

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("**Agreement**") is entered into this 12 day of March 2019 by and between Four Score LLC a Massachusetts limited liability company with a principal office address of One International Place, Suite 3700, Boston, MA (the "**Developer**") and the Town of Charlton (the "**Town**"), acting by and through its Board of Selectmen, in reliance upon all of the representations made herein, a Massachusetts municipal corporation with a principal address of 37 Main Street, Charlton, MA 01507 (collectively, the "**Parties**").

RECITALS

WHEREAS, the Developer wishes to locate and operate a licensed facility consisting of the cultivation, manufacturing, processing and related transportation of cannabis (the "**Facility**"), and will be located at 144 Sturbridge Road, Charlton, MA 01507 (the "**Property**").

WHEREAS, Developer requires a letter of support or non-opposition and host community agreement from the Town to obtain: (1) a Marijuana Establishment license from the Massachusetts Cannabis Control Commission ("**CCC**"); and/or (2) a license for cultivation of medical marijuana from the Massachusetts Department of Public Health ("**DPH**");.

WHEREAS, the Developer intends to provide certain benefits to the Town in the event that it receives the requisite licenses from the DPH and/or the CCC to operate the Facility pursuant to the licenses described above, and receives all required local permits and approvals from the Town;

WHEREAS, the Parties intend by this Agreement to satisfy the provisions of G.L. c.94G, Section 3(d);

WHEREAS, the Parties agree that the above Recitals are true and accurate and that they are incorporated herein and made a substantive part of this Agreement.

NOW THEREFORE, in consideration of the mutual promises and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Local Permitting

The Developer agrees that it shall apply for, and must receive, all necessary permits and approvals pursuant to the Town's Bylaws and Regulations. In accordance with the procedures set forth in G.L. c.44, §53G, any Town board or official from whom the Developer requires a permit or approval may require the Developer to fund the reasonable costs of the such board's or

official's employment of outside consultants, including without limitation, engineers, architects, scientists and attorneys.

2. Development Agreement Payments to the Town

In the event that Developer obtains all permits and approvals to construct and operate the Facility, then Developer agrees to provide the following Annual Development Payments:

- A. Annual Development Fee: During the Term hereof, the Developer shall pay to the Town the sum of Four and 00/100 Dollars (\$4.00) per square foot of licensed mature, canopy space, as defined by the CCC ("**Annual Development Fee**"); provided, further, that:
- i. The Annual Development Fee shall reflect a minimum payment for 10,000 s.f. of mature canopy space, or Forty Thousand Dollars (\$40,000.00) ("**Minimum Annual Development Fee**" or "**MADF**").
 - ii. The Annual Development Fee shall be paid on an annual basis, paid quarterly, commencing on the first day of the first full calendar quarter month which is at least 90 days after the first certificate of occupancy is issued for any part of the Facility which contains a cultivation canopy.
 - iii. Beginning on the first anniversary of the first payment due under the immediately prior provision, the Annual Development Fee and the MADF each shall escalate at the rate of Two and One Half Percent (2 ½ %) per year.
 - iv. The parties hereby recognize and agree that the Annual Development Fee to be paid by the Developer shall not be deemed an impact fee subject to the requirements or limitations set forth in G.L. c.94G, §3(d).
- B. Permit and Connection Fees: The Developer hereby acknowledges and accepts, and waives all right to challenge, contest or appeal, the Town's standard building permit and other permit application fees, sewer and water connection fees, and all other local charges and fees generally applicable and uniformly assessed to other commercial developments in the Town.
- C. Facility Consulting Fees and Costs: The Developer shall reimburse the Town for any and all reasonable consulting costs and fees related to the Facility (including but not limited to special permit, site plan and zone change applications), negotiation of this and any other related agreements, and any review concerning the Facility, including planning, engineering, legal and/or environmental professional consultants and any related reasonable disbursements at standard

municipal rates charged by the above-referenced consultants in relation to the Facility.

