

Selectboard Executive Session
1 Avenue A, Turners Falls, MA
Monday, December 16, 2024
7:30 PM

RE: Executive Session under G.L. c.30A §21(a)(6) to consider the purchase, exchange, lease or value of real estate, related to a Land Development Agreement with Power Street LLC for 15 Power Street, Turners Falls, MA, Votes may be taken.

Present: Selectboard: Richard Kuklewicz, Christopher Boutwell and Matt Lord, Town Administrator Walter Ramsey, Assistant Town Administrator Chris Nolan-Zeller

Documents:

Amendment to Land Development Agreement and Grant of Right of Entry



Kuklewicz opens the meeting at 7:30 PM.

- Matt Lord (ML) discussed the Griswold Annex, under the control of Bob Obear.
- Mr. Obear has breached his Land Development Agreement with the Town by missing the completion date and obtaining a mortgage on the property.
- Noting the special circumstances of MassDOT's upcoming bridge project, ML recommends the Town extend its agreement with Obear to the sooner of either 2 years past completion of the bridge project, or 2034, in accordance with an LDA amendment drafted by Town Counsel and presented to the Selectboard.
- The agreement also orders Obear to subrogate his mortgage, resulting in the mortgage holder being placed beneath the Town regarding ownership of the property.
- Richard Kuklewicz (RK) expressed agreement and added that the Town should urge MassDOT to include water and sewer utility infrastructure within the new bridge design when that project is being engineered.
- The Selectboard expressed consensus in agreeing to allow ML to meet with Obear to persuade him into accepting the agreement. If he refuses, the Town would need to consider other options prior to June 2025, which is the statute of limitations for enforcing Obear's noncompliance with the LDA.

Boutwell makes the motion to adjourn the executive session at 7:50 PM. Seconded by Lord, approved unanimously. Boutwell – Aye, Kuklewicz – Aye, Lord - Aye

Boutwell makes the motion to adjourn the regular meeting at 7:50 PM. Seconded by Lord, approved unanimously. Boutwell – Aye, Kuklewicz – Aye, Lord – Aye

Approved:

 
____ Richard J. Kuklewicz

Release to the Public:

☒ Yes ☐ Not Yet 7/9/25 Date

Date Released to the Public: 7/9/25

AMENDMENT TO
LAND DEVELOPMENT AGREEMENT
AND GRANT OF RIGHT OF ENTRY

This Amendment to Land Development Agreement and Grant of Right of Entry (this "Amendment") is entered into as of this ____ day of _____, 2024, by and between the **Town of Montague**, having an address of One Avenue A, Turners Falls, Massachusetts 01376 (the "Town") and **Power Street, LLC**, having an address of 34A East Main Street, Millers Falls, Massachusetts 01349 ("Developer").

WHEREAS, the Town conveyed certain property to Developer, known as 15 Power Street, Turners Falls (Montague), Massachusetts, by deed dated July 31, 2017, recorded with the Franklin Registry of Deeds in Book 7070, Page 101 (the "Property");

WHEREAS, said conveyance was conditioned upon Developer rehabilitating and developing the Property (the "Project") in accordance with a certain Land Development Agreement dated August 1, 2017, recorded with the Registry in Book 7070, Page 103 (the "Agreement");

WHEREAS, in accordance with the Agreement, the Developer was to complete the Project no later than June 30, 2019 (the "Completion Date");

WHEREAS, Developer did not complete the Project by the Completion Date, and, is currently in default under the Agreement;

WHEREAS, the Massachusetts Department of Transportation and the Town are, jointly, working on a project to replace two (2) bridges crossing the Connecticut River, which are currently on the Transportation Improvement Program (TIP) for _____, which bridges provide improved access to the Property (the "Bridge Project"); and

WHEREAS, the Town is willing to give Developer an extension to complete the Project to two (2) years from completion of the Bridge Project (the "Bridge Project Completion Date"), in exchange for Developer granting the Town a right of entry, on terms and conditions as set forth in this Amendment.

