

COMMONWEALTH OF MASSACHUSETTS

IN THE MATTER OF)	BROWNFIELDS COVENANT
)	NOT TO SUE AGREEMENT
TRINITY APPLETON FOUR LIMITED)	
PARTNERSHIP AND TRINITY APPLETON)	
LIMITED PARTNERSHIP)	
REDEVELOPMENT OF)	MassDEP RTNs 3-26095
219, 265 AND 307 JACKSON STREET,)	3-26424
LOWELL, MASSACHUSETTS)	3-27420

I. STATEMENT OF PURPOSE

A. This Agreement is made and entered into by and between the Office of the Attorney General (the "OAG") on behalf of the Commonwealth of Massachusetts (the "Commonwealth") and Trinity Appleton Four Limited Partnership and Trinity Appleton Limited Partnership (the "Trinity Entities"). Collectively, the OAG and the Trinity Entities are referred to as the "Parties."

B. This 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"). This Agreement relates to the remediation of property now known as 219, 265 and 307 Jackson Street in the Hamilton Canal District of Lowell, Massachusetts more fully shown on the plan in Exhibit A, attached and incorporated by reference into this Agreement, which is recorded in Middlesex North Registry of Deeds in Plan Book 228, Page 127 (the "Property"). As more fully described and shown in Exhibit A, the Property contains parcels 6, 7, 8, 9 and portions of parcel 10 and Street D. Parcels 6 and 7 are owned by the Trinity Entities. Parcels 8, 9, 10 and Street D are owned by the City of Lowell. The Trinity Entities intend to redevelop Parcels 6 and 7 of the Property by building 130 units of affordable housing (the "Project").

C. The Parties intend to set forth in this Agreement their respective duties, obligations and understanding so that the Project can contribute to the physical and economic revitalization of an area of Lowell, Massachusetts. The Parties agree that this Agreement, pursuant to G.L. c. 21E, §3A(j)(3), addresses potential claims by the Commonwealth for contribution, Response Action costs or property damage pursuant to G.L. c. 21E or for property damage under common law. This Agreement does not, however, address liability arising under contract law.

D. The Parties agree that the Trinity Entities' ability to complete the Project may be contingent upon independent approval processes of other departments, agencies and instrumentalities of the federal, state and local governments. Nothing in this Agreement should

be construed as an endorsement by the OAG of the Project for such approval processes. The Trinity Entities' failure to secure independent governmental approvals for the Project shall not excuse the Trinity Entities from performance of any term or condition of this Agreement.

E. The Commonwealth believes that this Agreement is fair, consistent with G.L. c. 21E and in the public interest, and has entered into this Agreement as part of an effort to revitalize an area of Lowell, Massachusetts.

II. THE PARTIES

A. The OAG is a duly constituted agency of the Commonwealth of Massachusetts charged with the legal representation of the Commonwealth and maintains offices at One Ashburton Place, Boston, Massachusetts 02108. Included within the OAG's authority is the authority to enter into Brownfields Covenant Not to Sue Agreements pursuant to G.L. c. 21E, §3A(j)(3).

B. Trinity Appleton Four Limited Partnership and Trinity Appleton Limited Partnership are partnerships organized under the laws of the Commonwealth, each with a principal place of business at 40 Court Street, Boston, Massachusetts 02108. The Trinity Entities shall undertake the Project as described below and as discussed in Section IV, Paragraph A, Subparagraph 2.

III. STATEMENT OF FACT AND LAW

A. The Commonwealth enters into this Agreement pursuant to its authority under G.L. c. 21E, §3A(j)(3) and the Brownfields Covenant Regulations.

B. Unless otherwise expressly provided, terms used in this Agreement which are defined in the Brownfields Covenant Regulations shall have the meaning assigned to them under such regulations. Terms not defined in the Brownfields Covenant Regulations, but defined under G.L. c. 21E and/or the MCP, shall have the meaning assigned to them under G.L. c. 21E and/or the MCP. Terms used in this agreement which are defined in the Brownfields Covenant Regulations, G.L. c. 21E, or the MCP are capitalized.

C. The Property is approximately 3.49 acres of land now known as 219, 265 and 307 Jackson Street in the Hamilton Canal District of Lowell, Massachusetts. The Property is bounded on the south by the Hamilton Canal and on the north by the Lower Pawtucket Canal. The Property is contaminated with polycyclic aromatic hydrocarbons ("PAHs"), extractable petroleum hydrocarbons ("EPHs"), polychlorinated biphenyls ("PCBs"), metals and volatile organic compounds ("VOCs") from historic industrial activities at the Property.