- D. Other Costs: The Developer shall reimburse the Town for the reasonable costs incurred by the Town in connection with holding public meetings and forums substantially devoted to discussing the Facility and/or reviewing the Facility.
- E. Infrastructure Payment: Within thirty (30) days after the delivery by the Town of a host community agreement and letter of non-opposition related to the Facility, the Developer shall pay into escrow a one-time payment to the Town in the amount of Twenty Thousand Dollars (\$20,000.00), which the Town intends to utilize toward the cost of design, engineering, permitting and construction of a new Public Safety Building or any other capital project of the Town (the “**Infrastructure Payment**”). The Infrastructure Payment shall be released to the Town from escrow after a building permit is issued for construction of the Facility.
- F. Late Payment Penalty: The Developer acknowledges that time is of the essence with respect to its timely payment of all funds required under this Agreement. In the event that any such payments are not fully made with thirty (30) days after the date they are due, the Developer shall be required to pay the Town a late payment penalty equal to five percent (5%) of such required payments.
- G. Town’s Obligations: In consideration for the Annual Development Fees set forth in Section A hereinabove, the Town shall, within the later of fourteen (14) days after written request by the Developer or two business days subsequent to next regularly scheduled meeting of the Board of Selectmen execute and deliver: (a) a non-opposition letter directed towards the DPH, CCC, or any successor agency, in the form attached hereto as Exhibit 1; (b) a Host Community Agreement Certification Form and (c) a Host Community Agreement, in the form attached hereto as Exhibit 2 for such party, which shall provide that the Licensed Marijuana Establishment pay a community impact fee to the Town in an amount equal to three percent (3%) of the gross sales of the Licensed Marijuana Establishment, in accordance with then applicable law and regulations (the “**Community Impact Fee**”).

3. Local Hiring and Vendors:

To the extent such practice and its implementation are consistent with federal, state, and municipal laws and regulations, the Developer shall make best efforts in a legal and non-discriminatory manner to give priority to Town businesses, suppliers, contractors, builders and vendors located in the Town in the provision of goods and services called for in the construction, maintenance and continued operation of the Facility and to hire Town residents for jobs in and related to the Facility. Such efforts shall include actively soliciting bids from Town vendors through local advertisements and direct contact, advertising any job expansion or hiring of new

employees first to Town residents a minimum of two (2) weeks before advertising through all typical regional employment advertising outlets, coordination with the Chamber of Commerce of Central Massachusetts South and such other reasonable measures as the Town may from time to time reasonably request. The Developer also agrees to make best efforts to utilize women-owned and minority-owned vendors within the Town and the region.

4. Security

To the extent requested by the Town’s Police Department, and subject to the security and architectural review requirements of the DPH, CCC, or such other state licensing or monitoring authority, the Developer shall work with the Town’s Police Department in determining the placement of exterior security cameras.

The Developer agrees to cooperate with the Town’s Police Department, including but not limited to periodic meetings to review operational concerns, security, delivery schedule and procedures, cooperation in investigations, and communications with the Police Department of any suspicious activities at or in the immediate vicinity of the Facility, and regarding any anti-diversion procedures.

To the extent requested by the Town’s Police Department, the Developer shall work with the Police Department to implement a comprehensive diversion prevention plan to prevent diversion, such plan to be in place prior to the commencement of operations at the Facility. Such plan shall include, but is not limited to, (i) training the employees of each tenant of the Facility to be aware of, observe, and report any unusual behavior in authorized visitors or other employees of the Facility that may indicate the potential for diversion; and (ii) utilizing seed-to-sale tracking software to closely track all inventory at Facility.

5. Support:

The Town agrees to submit to the DPH, CCC, or such other state licensing or monitoring authority, as the case may be, a letter of support or non-opposition and certification of compliance with applicable local bylaws relating to the Developer’s application for a license to operate the Facility subject only to the requirement that such applicant satisfies any applicable local permitting and approval requirements. With the exception of the specifics contained herein, the Town makes no representation or promise that it will act on any license or permit request, including, but not limited to any zoning application submitted for the Facility, in any particular way other than by the Town's normal and regular course of conduct and in accordance with its rules and regulations and any statutory guidelines governing them.

6. Term:

The provisions of this Agreement shall be applicable as long as the Developer, or any related or successor entity(s), operate the Facility at the Property.

