
CREDIT ENHANCEMENT AGREEMENT

between

TOWN OF FREEPORT, MAINE

and

FHT QUARRY RIDGE LP

Dated as of _____, 2020

TABLE OF CONTENTS

ARTICLE I DEFINITIONS	1
Section 1.1. <u>Definitions</u>	1
Section 1.2. <u>Interpretation and Construction</u>	3
ARTICLE II.....	4
ARTICLE III DEVELOPMENT PROGRAM FUND AND FUNDING REQUIREMENTS	4
Section 3.1. <u>Creation of Development Program Fund</u>	4
Section 3.2. <u>Deposits into Development Program Fund</u>	5
Section 3.3. <u>Use of Monies in Account</u>	5
Section 3.4. <u>Monies Held in Trust</u>	5
Section 3.5. <u>Investments</u>	5
Section 3.6. <u>Liens</u>	5
Section 3.7. <u>Captured Assessed Value; Deposits into Development Program Fund</u>	556
ARTICLE IV PAYMENT OBLIGATIONS	6
Section 4.1. <u>Credit Enhancement Payments</u>	6
Section 4.2. <u>Failure to Make Payment</u>	6
Section 4.3. <u>Manner of Payments</u>	7
Section 4.4. <u>Obligations Unconditional</u>	7
Section 4.5. <u>Limited Obligation</u>	7
ARTICLE V PLEDGE AND SECURITY INTEREST	7
Section 5.1. <u>Pledge of Developer Project Cost Account</u>	7
Section 5.2. <u>Perfection of Interest</u>	8
Section 5.3. <u>Further Instruments</u>	8
Section 5.4. <u>Liens</u>	8
Section 5.5. <u>Access to Books and Records</u>	8
ARTICLE VI DEFAULTS AND REMEDIES	9
Section 6.1. <u>Events of Default</u>	9
Section 6.2. <u>Remedies on Default</u>	9
Section 6.3. <u>Remedies Cumulative</u>	9
Section 6.4. <u>Agreement to Pay Attorneys' Fees and Expenses</u>	10
ARTICLE VII EFFECTIVE DATE, TERM AND TERMINATION.....	10
Section 7.1. <u>Effective Date and Term</u>	10
Section 7.2. <u>Cancellation and Expiration of Term</u>	10
ARTICLE VIII ASSIGNMENT AND PLEDGE OF DEVELOPER'S INTEREST.....	10
Section 8.1. <u>Consent to Pledge, Collateral Assignment or Grant of a Security Interest</u> ... 10	
Section 8.2. <u>Assignment</u>	11
ARTICLE IX MISCELLANEOUS	11
Section 9.1. <u>Successors</u>	11

Section 9.2. <u>Parties in Interest</u>	11
Section 9.3. <u>Severability</u>	12
Section 9.4. <u>No Personal Liability</u>	12
Section 9.5. <u>Counterparts</u>	12
Section 9.6. <u>Governing Law</u>	12
Section 9.7. <u>Notices</u>	12
Section 9.8. <u>Amendments</u>	13
Section 9.9. <u>Integration</u>	13
Section 9.10. <u>Amendments</u>	14
Section 9.11. <u>Waiver of Recapture if Agreement Found Void</u>	14
Section 9.12. <u>Tax Laws and Valuation Agreement</u>	14

CREDIT ENHANCEMENT AGREEMENT

THIS CREDIT ENHANCEMENT AGREEMENT dated as of _____, 2020, between the TOWN OF FREEPORT (the "Town"), a municipal body corporate and politic and a political subdivision of the State of Maine, and FHT QUARRY RIDGE LP, a limited partnership duly organized and existing under the laws of the State of Maine, with a place of business in Freeport, Maine (the "Developer").

WITNESSETH:

WHEREAS, the Town designated the Quarry Ridge Affordable Housing Development District (the "District") pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes by action of the Freeport Town Council on _____, 2020 (the "Vote"), and pursuant to the same Vote adopted a development program and financial plan for the District (the "Development Program");

WHEREAS, the Maine State Housing Authority ("MSHA") approved the Development Program by Certificate of Approval dated _____, 2020 (the "Certificate of Approval");

WHEREAS, the Town adopted the Development Program and entered into this Agreement in order to induce the Developer to acquire and rehabilitate the Project by enabling the Town to contribute toward the cost of the Project the amounts contemplated by the Development Program and this Agreement;

WHEREAS, the Project will create a significant public benefit by providing affordable housing opportunities;

WHEREAS, in connection with the Development Program, and as contemplated thereby, the Town and the Developer have agreed to execute and deliver this Agreement; and

WHEREAS, the Town and the Developer desire and intend that this Agreement be and constitute the credit enhancement agreement contemplated by and described in the Development Program.

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual promises and covenants set forth herein, the parties hereby agree as follows:

ARTICLE I DEFINITIONS

Section 1.1. Definitions.

The terms defined in this Article I shall, for all purposes of this Agreement, have the meanings herein specified, unless the context clearly requires otherwise. All other capitalized terms not otherwise defined herein shall have the meaning given such terms in the Development Program.

“Act” means Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended.

“Agreement” shall mean this Credit Enhancement Agreement dated as of the date set forth above between the Town and the Developer, as such may be amended by the parties from time to time.

“Captured Assessed Value” means the annual percentage of Increased Assessed Value attributable to the Project, retained in the District in each Tax Year during the term of the District, as specified in Section 3.1 hereof.

“Current Assessed Value” means the then current assessed value of the Property located within the District to be determined by the Town’s Assessor as of April 1 of each year that this Agreement remains in effect.

“Developer” shall have the meaning given such term in the first paragraph hereto, and shall also mean and include any assignee or successor thereof.

“Developer Project Cost Account” means the account created within the Development Program Fund set aside for the Developer as described in the Financial Plan Section of the Development Program and established and maintained pursuant to the Development Program and Article III hereof.

“Developer Tax Increment Revenues” means in each Tax Year this Agreement is in effect an amount of money equal to the Retained Tax Increment Revenues allocated to the Developer at the times and according to the schedule specified in Section 3.1 hereof.

“Development Program” means the development program and financial plan for the District adopted by the Town and submitted to MSHA by letter dated _____, 2020 (the “TIF Application”), all as modified and approved by the Certificate of Approval.

“Development Program Fund” means the fund described in Section 3.1 hereof, which is comprised of the funds described in Section 3 of the Certificate of Approval from Daniel Brennan, Director, Maine State Housing Authority, dated _____, 2020, all as further established and maintained pursuant to Article III hereof and 30-A M.R.S.A. § 5250-A(3).

“District” shall have the meaning given such term in the recitals hereto.

“Financial Plan” means the financial plan described in the “Financial Plan” section of the Development Program, including, without limitation, Attachment 8 to the TIF Application, all as may be limited by the Certificate of Approval.

“Fiscal Year” means the time period from July 1 through June 30 (for example, the 2021 Fiscal Year is the period from July 1, 2021 to June 30, 2022).

“HUD” means the U.S. Department of Housing and Urban Development.

“Increased Assessed Value” means the valuation amount by which the Current Assessed Value exceeds the Original Assessed Value. If the Current Assessed Value is less than or equal to the Original Assessed Value in any year, there is no Increased Assessed Value in that year.

“Original Assessed Value” means \$0, the taxable assessed value of the Property located at 60 Bow Street, and designated as the Town’s Tax Map 20, Lot 74 C.

“Project” means six buildings with approximately 25,100 square feet 2-story building containing 34 residential units for low-income households, including installation of equipment and furnishings, all located on a +/-14 acre lot at 60 Bow Street, which shall be known as the Quarry Ridge Apartments, to be rehabilitated by the Developer, all as further described in the Development Program.

“Project Cost Account” means the account in the Development Program Fund, as further described in the Development Program and established and maintained pursuant to Title 30-A M.R.S.A. § 5250-A(3)(A) and Article III hereof.

“Project Costs” means all costs incurred by the Developer with regard to the Project within the meaning set forth in 30-A M.R.S.A. § 5249, as amended.

“Property” means all real or personal property that is part of the Project now or hereafter located within District, whether or not the Developer owns such Property or is otherwise liable for property taxes imposed and assessed thereon by the Town.

“Property Taxes” means any and all *ad valorem* property taxes actually paid to the Town with respect to the Property.

“Qualified Investments” shall mean any and all securities, obligations or accounts in which municipalities may invest their funds under applicable Maine law, and which are of the same type and tenor as the investments in which the Town invests its own funds.

“Retained Tax Increment Revenues” means that portion of Property Taxes assessed and collected by the Town on the Captured Assessed Value.