D. The Massachusetts Department of Environmental Protection ("MassDEP") has received notices of Releases of Oil and/or Hazardous Material at or from the Property, and has assigned Release Tracking Numbers ("RTNs") to the Releases. The areas where Oil and/or Hazardous Materials have come to be located as a result of the Releases assigned RTNs 3-26095, 3-26424 and 3-27420 constitute the "Site," as that term is defined at 310 CMR 40.0006, for the purposes of this Agreement. The Site, as now delineated, is co-extensive with the Property and

is shown on Exhibit A. The Parties acknowledge that future delineation of Site boundaries may change based on future assessments. Exhibit B, which is attached and incorporated into this Agreement, describes the environmental conditions in detail, including the nature and extent of contamination detected at the Site.

E. The Trinity Entities have submitted a partial Response Action Outcome (“RAO”) Statement for the Site, indicating that a Class B RAO had been achieved, including a condition of No Significant Risk, for the portion of the Site coextensive with parcels 8 and 9 and a portion of parcel 10 of the Property. Response Actions addressing the rest of the Site are ongoing.

IV. COMMITMENTS AND OBLIGATIONS

In consideration of the representations made and promises exchanged by and between the Parties, each of them covenants and agrees to the terms and conditions which follow.

A. REPRESENTATIONS AND COMMITMENTS BY THE TRINITY ENTITIES

1. Each of the Trinity Entities represents that:
 - a. it is an Eligible Person;
 - b. it is not at the time of execution of this Agreement a person with potential liability for the Site pursuant to G.L. c. 21E other than as an owner or operator pursuant to Section 5(a)(1) of G.L. c. 21E;
 - c. it is not now nor has it ever been previously affiliated with any person having potential liability for the Site pursuant to G.L. c. 21E;
 - d. its involvement with the Site has been limited to:
 - i. purchasing parcels 6 and 7 of the Property;
 - ii. communicating with the Commonwealth and local authorities with respect to the Project and various permitting issues with respect to the Property; and
 - iii. conducting assessment activities at the Property, as described in Exhibit B;
 - e. none of its activities has caused or contributed to the Release or Threat of Release of Oil and/or Hazardous Material at the Site under G.L. c. 21E and/or the MCP; and
 - f. it is not at the time of execution of this Agreement subject to any outstanding administrative or judicial environmental enforcement action arising under any applicable federal, state or local law or regulation.

2. The Trinity Entities agree to the following terms and conditions:

a. The Trinity Entities shall redevelop parcels 6 and 7 of the Property, which contain the former Appleton Mills buildings, into 130 units of housing meeting the Massachusetts Department of Housing and Community Development's ("DHCD's") definition of "affordable." The Executive Summary of the City of Lowell's Master Plan for the Hamilton Canal District, of which the Project is a part, is attached as Exhibit C.

b. The Trinity Entities shall maintain or arrange for the maintenance of a Class B RAO, including a condition of No Significant Risk, on the portion of the Site coextensive with parcels 8 and 9 and a portion of parcel 10 of the Property, or, if the Class B RAO is not maintained for reasons of redevelopment or otherwise, achieve and maintain or arrange for the achievement and maintenance of a Permanent Solution on the portion of the Site coextensive with parcels 8 and 9 and a portion of parcel 10 of the Property, in accordance with G.L. c. 21E, the Standard of Care defined in G.L. c. 21E, and the MCP. The Trinity Entities shall also either achieve and maintain or arrange for the achievement and maintenance of a Permanent Solution on the rest of the Site to a standard consistent with the proposed residential use of the Property, in accordance with G.L. c. 21E, the Standard of Care defined in G.L. c. 21E, and the MCP. Each of the Trinity Entities shall also cooperate fully with MassDEP with respect to contamination at the Site.

c. To cooperate fully includes, without limitation:

i. providing prompt and reasonable access to Parcels 6 and 7 of the Property, and the rest of the Site to the degree the Trinity Entities have legal authority to do so, to MassDEP for any purpose consistent with G.L. c. 21E and the MCP, and to other persons intending to conduct Response Actions pursuant to G.L. c. 21E and the MCP;

ii. complying with the Release notification provisions established by G.L. c. 21E and the MCP;

iii. responding in a timely manner to any request made by the MassDEP or OAG to produce information as required pursuant to G.L. c. 21E;

iv. taking reasonable steps to prevent the Exposure of people to Oil and/or Hazardous Material, such as by fencing or otherwise preventing access to the Site if appropriate and/or necessary to prevent Exposure or as otherwise required by G.L. c. 21E, the MCP, MassDEP or a Licensed Site Professional acting on behalf of the Trinity Entities or another Owner and/or Operator of the Site; and

v. taking reasonable steps to contain any further Release or Threat of Release of Oil and/or Hazardous Material from a structure or container at Parcels 6 and 7 of the Property, and the rest of the Site to the degree the Trinity Entities have legal authority to do so, upon obtaining knowledge of a Release or Threat of Release of Oil and/or Hazardous Material.

d. After the achievement of a Permanent Solution at Parcels 6 and 7, the Trinity Entities and/or its successors shall operate the Project as a residential building consistent with any Activity and Use Limitation (“AUL”) recorded for the Site.

e. The Trinity Entities shall provide a copy of this Agreement to any successors, assigns, lessees or licensees of the Trinity Entities’ ownership or operational interests in any portion of the Property (“Subsequent Owners and/or Operators”).