7. Nullity:

In the event the Facility is no longer used for the cultivation or manufacture of medical or adult use marijuana, this Agreement shall become null and void; however, the Developer hereby acknowledges and agrees that it shall be jointly and severally responsible for the prorated portion of the payments set forth herein, but in no event shall the Town be responsible for the return of any funds provided to it by the Developer.

8. Local Taxes:

At all times during the Term of this Agreement, property, both real and personal, shall be treated as taxable, and all applicable real estate and personal property taxes for that property shall be paid directly by the Developer, and the Developer shall not object or otherwise challenge the taxability of such property and shall not seek a non-profit or agricultural exemption or reduction with respect to such taxes.

The Developer hereby certifies and agrees that the taxable value of the Facility shall be no less than One Hundred Dollars (\$100.00) per square foot of interior space, including without limitation cultivation space, storage areas, warehousing areas, office space, kitchen and sanitary facilities or any other interior space, whether or not climate controlled or conditioned. (“**Minimum Taxable Value**”). The Minimum Taxable Value shall increase annually by two and one half percent (2½%). If, in any year, and for any reason, the assessed value of the Property and the Facility are less than the Minimum Taxable Value, the Developer agrees to pay to the Town a true-up payment in an amount equal to the difference between the real property taxes assessed and the amount that would be due were the assessment based upon the Minimum Taxable Value (“**Minimum Taxable Value True Up Payment**”). The Minimum Taxable Value True Up Payment shall be paid no later than September 1 following the close of the municipal fiscal year for which the Minimum Taxable Value True Up Payment is due.

9. Assignment/Change in Corporate Structure:

The Developer shall not assign, sublet or otherwise transfer or their rights nor delegate their obligations under this Agreement, in whole or in part, without the prior written consent of the Town, which consent shall not be unreasonably withheld, conditioned or delayed, provided however such consent shall not be required in the event such transfer or assignment is between the Company and another entity which is authorized by the CCC or other authorizing entity to operate the Facility for the same uses described herein, and shall not assign any of the moneys payable under this Agreement, except by and with the prior written consent of the Town.

10. Successors/Change in Control:

This Agreement is binding upon the parties hereto, their successors, assigns and legal representatives. Subject to Section 12, neither the Town nor the Developer shall assign or transfer any interest in the Agreement or control of the Facility without the written consent of the other, however, such consent shall not be required for an assignment to any entity owner or controlled by the Developer.

11. Notices:

Any and all notices, consents, demands, requests, approvals or other communications required or permitted under this Agreement, shall be in writing and delivered by hand or mailed postage prepaid, return receipt requested, by registered or certified mail or by other reputable delivery service, and will be effective upon receipt for hand or said delivery and three days after mailing, to the other Party at the following addresses:

To Town: Town Administrator
Charlton Town Hall
37 Main Street
Charlton, MA 01507

Copy to:

Jonathan M. Silverstein
KP Law, PC
101 Arch Street
12th Floor
Boston, MA 02110

To Developer: Kurt Smith
144 Sturbridge Road
Charlton, MA 01507

Copy to:

Daniel S. Glissman
One International Place, Suite 3700
Boston, MA 02110

12. Severability:

If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by the court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby unless the Town would be substantially or materially prejudiced. The Developer agree they will not challenge, in any jurisdiction, the enforceability of any provision included in this Agreement; and to the extent the validity of this Agreement is challenged, the Developer shall pay for all reasonable fees and costs incurred by the Town in defending such challenge; furthermore, the Developer shall pay for all reasonable fees and costs incurred by the Town in enforcing this Agreement if the Town prevails.

13. Governing Law:

This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, the Parties agree that Land Court, Suffolk Business Litigation Session or Worcester County shall each serve as a proper forum for any litigation for the adjudication of disputes arising out of this Agreement.

14. Entire Agreement:

This Agreement, including all documents incorporated herein by reference, constitutes the entire integrated agreement between the Parties with respect to the matters described. This Agreement supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the parties hereto.