“Site Development Plan”

“Tax Payment Date” means the later of the date(s) on which Property Taxes assessed by the Town with respect to the Property are due or are paid, or if any such day is not a business day, the next succeeding business day.

“Tax Year” means the period of time beginning on April 1st and ending on the succeeding March 31st.

“Town” shall have the meaning given in the first paragraph hereof.

Section 1.2. Interpretation and Construction.

In this Agreement, unless the context otherwise requires:

(a) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this Agreement, refer to this Agreement, and the term “hereafter” means after, and the term “heretofore” means before, the date of delivery of this Agreement.

(b) Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa.

(c) Words importing persons mean and include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public or governmental bodies, as well as any natural persons.

(d) Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

(e) All notices to be given hereunder shall be given in writing and, unless a certain number of days is specified, within a reasonable time.

(f) If any clause, provision or Section of this Agreement shall be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision or Section shall not affect any of the remaining provisions hereof except as expressly provided in Section 3.4.

ARTICLE II COVENANTS REGARDING PROJECT CONSTRUCTION

Section 2.1. Total Investment.

The Developer shall acquire and rehabilitate the Project as described in the Development Program and according to the plans and specifications approved by the Town, if any. The parties anticipate that if the Project is rehabilitated in accordance with such plans and specifications, the estimated ~~asse~~essed value upon completion will be \$2,300,000.

Section 2.2. Description of Project. The Project is described in the Development Program.

ARTICLE III DEVELOPMENT PROGRAM FUND AND FUNDING REQUIREMENTS

Section 3.1. Creation of Development Program Fund.

The Town hereby confirms the creation and establishment of a segregated account in the name of the Town designated as the “Quarry Ridge Development Program Fund” (hereinafter, the “Development Program Fund”) pursuant to, and in accordance with the terms and conditions of, the Development Program and 30-A M.R.S.A. § 5250(3), as amended from time to time. The Development Program Fund shall consist of a Project Cost Account that is pledged to and

charged with the payment of project costs as outlined in the Financial Plan of the Development Program and as provided in 30-A M.R.S.A. § 5250(3)(A)(1), as amended from time to time. All of the Retained Tax Increment Revenues will be allocated to the Developer (the “Developer Tax Increment Revenues”) and shall be deposited into the Developer Project Cost Account.

Section 3.2. Deposits into Development Program Fund.

There shall be deposited into the Development Program Fund contemporaneously with the receipt of each payment of Property Taxes an amount equal to that portion of the Property Tax payment constituting Retained Tax Increment Revenues for the period to which the payment relates. Any and all revenues, if any, resulting from investment of monies on deposit in the Development Program Fund shall be retained in the Development Program Fund and applied for Development Program purposes relating to the Development Program Fund as prescribed by 30-A M.R.S.A. §5250-A(3).

Section 3.3. Use of Monies in Account.

All monies in the Development Program Fund that are allocable to and/or deposited in the Developer Project Cost Account shall in all cases be used and applied to fully fund the Town’s payment obligations to Developer described in Articles III and IV hereof.

Section 3.4. Monies Held in Trust.

All monies required to be paid into the Developer Project Cost Account under the provisions hereof and the provisions of the Development Program, other than investment earnings thereon, shall be held by the Town, in trust, for the benefit of the Developer.

Section 3.5. Investments.

Any monies in the Development Program Fund shall be invested and reinvested in Qualified Investments as determined by the Town. The Town shall have discretion regarding the investment of such monies, provided such monies are invested in Qualified Investments. As and when any amounts thus invested may be needed for disbursements, the Town shall cause a sufficient amount of such investments to be sold or otherwise converted into cash to the credit of such account. The Town shall have the sole and exclusive right to designate the investments to be sold and to otherwise direct the sale or conversion to cash of investments made with monies in the Development Program Fund.

Section 3.6. Liens.

The Town shall not create any liens, encumbrances or other interests of any nature whatsoever, nor shall it hypothecate the Developer Project Cost Account described in Section 3.1 hereof or any funds therein, other than the interest in favor of the Developer hereunder in and to the amounts on deposit; provided, however, that nothing herein shall prohibit the creation of property tax liens on property in the District in accordance with and entitled to priority pursuant to Maine law.

Section 3.7. Captured Assessed Value; Deposits into Development Program Fund.

Each year during the term of this Agreement, commencing with the Town's 2021 Fiscal Year and continuing thereafter for the next thirty (30) years to and including the Town's 2050 Fiscal Year, the Town shall retain in the District fifty percent (50%) of the Increased Assessed Value as Captured Assessed Value.

Each year during the term of this Agreement, commencing with the Town's 2021 Fiscal Year and continuing thereafter for thirty (30) years to and including the Town's 2050 Fiscal Year, the Town shall deposit into the Development Program Fund contemporaneously with each payment of Property Taxes during the term of this Agreement an amount equal to one hundred percent (100%) of that portion of the property tax payment constituting Retained Tax Increment Revenues. The Development Program Fund is pledged to and charged with the payment of costs in the manner and priority provided in 30-A M.R.S.A. § 5250(3)(B). The Town shall annually allocate an amount equal to no less than one hundred percent (100%) of the amount of the Retained Tax Increment Revenues so deposited in the Development Program Fund to the Developer Project Cost Account.

ARTICLE IV PAYMENT OBLIGATIONS

Section 4.1. Credit Enhancement Payments.

(a) The Town agrees to pay Developer, within thirty (30) days following each Tax Payment Date, all amounts then on deposit in the Developer Project Cost Account.

(b) Intentionally Deleted.

(c) In the event that the Town is subject to a claim by a third party to pay the Developer Tax Increment Revenues to such third party, Town shall not pay such amount to Developer pursuant to Section 3.1(a) nor to the third party, but shall deposit the Developer Tax Increment Revenues in an amount equal to such amount so claimed (but only to the extent available) into an interest bearing escrow account and shall file an interpleader or other comparable action with a court of competent jurisdiction requesting a ruling to determine whether such Developer Tax Increment Revenues should be paid to Developer or to said third party.

(d) If, with respect to any Tax Payment Date, any portion of the Property Taxes remain unpaid, because of a valuation dispute or otherwise, the property taxes actually paid with respect to such Tax Payment Date shall, first be applied to taxes due on account of the Original Assessed Value; and second, shall constitute payment of Property Taxes with respect to the Increased Assessed Value.

Section 4.2. Failure to Make Payment.

In the event the Town should fail to, or be unable to, make any of the payments at the time and in the amount required under the foregoing provisions of this Article IV, the item or installment so unpaid shall continue as a limited obligation of the Town, under the terms and conditions hereinafter set forth, until the amount unpaid shall have been fully paid. The Developer shall have the right to initiate and maintain an action to specifically enforce the

Town's obligations hereunder, including without limitation, the Town's obligation to deposit Developer Tax Increment Revenues to the Developer Project Cost Account and its obligation to make payment out of the Developer Project Cost Account to the Developer.

Section 4.3. Manner of Payments.

The payments provided for in this Article IV shall be paid directly to the Developer in the manner provided hereinabove by check drawn on the Developer Project Cost Account for the Developer's own use and benefit, which use and benefit shall be consistent with the Development Program, the Act and the Developer's obligations under this Agreement.

Section 4.4. Obligations Unconditional.

Except as otherwise expressly provided in this Agreement, the obligations of the Town to make the payments described in this Agreement in accordance with the terms hereof shall be absolute and unconditional irrespective of any defense or any rights of setoff, recoupment or counterclaim it might otherwise have against the Developer. Notwithstanding the above, the Town reserves the right to terminate this Agreement upon receipt of a final judgment by a court of competent jurisdiction to the effect that this Agreement or the Development Program adopted in connection herewith or any payment made thereunder is or would be illegal or invalid. In such event, the termination shall relate back to the original date of the Agreement which shall be deemed *void ab initio*, and neither party shall have any obligations or liability hereunder, under the Development Program or in respect of any of the transactions contemplated thereby, and shall be left in whatever positions, financial or otherwise, they may be in as of the date of termination.

Section 4.5. Limited Obligation.

Notwithstanding anything to the contrary contained herein, the Town's obligations of payment hereunder shall be limited obligations of the Town payable solely from Retained Tax Increment Revenues and any earnings thereon, pledged therefore under this Agreement. The Town's obligations hereunder shall not constitute a general debt or a general obligation on the part of the Town or a charge against or pledge of the faith and credit or taxing power of the Town, but shall be payable solely from the Retained Tax Increment Revenues received by the Town, and any earnings thereon. This Agreement shall not directly or indirectly or contingently obligate the Town to levy or to pledge any form of taxation whatever therefore or to make any appropriation for their payment, excepting the Town's obligation to assess Property Taxes and the pledge of the Retained Tax Increment Revenues established under this Agreement.

ARTICLE V
PLEDGE AND SECURITY INTEREST

Section 5.1. Pledge of Developer Project Cost Account.

In consideration of this Agreement and other valuable consideration and for the purpose of securing payment of the amounts provided for hereunder to the Developer by the Town, according to the terms and conditions contained herein, and in order to secure the performance and observance of all of the Town's covenants and agreements contained herein, the Town does

hereby grant a security interest in and pledge to the Developer the Developer Project Cost Account and all sums of money and other securities and investments therein.

Section 5.2. Perfection of Interest.

To the extent deemed necessary or desirable by the Developer, the Town will at such time and from time to time as requested by Developer establish the Developer Project Cost Account described in Section 3.1 hereof as a segregated fund under the control of an escrow agent, trustee or other fiduciary so as to perfect Developer's interest therein. The cost of establishing and monitoring such a fund shall be borne exclusively by the Developer. In the event such a fund is established under the control of a trustee or fiduciary the Town shall cooperate with the Developer in causing appropriate financing statements and continuation statements naming the Developer as pledgee of all such amounts from time to time on deposit in the fund to be duly filed and recorded in the appropriate state offices as required by and permitted under the provisions of the Maine Uniform Commercial Code or other similar law as adopted in the State of Maine and any other applicable jurisdiction, as from time to time amended, in order to perfect and maintain the security interests created hereunder.

Section 5.3. Further Instruments.

The Town and the Developer shall, from time to time execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the provisions of this Agreement; provided, however that no such instruments or agreements shall pledge the credit of the Town.

Section 5.4. Liens.

Except as permitted hereunder, the Town shall not sell, lease, pledge, assign or otherwise dispose, encumber or hypothecate any interest in the Developer Project Cost Account and will promptly pay or cause to be discharged or make adequate provision to discharge any lien, charge or encumbrance on any part thereof not permitted hereby.

Section 5.5. Access to Books and Records.

All books, records and documents in the possession of the Town relating to the District, the Development Program, this Agreement and the monies, revenues and receipts on deposit or required to be deposited into the Development Program Fund shall at all reasonable times be open to inspection by the Developer, its agents, lenders and employees. All books, records and documents in the possession of the Developer relating to the District, the Development Program, the Developer's obligations hereunder related to the Project, this Agreement and the monies, revenues and receipts on deposit or required to be deposited into the Development Program Fund shall at all reasonable times be open to inspection by the Developer, its agents, lenders and employees.

ARTICLE VI
DEFAULTS AND REMEDIES

Section 6.1. Events of Default.

Each of the following events shall constitute and be referred to in this Agreement as an “Event of Default”:

(a) Any failure by the Town to pay any amounts due to Developer when the same shall become due and payable;

(b) Any failure by the Town to make deposits into the Developer Project Cost Account as and when due;

(c) Any failure by the Town or the Developer to observe and perform in all material respects any covenant, condition, agreement or provision contained herein on the part of the Town or Developer to be observed or performed, which failure is not cured within thirty (30) days following written notice thereof; and

(d) If a decree or order of a court or agency or supervisory authority having jurisdiction in the premises of the appointment of a conservator or receiver or liquidator of, any insolvency, readjustment of debt, marshaling of assets and liabilities or similar proceedings, or for the winding up or liquidation of the Town's affairs shall have been entered against the Town or the Town shall have consented to the appointment of a conservator or receiver or liquidator in any such proceedings of or relating to the Town or of or relating to all or substantially all of its property, including without limitation the filing of a voluntary petition in bankruptcy by the Town or the failure by the Town to have an involuntary petition in bankruptcy dismissed within a period of ninety (90) consecutive days following its filing or in the event an order for release has been entered under the Bankruptcy Code with respect to the Town.

Section 6.2. Remedies on Default.

Whenever any Event of Default described in Section 6.1 hereof shall have occurred and be continuing, the nondefaulting party, following any applicable cure period, shall have all rights and remedies available to it at law or in equity, including the rights and remedies available to a secured party under the laws of the State of Maine, and may take whatever action as may be necessary or desirable to collect the amount then due and thereafter to become due, to specifically enforce the performance or observance of any obligations, agreements or covenants of the nondefaulting party under this Agreement and any documents, instruments and agreements contemplated hereby or to enforce any rights or remedies available hereunder.

Section 6.3. Remedies Cumulative.

No remedy herein conferred upon or reserved by any party is intended to be exclusive of any other available remedy or remedies but each and every such remedy shall be cumulative and shall be in addition to the remedy given under this Agreement or now or hereafter existing at law, in equity or by statute. Delay or omission to exercise any right or power accruing upon any Events of Default or to insist upon the strict performance of any of the covenants and agreements

herein set forth or to exercise any rights or remedies upon the occurrence of an Event of Default shall not impair any such right or power or be considered or taken as a waiver or relinquishment for the future of the rights to insist upon and to enforce, from time to time and as often as may be deemed expedient, by injunction or other appropriate legal or equitable remedy, strict compliance by the parties hereto with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such Events of Default be continued or repeated.

Section 6.4. Agreement to Pay Attorneys' Fees and Expenses.

Notwithstanding the application of any other provision hereof, in the event the Town or the Developer should default under any of the provisions of this Agreement, and the nondefaulting party shall require and employ attorneys or incur other expenses or costs for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement on the part of the Town or the Developer herein contained, the defaulting party shall, on demand therefor, pay to the nondefaulting party the reasonable fees of such attorneys and such other reasonable costs and expenses so incurred by the non-defaulting party.

ARTICLE VII
EFFECTIVE DATE, TERM AND TERMINATION

Section 7.1. Effective Date and Term.

This Agreement shall become effective upon its execution and delivery by the parties hereto and shall remain in full force from the date hereof and shall expire on the later of the end of the 2050 Fiscal Year of the Town or upon the performance of all obligations on the part of the Town and the Developer hereunder, unless sooner terminated under Section 4.4 or any other applicable provision contained herein.

Section 7.2. Cancellation and Expiration of Term.

At the termination or other expiration of this Agreement in accordance with the provisions of this Agreement, the Town and the Developer shall each execute and deliver such documents and take or cause to be taken such actions as may be necessary to evidence the termination of this Agreement.

ARTICLE VIII
ASSIGNMENT AND PLEDGE OF DEVELOPER'S INTEREST

Section 8.1. Consent to Pledge, Collateral Assignment or Grant of a Security Interest.

The Town hereby acknowledges that the Developer may pledge and assign its right, title and interest in, to and under this Agreement as collateral for financing for the Project, although no obligation is hereby imposed on the Developer to make such assignment or pledge. Recognizing this possibility, the Town does hereby consent and agree to the pledge and assignment of all the Developer's right, title and interest in, to and under this Agreement and in, and to the payments to be made to Developer hereunder, to third parties as collateral or security

for indebtedness related to the Project, on one or more occasions during the term hereof. The Town agrees to execute and deliver any assignments, pledge agreements, consents or other confirmations required by the prospective pledgee or assignee, including without limitation recognition of the pledgee or assignee as the holder of all right, title and interest herein and as the payee of amounts due and payable hereunder and any and all such other documentation as shall confirm to such pledgee or assignee the position of such assignee or pledgee and the irrevocable and binding nature of this Agreement and provide to the pledgee or assignee such rights and/or remedies as it may deem necessary for the establishing, perfection and protection of its interest herein.

Section 8.2. Assignment.

Except as provided in Section 8.1, this Agreement and the obligations of the Town hereunder are personal to the Developer and may not be assigned or transferred by the Developer except to a successor in title to the Project, without the consent of the Town which consent shall not be unreasonably withheld or delayed. In the event of an assignment, Developer shall pay all legal fees incurred by Town in conjunction with the assignment.

ARTICLE IX
MISCELLANEOUS

Section 9.1. Successors.

(a) In the event the Town or the Developer are dissolved, merged into or consolidated with another entity, or undergo any form of corporate reorganization (other than with respect to any dissolution, merger, consolidation or corporate reorganization solely involving the Developer and any other Developer related to or affiliated with the Developer), the covenants, stipulations, promises and agreements set forth herein, by or on behalf of or for the benefit of such party shall bind or inure to the benefit of the successors and assigns thereof from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of such party shall be transferred, subject to approval of the Town, which consent shall not be unreasonably withheld or delayed.