B. COVENANT NOT TO SUE BY THE COMMONWEALTH

1. Covenant as to the Trinity Entities

Pursuant to G.L. c. 21E, §3A(j)(3), in consideration of the representations and commitments by the Trinity Entities set forth in Section IV, Paragraph A of this Agreement, and subject to the Trinity Entities’ compliance with the terms and conditions of this Agreement and the Termination for Cause provisions described below in Section IV, Paragraph B, subparagraph 5, the Commonwealth covenants not to sue the Trinity Entities, pursuant to G.L. c. 21E, for Response Action costs, contribution, property damage or injunctive relief, or for property damage under the common law relating to any Release of Oil and/or Hazardous Material occurring at the Site prior to the execution of this Agreement that is fully described and delineated in a Response Action Outcome (“RAO”) Statement which has been submitted to MassDEP with respect to Parcels 8 and 9 and a portion of Parcel 10 of the Property and an RAO Statement to be submitted to MassDEP with respect to the rest of the Site, so long as the Response Actions upon which the RAO Statements rely meet the Standard of Care in effect when the respective RAO Statement is submitted to MassDEP. The covenant in this Paragraph shall vest on the effective date of this Agreement as defined in Section IV, Paragraph D, subparagraph 5. This Agreement shall not affect any liability established by contract.

2. Subsequent Owners and/or Operators

The Commonwealth also covenants not to sue Eligible Persons who are Subsequent Owners and/or Operators, including Eligible Persons who are lessees or licensees of the Trinity Entities’ successors and assigns, pursuant to G.L. c. 21E for Response Action costs, contribution, property damage or injunctive relief, or for property damage under the common law relating to any Release of Oil and/or Hazardous Material occurring at the Site prior to the execution of this Agreement that is fully described and delineated in an RAO Statement which has been submitted to MassDEP with respect to Parcels 8 and 9 and a portion of Parcel 10 of the Property and an RAO Statement to be submitted to MassDEP with respect to the rest of the Site, so long as the Response Actions upon which the RAO Statement relies meet the Standard of Care in effect when the respective RAO Statement is submitted to DEP. The liability relief available to Subsequent Owners and/or Operators shall be subject to the same terms and conditions as those that apply to the Trinity Entities and the Subsequent Owner’s and/or Operator’s covenant not to sue the Commonwealth in Section IV, paragraph C, below.

3. Applicability of the Agreement

This Agreement shall be in effect unless and until the statutory protections available to the Trinity Entities or Subsequent Owners and/or Operators pursuant to G.L. c. 21E, §5C are in effect for the Site. This Agreement is subject to the Termination for Cause provisions described below in Section IV, Paragraph B, subparagraph 5.

4. Reservations of Rights

The Commonwealth's covenants in this Agreement shall not apply to:

a. any Release of Oil and/or Hazardous Material at or from the Property that occurs after the date of execution of this Agreement;

b. any Release of Oil and/or Hazardous Material which the Trinity Entities or any Subsequent Owner and/or Operator causes, contributes to, or causes to become worse, but if the cause or contribution is that of a Subsequent Owner and/or Operator, such reservation shall affect the liability protection applicable only to such Subsequent Owner and/or Operator and shall not affect the Trinity Entities' liability protection under this Agreement;

c. any Release of Oil and/or Hazardous Material not discovered when an RAO Statement is submitted to MassDEP that would have been discovered if an assessment of the Site or portion of the Site covered by or addressed in the RAO Statement had been performed consistent with the Standard of Care in effect when the RAO Statement was submitted;

d. any Release or Threat of Release of Oil and/or Hazardous Material from which there is a new Exposure that results from any action or failure to act pursuant to G.L. 21E by the Trinity Entities or a Subsequent Owner and/or Operator during the Trinity Entities' or a Subsequent Owner's and/or Operator's ownership or operation of the Property, but if the action or failure to act is that of a Subsequent Owner and/or Operator, such reservation shall affect the liability protection applicable only to such Subsequent Owner and/or Operator and shall not affect the Trinity Entities' liability protection under this Agreement;

e. any Release of Oil and/or Hazardous Material not described and delineated in an RAO Statement or Remedy Operating Status Submittal submitted to MassDEP with respect to the Site; and

f. any claims for damages for injury to, destruction of, or loss of natural resources.