NOW THEREFORE, the Developer, in consideration of the Town giving an extension of the date by which the Project must be completed, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, hereby covenants with the Town for itself, its successors and assigns, as follows:

1. Extension of Completion Date. Developer shall complete the Project within two (2) years from the Bridge Project Completion Date, but, in the event the Bridge Project is abandoned, Developer shall complete the Project no later than two (2) years from the date of such abandonment or, in the event of delay beyond December 31, 2032, Developer shall complete the Project no later December 31, 2034. Developer shall, prior to commencing construction, have evidence of sufficient funding to complete the Project, and shall, with the

exception of the Completion Date, otherwise comply with the Construction Schedule set forth in Section I, Subsections 2 and 3 of the Agreement.

2. Right of Entry. Developer grants to the Town a Right of Entry, which the Town may exercise if Developer fails to complete the Project in accordance with the Agreement, as modified by this Amendment. In the event of a default by Developer, the Town, its successors and assigns, shall provide sixty (60) days' written notice to Developer of its intent to exercise its Right of Entry. If, at the end of such notice period, Developer has not completed the Project, or cured the applicable defect, in the Town's absolute discretion, the Town may reenter the Property and retake all rights, title, interest and possession in and to the Property by executing and recording a certificate of entry with the Registry. Notwithstanding the provisions of anything herein to the contrary, upon recording said certificate of entry, title to the Property and any improvements thereon shall revert to and vest in the Town without any necessity for suit or without the necessity of a deed from Developer to the Town. Such Right of Entry shall be in addition to any other rights or remedies the Town may have for a breach or default under the Agreement. This Right of Entry shall run with the land, and the Property is subject thereto so that anyone who is a successor-in-title to Developer to all or any portion of or any interest in the Property shall, by acceptance of a deed, or other document of grant or conveyance, be bound by such agreement and covenants, all benefits, if any thereunder, shall inure to such successor(s)-in-title.

[Remainder of Page Intentionally Blank, Signature Page Follows]

WITNESS the above execution hereof under seal as of the day and year first above written.

DEVELOPER
Power Street, LLC

TOWN OF MONTAGUE,
By Its Selectboard

By: _____
Robert G. Obear, Jr.
Manager

Richard Kuklewicz, Chair

Matthew Lord, Vice Chair

Christopher M. Boutwell, Sr., Clerk

COMMONWEALTH OF MASSACHUSETTS

Franklin, ss.

On this ____ day of _____, 2024, before me, the undersigned Notary Public, personally appeared Robert G. Obear, Jr., Manager of Power Street, LLC, who proved to me through satisfactory evidence of identification, which was personal knowledge, 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 on behalf of Power Street, LLC.

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

Franklin, ss.

On this ____ day of _____, 2024, before me, the undersigned Notary Public, personally appeared _____, member of the Montague Selectboard, who proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/they signed it voluntarily for its stated purpose on behalf of the Town of Montague.

Notary Public
My Commission Expires:

952501/MTGU/0088

SUBORDINATION OF MORTGAGE

iPlanGroup Agent for Custodian FBO Kevin Parsons IRA (the "Mortgagee"), having an address of 28011 Clemens Road, Suite B, Westlake, OH 44145, the holder of a Mortgage and Security Agreement granted by **Power Street, LLC** (the "Owner"), on property located at **15 Power Street, Turners Falls (Montague), Massachusetts**, and described in a deed recorded with the Franklin Registry of Deeds in Book 7070, Page 101 (the "Property"), which Mortgage is recorded with said Registry in **Book 8252, Page 326** (the "Mortgage"), for consideration of \$1.00 paid, the receipt and sufficiency of which is hereby acknowledged, subordinates said Mortgage to the Amendment to Land Development Agreement and Grant of Right of Entry (the "Amendment") granted by the Owner on the Property to the **Town of Montague** and recorded with said Deeds in Book _____, Page _____ or recorded herewith, as if said Amendment had been recorded prior to said Mortgage.

Executed under seal this _____ day of _____, 2024.

iPlanGroup Agent for Custodian
FBO Kevin Parsons IRA

By: _____
Name:
Title:

COMMONWEALTH / STATE OF _____

_____, ss.

On this ____ day of _____, 2024, before me, the undersigned notary public, personally appeared the above-named _____, _____ of iPlanGroup Agent for Custodian FBO Kevin Parsons IRA, who proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding document, and acknowledged to me that he/she signed it voluntarily for its stated purpose on behalf of iPlanGroup Agent for Custodian FBO Kevin Parsons IRA.

Notary Public
My Commission Expires: