If the Town does not make substantial progress in development of the Cherry Hill II project within three years of the effective date of this Agreement, the money paid by Southern Dunes LLC to the Town pursuant to this paragraph shall be used to aid in the purchase of homes for people with 80% or less of the median household income, as defined in Plymouth's Inclusionary Housing Bylaw.

IT IS SO AGREED:

OFFICE OF THE ATTORNEY GENERAL

BY: *Benjamin J. Ericson*
Benjamin J. Ericson
Assistant Attorney General
Environmental Protection Division
Office of the Attorney General
One Ashburton Place
Boston, MA 02108

Date: 6/27/07

COMMONWEALTH OF MASSACHUSETTS

Suffolk County

On this 27th day of June, 2007, before me, the undersigned notary public, personally appeared Benjamin Ericson, proved to me through satisfactory evidence of identity, which was PERSONAL KNOWLEDGE (Mass. Driver's License, etc.), to be the person whose name is signed on the preceding or attached document and acknowledged to me that he/she signed it voluntarily for its stated purpose,

Siu Tip Lam
Notary Public - SIU TIP LAM
My Commission Expires: 3/30/2012



In the matter of Plymouth Redevelopment Authority and Acuity Management Inc. Brownfields Covenant Not to Sue Agreement Amendment To Agreement To Modify Affordable Housing Component Of Project

PLYMOUTH REDEVELOPMENT AUTHORITY

BY: *Robert Wollner*
Robert Wollner, Chairman

BY: *Dean Rizzo*
Dean Rizzo, Secretary

BY: *Chester Bagni*
Chester Bagni, Treasurer

BY: *Paul Curtis*
Paul Curtis, Member at Large

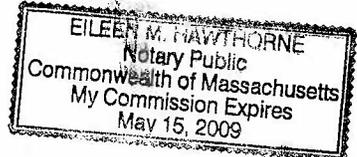
Date: 6/6/07

COMMONWEALTH OF MASSACHUSETTS

Plymouth County

On this 5th day of June, 2007, before me, the undersigned notary public, personally appeared Robert Wollner, proved to me through satisfactory evidence of identity, which was (PERSONAL KNOWLEDGE/Mass. Driver's License, etc.), to be the person whose name is signed on the preceding or attached document and acknowledged to me that he signed it voluntarily for its stated purpose,

Eileen M Hawthorne
Notary Public -
My Commission Expires:



In the matter of Plymouth Redevelopment
Authority and Acuity Management Inc.
Brownfields Covenant Not to Sue Agreement
Amendment To Agreement To Modify
Affordable Housing Component Of Project

ACUITY MANAGEMENT, INC.

BY: Neil Eisenband
Neil Eisenband
Vice President and Treasurer

Date: May 10, 2007

COMMONWEALTH OF MASSACHUSETTS

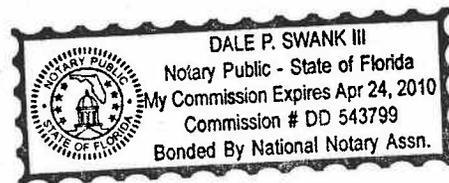
Palm Beach County

On this 10 day of May, 2007, before me, the undersigned notary public, personally
appeared Neil Eisenband, proved to me through satisfactory evidence of identity,
which was (PERSONAL KNOWLEDGE/Mass. Driver's License, etc.), to be the person whose
name is signed on the preceding or attached document and acknowledged to me that he/she
signed it voluntarily for its stated purpose,

Dale P Swank III

Notary Public -

My Commission Expires:



In the matter of Plymouth Redevelopment
Authority and Acuity Management Inc.
Brownfields Covenant Not to Sue Agreement
Amendment To Agreement To Modify
Affordable Housing Component Of Project

EASTPORT BAYSIDE, LLC

BY: *Michael L. Price, Manager*
Michael L. Price, as Manager

Date: 5/9/07

COMMONWEALTH OF MASSACHUSETTS

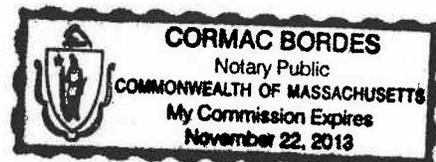
Middlesex, ss.

On this 9th day of May, 2007, before me, the undersigned notary public, personally appeared Michael L. Price, proved to me through satisfactory evidence of identification, which were ****personally known by notary****, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Cormac Bordes

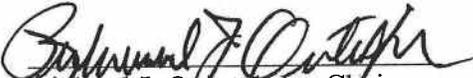
Notary Public

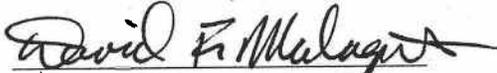
My commission expires:

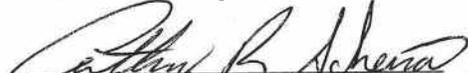


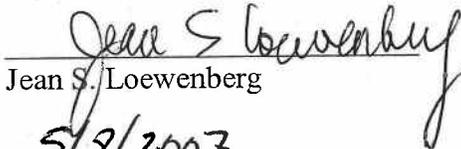
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TOWN OF PLYMOUTH,
BY ITS BOARD OF SELECTMEN

BY: 
Richard J. Quintal, Jr. Chairman

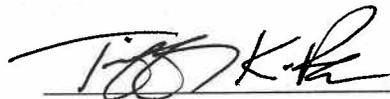
BY: 
David F. Malaguti, Vice-Chairman

BY: 
Anthony Schena

BY: 
Jean S. Loewenberg

Date: 5/8/2007

On this 8th day of MAY, 2007, before me, the undersigned notary public, personally appeared R. QUINTAL, J. LOEWENBERG, D. MALAGUTI, A. SCHENA (name of document signer), proved to me through satisfactory evidence of identification, which were PERSONALLY KNOWN, to be the person whose name is signed on the preceding or attached document in my presence.

 (official signature and seal of notary)



TIFFANY K. PARK
Notary Public
Commonwealth of Massachusetts
My Commission Expires
April 25, 2014

In the matter of Plymouth Redevelopment
Authority and Acuity Management Inc.
Brownfields Covenant Not to Sue Agreement
Amendment To Agreement To Modify
Affordable Housing Component Of Project

HARBORVIEW II NOMINEE TRUST

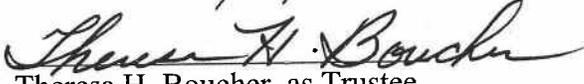
BY:


Arnold B. Tofias, as Trustee

Date:

5/22/07

BY:


Theresa H. Boucher, as Trustee

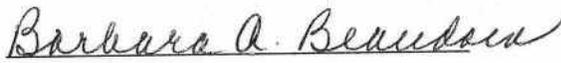
Date:

5/22/07

COMMONWEALTH OF MASSACHUSETTS

BRISTOL County

On this 22ND day of MAY, 2007, before me, the undersigned notary public, personally appeared THE ABOVE (2), proved to me through satisfactory evidence of identity, which was (PERSONAL KNOWLEDGE/Mass. Driver's License, etc.), to be the person whose name is signed on the preceding or attached document and acknowledged to me that he/she signed it voluntarily for its stated purpose,


Notary Public -
My Commission Expires: 10-31-2008