5. Termination for Cause

a. If the OAG or MassDEP determines that the Trinity Entities submitted materially false or misleading information as part of its Application to Enter into a Brownfields Covenant Not to Sue Agreement, the OAG may terminate the liability protection offered by this Agreement in accordance with Subparagraph 5.c. below. A statement made by

the Trinity Entities regarding the anticipated benefits or impacts of the proposed Project will not be considered false or misleading for purposes of this Subparagraph if the statement was asserted in good faith at the time it was made.

b. In the event that the OAG or MassDEP determines that the Trinity Entities or a Subsequent Owner and/or Operator has violated the terms and conditions of this Agreement, including but not limited to failure to (i) maintain or arrange for the maintenance of a Class B RAO, including a condition of No Significant Risk, on the portion of the Site coextensive with parcels 8 and 9 and a portion of parcel 10 of the Property, or (ii) if the Class B RAO is not maintained for reasons of redevelopment or otherwise, achieve and maintain or arrange for the achievement and maintenance of a Permanent Solution on the portion of the Site coextensive with parcels 8 and 9 and a portion of parcel 10 of the Property; or (iii) either achieve and maintain or arrange for the achievement and maintenance of a Permanent Solution on the rest of the Site, all in accordance with G.L. c. 21E and the MCP, or failure to arrange for a timely response to a Notice of Audit Finding or any other notice requiring additional work to achieve and/or maintain a Permanent Solution for any portion of the Site, the OAG may terminate the liability protection offered by this Agreement in accordance with Subparagraph 5.c. below. In the event that the liability protection is terminated solely because of a violation of one or more of the conditions set forth in 940 CMR 23.08(3)(a) through (d) by a Subsequent Owner and/or Operator, such termination shall affect the liability protection applicable only to such Subsequent Owner and/or Operator.

c. Before terminating the liability relief provided by this Agreement, the OAG will provide the Trinity Entities or a Subsequent Owner and/or Operator with written notice of the proposed basis for, and a 60-day opportunity to comment on, the proposed termination. The notice from the OAG shall, if appropriate, provide a reasonable period of time for the Trinity Entities or a Subsequent Owner and/or Operator to cure an ongoing violation in lieu of termination of the liability relief provided by this Agreement. The decision whether to provide an opportunity to cure is in the sole discretion of the OAG and shall be exercised reasonably.

d. Termination of liability relief pursuant to this section shall not affect any defense that the Trinity Entities might otherwise have pursuant to G.L. c. 21E.

C. COVENANT NOT TO SUE BY THE TRINITY ENTITIES AND ANY SUBSEQUENT OWNER AND/OR OPERATOR

1. In consideration of the Commonwealth's covenants not to sue in Section IV, Paragraph B, each of the Trinity Entities covenants not to sue and not to assert any claims or causes of action against the Commonwealth, including any department, agency, or instrumentality, and its authorized officers, employees, or representatives with respect to the following matters as they relate to the Site or this Agreement:

a. any direct or indirect claims for reimbursement, recovery, injunctive relief, contribution or equitable share of response costs or for property damage pursuant to G.L. c. 21E, or natural resource damages in connection with any Release that is subject to the Commonwealth's covenants not to sue in Section IV, Paragraph B (the "Covered

Releases”). This paragraph does not preclude claims for recovery by the Trinity Entities pursuant to Massachusetts General Laws Chapter 21J;

b. any claims for “takings” under the Fifth Amendment to the United States Constitution, under the Massachusetts Constitution, or under G.L. c. 79 based on the argument that, with respect to a Covered Release, the requirements of Chapter 21E, the MCP, or the requirements of this Agreement constitute a taking;

c. any claims for monetary damages arising out of Response Actions at the Site;

d. any claims or causes of action for interference with contracts, business relations or economic advantage based upon the conduct of MassDEP pursuant to Chapter 21E prior to the date of this Agreement concerning the Covered Releases; or

e. any claims for costs, attorneys fees, other fees or expenses incurred in connection with the Covered Releases.

2. Subsequent Owners and/or Operators shall be bound by the Trinity Entities’ covenants in this Paragraph C. In the event that, despite these covenants, a Subsequent Owner and/or Operator asserts any claims or causes of action against the Commonwealth, including any department, agency, or instrumentality, and its authorized officers, employees, or representatives with respect to the claims listed in this Section C, such claims and/or causes of action shall have no effect on the rights, benefits, and protections secured under this Agreement for any other entity.

3. Nothing in this Agreement is intended to limit the rights of the Trinity Entities or Subsequent Owners and/or Operators to pursue claims against third parties for Response Action costs or contribution.

D. GENERAL PROVISIONS

1. This Agreement may be modified only upon the written consent of all Parties.

2. If any court of competent jurisdiction finds any term or condition of this Agreement or its application to any person or circumstance unenforceable, the remainder of this Agreement shall not be affected and each remaining term and provision shall be valid and enforceable to the full extent permitted by law.


3. Each Party warrants and represents to the others that it has the authority to enter into this Agreement and to carry out its terms and conditions.

4. This Agreement may be fully executed by all Parties in one or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

5. The terms of this Agreement shall be effective as of the date it is fully executed by all Parties.

IT IS SO AGREED:

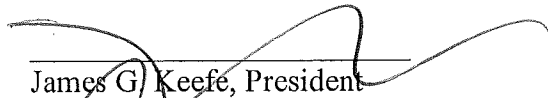
OFFICE OF THE ATTORNEY GENERAL

By: 
Benjamin J. Ericson
Assistant Attorney General
Brownfields Unit Chief
Environmental Protection Division
Office of the Attorney General
One Ashburton Place
Boston, MA 02108

Date: 10/21/09

TRINITY APPLETON FOUR LIMITED PARTNERSHIP,
a Massachusetts limited partnership

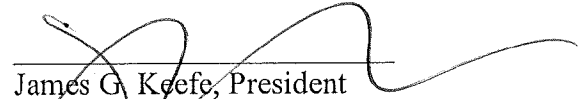
By: Trinity Appleton Four, Inc.,
a Massachusetts corporation, general partner

By: 
James G. Keefe, President

Date: October 21, 2009

TRINITY APPLETON LIMITED PARTNERSHIP,
a Massachusetts limited partnership

By: Trinity Appleton, Inc.,
a Massachusetts corporation, general partner

By: 
James G. Keefe, President

Date: October 21, 2009

Exhibit A

Exhibit A
to Brownfields Covenant Not to Sue Agreement
Mass DEP RTNs 3-26095 & 3-26424

307 Jackson Street

A certain parcel of land situated north of Jackson Street along the northerly side of the Hamilton Canal in the Hamilton Canal District in the City of Lowell, County of Middlesex and Commonwealth of Massachusetts bounded and described as follows:

Beginning at a stone bound drill hole at the southeasterly corner of Revere Street at Middlesex Street; thence N 22° 58' 23" W along the easterly sideline of Revere Street a distance of two hundred five and thirty three (205.33') feet to the corner of Revere Street at the southerly sideline of Jackson Street; thence N 67° 01' 37" E along the southerly sideline of Jackson Street a distance of six hundred seventy three and ninety eight hundredths (673.98') feet to a point at the center line of Marston Street, a private way, thirty feet wide; thence N 22° 58' 23" W a distance of one hundred twenty five and fifty four hundredths (125.54') feet to a point on the northerly side of the Hamilton Canal, said point being the southeasterly corner of the parcel herein described and the true point of beginning. Thence

S 67° 01' 37" W a distance of five hundred sixteen and forty nine hundredths (516.49') feet by the southerly face of the northerly wall of the Hamilton Canal to a point at land now or formerly of City of Lowell; thence

N 22° 58' 23" W a distance of two hundred ninety four and thirty three hundredths (294.33') feet by said land now or formerly of City of Lowell to a point on the southerly side of the Pawtucket Canal at land of Proprietors of Locks and Canals on Merrimack River; thence

N 67° 01' 37" E a distance of five hundred sixteen and forty nine hundredths (516.49') feet by land of said Proprietors (Lower Pawtucket Canal) to a point; thence