15. Retention of Regulatory Authority:

Except as specifically provided for herein, this Agreement does not affect, limit or control the authority of the Town, its boards, commissions, or department to carry out their respective powers and duties to decide upon and to issue, or deny applicable permits and other approvals under the statutes and regulations of the Commonwealth, the general and zoning bylaws of the Town or applicable regulations of those boards, commissions, and a department or to enforce said statutes, bylaws, and regulations. Except as specifically provided for herein, the Town by entering into this Agreement is not thereby required or obligated to issue such permits and approvals as may be necessary for the Facility to operate in the Town or to refrain from enforcement action for violation of the terms of said permits, approvals or statutes, bylaws and regulations. Except as specifically provided for herein, the Facility remains subject to all applicable general and special state and local laws, bylaws, building, fire and other codes, rules and regulations, and the Agreement set forth herein shall not relieve the Developer of any obligations they might have thereunder.

16. Indemnification:

Excluding any Claims (as herein defined) caused by the gross negligence or willful misconduct of the Town, the Developer shall indemnify, defend, and hold the Town harmless from and against any and all claims, demands, liabilities, actions, causes of actions, defenses, proceedings and/or costs and expenses, including attorney's fees (collectively, the "Claims"), brought against the Town, its agents, departments, officials, employees, insurers and/or successors, by any third party arising from or relating to the development of the Property and/or Facility. Such indemnification shall include, but shall not be limited to, all reasonable fees and reasonable costs of attorneys and consultants of the Town's choosing incurred in defending such claims, actions, proceedings or demands. The Developer agrees, within thirty (30) days of written notice by the Town, to reimburse the Town for any and all costs and fees incurred in defending itself with respect to any such claim, action, proceeding or demand.

17. Amendments/Waiver:

Amendments, or waivers of any term, condition, covenant, duty or obligation contained in this Agreement may be made only by written amendment executed by all signatories to the original Agreement, prior to the effective date of the amendment.

18. Headings:

The article, section, and/or paragraph headings in this Agreement are for convenience of reference only, and shall in no way affect, modify, define or be used in interpreting the text of this Agreement.

19. Counterparts:

This Agreement may be signed in any number of counterparts all of which taken together, each of which is an original, and all of which shall constitute one and the same instrument, and any party hereto may execute this Agreement by signing one or more counterparts.

20. Signatures.

Facsimile signatures affixed to this Agreement shall have the same weight and authority as an original signature.

21. No Joint Venture:

The Parties hereto agree that nothing contained in this Agreement or any other documents executed in connection herewith is intended or shall be construed to establish the Town and Developer, or the Town and any other successor, affiliate or corporate entity as joint ventures or partners.

22. Third Parties:

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either Town or the Developer.

23. Assignment of Developer's Interests.

It is acknowledged and agreed that Developer, at the time it acquires the Property, may cause a single purpose real estate entity (the "**Title Entity**") to be formed to take title to the Property. At such time, the Developer shall convey all of its right, title and interest in this Agreement to the Title Entity and such Title Entity shall assume all the obligations of Developer arising hereunder.

[Signature Page to Follow]

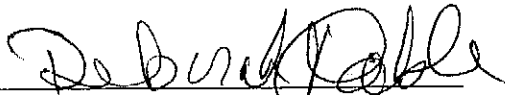
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

TOWN OF CHARLTON:

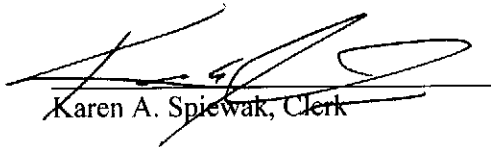
Board of Selectmen



John P. McGrath, Chairman



Deborah B. Noble, Vice-Chairperson

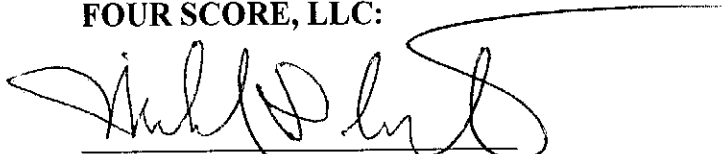


Karen A. Spiewak, Clerk

David M. Singer, Member

Joseph J. Szafarowicz, Member

FOUR SCORE, LLC:



By: Kurt Smith
Its: Manager Michael D. Curtis