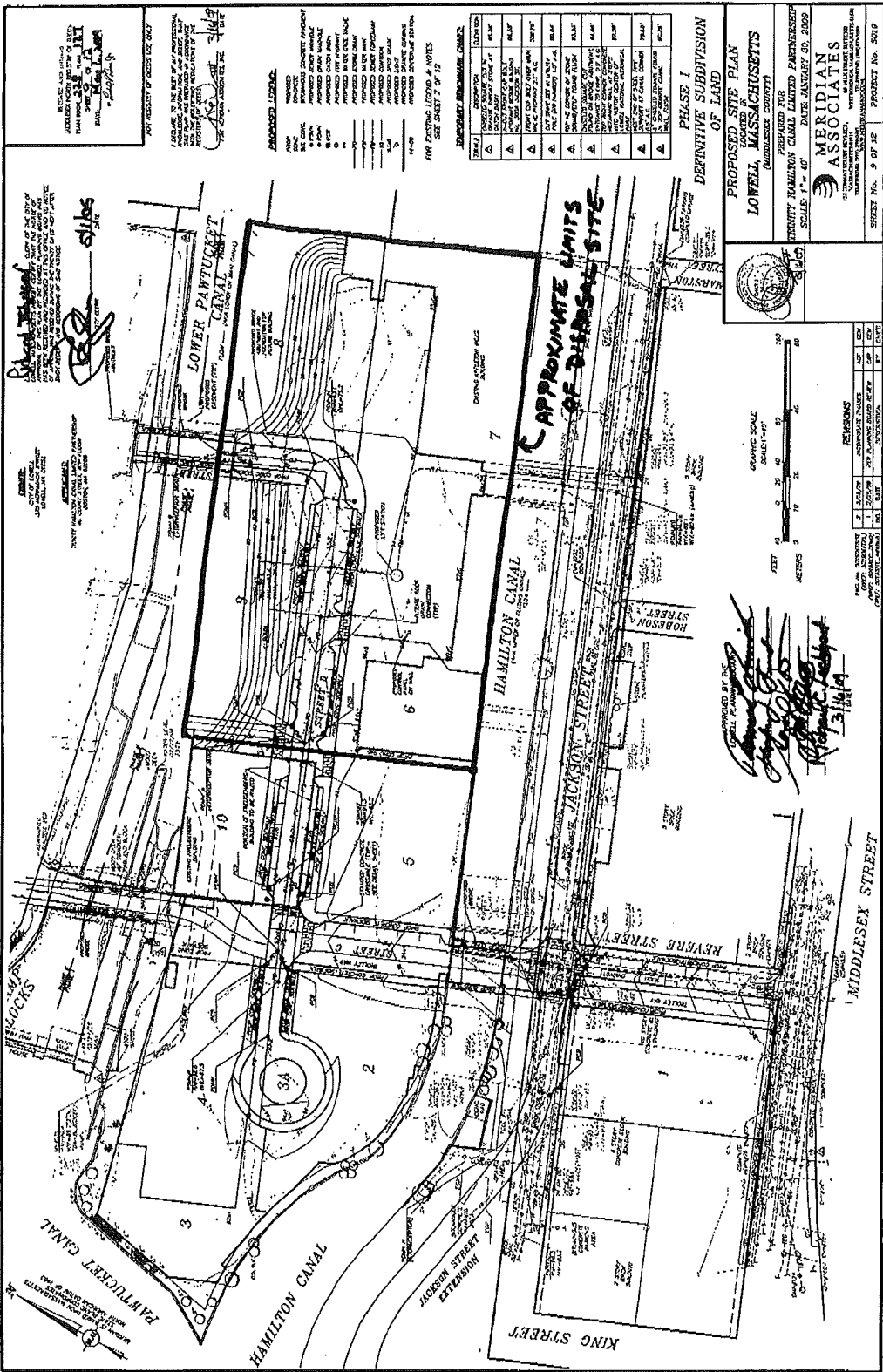
S 22° 58' 23" E a distance of two hundred ninety four and thirty three hundredths (294.33') feet by land of said Proprietors (Lower Pawtucket Canal), by land of 27 Jackson Limited Partnership and by land of HCL Acquisition LLC to the point of beginning. A portion of this last course being along a party wall and subject to an agreement with HCL Acquisition LLC.

Said parcel contains one hundred fifty two thousand, eighteen more or less (152,018±S.F.) square feet; three and four hundred ninety thousandths (3.490) more or less acres and is depicted as Map 160, Street 3200, Address 307 on a plan entitled, "Property Rights Plan of Land located in Lowell, Massachusetts, prepared for Trinity Hamilton Canal Limited Partnership" by Meridian Associates, Inc, dated January 30, 2009, revised March 16, 2009, Sheet 3 of 12, recorded at North Middlesex Registry of Deeds with Plan Book 228, Plan 127.

307 Jackson Street was one of several parcels acquired by the City of Lowell by virtue of an Order of Taking dated April 25, 2006 and recorded in Book 20118 Page 121, and was a portion of a definitive subdivision recorded with said Plan Book 228, Plan 127, entitled "Phase 1 Definitive Subdivision Plan of Land, Hamilton Canal District, Located in Lowell, Massachusetts", Property Owner: City of Lowell, Applicant: Trinity Hamilton Canal Limited Partnership, dated January 30, 2009, Revised March 16, 2009.

Subdivision Lots 6, 7, 8, 9, and a portion of Street D as depicted on said recorded plan, Sheets 5, 6, and 9 of 12, are within 307 Jackson Street as described herein.

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RECORD AND RETURN TO THE REGISTER OF DEEDS FOR THE CITY OF LOWELL, MASSACHUSETTS, OFFICE OF THE REGISTER OF DEEDS, 100 STATE STREET, LOWELL, MASSACHUSETTS 01852.

DATE: 11/13/14

PROJECT NO. 9 OF 12

PROPOSED LOTTING

RECORD AND RETURN TO THE REGISTER OF DEEDS FOR THE CITY OF LOWELL, MASSACHUSETTS, OFFICE OF THE REGISTER OF DEEDS, 100 STATE STREET, LOWELL, MASSACHUSETTS 01852.

DATE: 11/13/14

PROJECT NO. 9 OF 12

PROPOSED LOTTING

NO.	DESCRIPTION	AREA (SQ. FT.)	AREA (SQ. METERS)
1	LOT 1	10,000	929.03
2	LOT 2	10,000	929.03
3	LOT 3	10,000	929.03
4	LOT 4	10,000	929.03
5	LOT 5	10,000	929.03
6	LOT 6	10,000	929.03
7	LOT 7	10,000	929.03
8	LOT 8	10,000	929.03
9	LOT 9	10,000	929.03
10	LOT 10	10,000	929.03

PHASE I

PROPOSED SITE PLAN

DEFINITIVE SUBDIVISION OF LAND

LOCATED IN LOWELL, MASSACHUSETTS (MIDDLESEX COUNTY)

PREPARED FOR THE CITY OF LOWELL, MASSACHUSETTS

SCALE: 1" = 40'

DATE: JANUARY 20, 2009

MERIDIANS ASSOCIATES

REGISTERED PROFESSIONAL ENGINEER

STATE OF MASSACHUSETTS

NO. 10000

STREET NO. 9 OF 12

PROJECT NO. 912



GRAPHIC SCALE

1" = 40'

0 10 20 30 40

0 10 20 30 40

FEET METERS

Handwritten signatures and dates:

11/13/14

REVISIONS

NO.	DATE	DESCRIPTION
1	11/13/14	ISSUED FOR PERMIT
2	11/13/14	ISSUED FOR PERMIT
3	11/13/14	ISSUED FOR PERMIT
4	11/13/14	ISSUED FOR PERMIT
5	11/13/14	ISSUED FOR PERMIT
6	11/13/14	ISSUED FOR PERMIT
7	11/13/14	ISSUED FOR PERMIT
8	11/13/14	ISSUED FOR PERMIT
9	11/13/14	ISSUED FOR PERMIT
10	11/13/14	ISSUED FOR PERMIT

Exhibit B

Exhibit B- Environmental Condition of the Site

The site is the area where releases of oil and/or hazardous materials with Release Tracking Numbers (RTNs) 3-26095, 3-26424 and 3-27420 have come to be located. The site is located in a mixed commercial, industrial, and residential area. The Hamilton Canal is located to the south of the site and the Lower Pawtucket Canal is located to the north of the site. Both canals flow in an easterly direction, discharging into the Merrimack River. Protected open space associated with the canals is located within 500 feet of the site. Drinking water supplies, areas of critical environmental concern, or other sensitive receptors identified by the MCP have not been identified within 500 feet of the site.

Fronting onto Hamilton Canal and Jackson Street to the south, the site is bounded by the Lower Pawtucket Canal to the north, residential properties to the east and a commercial property to the west. The site, as now delineated, is co-extensive with an approximate 3.49-acre rectangular-shaped group of parcels, Parcels 6 through 9, and portions of Parcel 10 and Street D (the Property), which is generally occupied by remnants of several brick masonry mill buildings and a courtyard. The mill buildings are in very poor condition, with collapsed floors and roofs and missing wall segments. The courtyard is overgrown with thick vegetation with surficial evidence of demolition debris.

Three (3) subsurface penstocks cross the site from south to north between the Hamilton Canal and the Lower Pawtucket Canal. The two (2) penstocks located at the center and western end of the site are at least partially blocked and generally non-functional. Water in the penstock at the eastern end of the site flows from the Hamilton Canal to the Lower Pawtucket Canal, from south to north.

The topography across the site generally slopes downward toward the Lower Pawtucket Canal from approximately Elevation +97.3 at the southern end of the site adjacent to the Hamilton Canal to about Elevation +87.3 at the northern end of the site adjacent to the Lower Pawtucket Canal. Stabilized groundwater levels within observation wells located on the site were observed to vary from about Elevation +73 on the northern portion of the site to Elevation +86 on the southern portion of the site. Groundwater flow across the site, and in the general area of the site, is to the north from the Hamilton Canal to the Lower Pawtucket Canal.

The Property is subdivided into Parcels 6 through 9, a portion of parcel 10 and the new roadway. Parcels 6 and 7 make up the southern portion of the Property and Parcels 8 and 9 and a portion of Parcel 10 make up the northern portion of the Property. The proposed roadway, Street D, is to be located on the southern portion of Parcel 9. The existing mill buildings are located on Parcels 6 and 7. Trinity Appleton Four LP and Trinity Appleton LP acquired Parcels 6 and 7 from the City of Lowell on June 30, 2009. The City of Lowell is the current owner of Parcels 8, 9, 10 and Street D.

Available information indicates that the Property was developed prior to 1892 and operated until the 1930s by the Appleton Company Cotton Mill. After that time the property was leased to small industrial businesses until the mid-1970s and was used for storage until the mid 1980's. It is understood that the Property has been vacant since the mid 1980's. Historical maps indicate the presence of a repair shop, machine shop, boiler house, dye and bleach houses, and storage.

Based on subsurface investigations conducted by McPhail Associates and by others, subsurface conditions consist of deposits of granular fill soil containing coal, coal ash, and cinders overlying a natural alluvial deposit of compact silty, gravelly sand varying to a sandy silt. Glacial till was also identified underlying the alluvial deposit. Groundwater is present at 4 to 15 feet below the ground surface with a flow direction to the north towards the Lower Pawtucket Canal.

The contaminants of concern at the site are polycyclic aromatic hydrocarbons (PAHs), extractable petroleum hydrocarbons (EPHs), metals, polychlorinated biphenyls (PCBs), and volatile organic

compounds (VOCs) identified in soil, and VOCs identified in groundwater and subslab soil vapor samples.

The source of PAHs and metals are associated with the fill material which contains coal, coal ash, and wood ash. The source of PCBs may be contaminated soil associated with an abandoned transformer. PAHs, PCBs, and metals identified in the disposal site in general have limited mobility and the primary routes of exposure to humans would be through direct contact, incidental ingestion and inhalation of dust.

A specific source of VOCs has not been identified but the presence of VOCs is likely related to undocumented releases from the historical machine shop that existed on the Property or from machinery maintenance activities in the former mill buildings. VOCs were identified in exceedance of MCP Method 1 risk standards in groundwater samples collected from monitoring wells located in the north and central portions of the site. Chlorinated and other VOCs were also identified in subslab vapor samples obtained from the footprint of Buildings 1, 1A, and 4 located on Parcels 6 and 7. VOCs were not detected in canal surface water. VOCs in general tend to be more mobile in the environment and the primary routes of exposure would be through inhalation of vapors. VOCs identified in groundwater and subslab vapor samples are considered to be potentially present in indoor air after building renovations if preventive measures, such as a vapor barrier and venting systems are not used. Therefore, installation of a venting system and vapor barrier under new floor slab in existing buildings during renovations has been incorporated into the redevelopment plans.

Exhibit C

MASTER PLAN EXECUTIVE SUMMARY

In June 2006, the City of Lowell issued a solicitation for a master developer to design, re-zone, market, and redevelop the Hamilton Canal District (HCD). After an extensive qualification process, the Trinity Hamilton Canal Limited Partnership (Trinity) team was selected by the City to become the Master Developer of the site.

Beginning in December, 2007 Trinity and City staff collaborated on a 9-month, public master planning process of well attended “charrettes” including listening sessions, design sessions and numerous working groups. The process has produced a transit-oriented, mixed-use, master plan that will ultimately produce tax revenues approaching \$4 million per year, strengthen and diversify the existing downtown market, and create significant employment opportunities. It has the potential to create up to 425,000 SF of commercial / office space, up to 55,000 SF of retail space, and up to 725 units of market rate and affordable housing units. This level of redevelopment activity will represent up to \$800 million in total development costs and has a goal of producing 400 permanent full time jobs.

The most significant urban planning features of this project include;

- Use of the southeast corner of the HCD as the site for the new, \$175 million Lowell Trial Court
- Use of the National Park Service parking lots as taxable commercial land to create a primary entrance to the HCD off Dutton Street at Broadway
- The development of strong pedestrian connections to the downtown core, the JAM neighborhood, the Gallagher Terminal, the Fletcher Street neighborhood, and the proposed extensions of the Park Service canal walk system along the Western canal and the Upper Pawtucket canal
- The development of additional canal walks along the Lower Pawtucket Canal and the Hamilton Canal along with new public open space at the point south east of the Swamp Lock Falls
- The first phase of the project will include the historic rehabilitation of the remaining Appleton Mill buildings and the historic rehabilitation of the Freudenberg building
- The development of up to 1.6 million SF of new mixed-use contemporary buildings including a signature high rise building south of the Swamp Lock Falls – the HCD will create a new image for the future of Lowell as a renewed regional center of culture and commerce
- The traffic impacts of the full build out of the HCD have been carefully examined, discussed in numerous public working group meetings, and proposed solutions have been fully embraced by the community. The mitigation measures are numerous and detailed in this Master Plan, but the

two most significant traffic interventions include the extension of Jackson Street east through to Fletcher Street across Dutton Street and the reconfiguration of the Lord Over Pass so that it will be able to handle the predicted traffic increases much better than it currently handles the existing traffic.

- A route for an extended trolley system has been designed through the HCD to accommodate the trolley's connection to the Gallagher Terminal. In addition, the charrette process has renewed public interest in the possibility of transforming the existing historic trolley into a viable, modern street car system linking the Gallagher Terminal through the HCD to downtown, the Tsongas Arena, LeLacheur Park and both the UMass Lowell and Middlesex Community college campuses –transforming the entire core of Lowell into a transit oriented development opportunity. The Lowell Plan has recently established a sub-committee to carry out the next level of feasibility studies.

As described in the City's Request for Qualifications, the Hamilton Canal District is an opportunity "on a scale paralleled only by the city's founding, and the creation of the Lowell National Historical Park." This Master Plan has been formulated with tremendous public input and support to make sure that the potential of this opportunity is realized.