(b) No consent from the Town shall be required with respect to any dissolution, merger, consolidation or corporate reorganization solely involving the Developer and any other entity related to or affiliated with the Developer. In such case, the covenants, stipulations, promises and agreements set forth herein, by or on behalf of or for the benefit of the Developer shall bind or inure to the benefit of the successors and assigns thereof from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of such party shall be transferred.

Section 9.2. Parties in Interest.

Except as herein otherwise specifically provided, nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person, firm or corporation other than the Town and the Developer any right, remedy or claim under or by reason of this Agreement, it being intended that this Agreement shall be for the sole and exclusive benefit of the Town and the Developer, and their successors and assigns as allowed under this Agreement;

provided, however, that if the payment obligations of the Town to the Developer hereunder are held by a final and binding proceeding to be illegal or invalid, this Agreement shall terminate. In such event all obligations of the parties shall terminate, and no party shall have any further liability to the other hereunder.

Section 9.3. Severability.

Except as otherwise provided herein, in case any one or more of the provisions of this Agreement shall, for any reason, be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement and this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

Section 9.4. No Personal Liability.

(a) No covenant, stipulation, obligation or agreement of the Town contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future elected or appointed official, officer, agent, servant or employee of the Town in his or her individual capacity and neither the members of the Town Council of the Town, or any official, officer, agent, servant or employee of the Town shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

(b) No covenant, stipulation, obligation or agreement of the Developer contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future director, member, manager, officer, agent, servant or employee of the Developer in his or her individual capacity and neither the directors, members, managers, officers, agents, servants or employees of the Developer shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

Section 9.5. Counterparts.

This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same Agreement.

Section 9.6. Governing Law.

The laws of the State of Maine shall govern the construction and enforcement of this Agreement in all respects.

Section 9.7. Notices.

All notices, certificates, requests, requisitions or other communications by the Town or the Developer pursuant to this Agreement shall be in writing and shall be sufficiently given and shall be deemed given when mailed by first class mail, postage prepaid, or, for any notice of an Event of Default, by registered or certified mail, return receipt requested, addressed as follows:

If to the Town:

Town Manager
Town of Freeport
Town Office
30 Main Street
Freeport, ME 04032

With a copy to:

Bernstein Shur
P.O. Box 9729
100 Middle Street
Portland, Maine 04104-5029
Attention: Shana Cook Mueller, Esq.

If to the Developer:

FHT Quarry Ridge LP
c/o Freeport Housing Trust, Inc.
24 South St, Ofc A
Freeport, ME 04032

With a copy to:

Curtis Thaxter LLC
PO Box 7230
Portland, ME 04112
Attn: Maurice A. Selinger, Esq.

Either of the parties may, by notice given to the other, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent hereunder.

Section 9.8. Amendments.

Neither this Agreement nor the Development Program may be amended without the express written consent of all of the parties hereto, which consent shall not be unreasonably withheld; provided, however, the parties agree to amend this Agreement in order to fulfill such reasonable requirement that a lender may require in connection with financing of the Project. This Agreement may only be amended in compliance with the provisions of 30-A M.R.S.A. § 5221 *et seq.*, as amended.

Section 9.9. Integration.

This Agreement completely and fully supersedes all other prior or contemporaneous understandings or agreements, both written and oral, between the Town and the Developer relating to the specific subject matter of this Agreement and the transactions contemplated hereby.

Section 9.10. Amendments.

This Agreement may be amended only with the concurring written consent of both of the parties hereto.

Section 9.11. Waiver of Recapture if Agreement Found Void.

In the event this Agreement is found void *ab initio* by a Court of law with final jurisdiction over this Agreement, the Town agrees to waive its rights to recapture all Developer Tax Increment Revenues paid to Developer pursuant to this Agreement.

Section 9.12. Tax Laws and Valuation Agreement.

The parties acknowledge that all laws of the State now in effect or hereafter enacted with respect to taxation of property shall be applicable and that the Town, by entering into this Agreement, is not excusing any non-payment of taxes by Developer. Without limiting the foregoing, the Town and the Developer shall always be entitled to exercise all rights and remedies regarding assessment, abatement, collection and payment of taxes assessed on Developer's property. In addition, the Development Program makes certain assumptions and estimates regarding valuation, depreciation of assets, tax rates and estimated costs. The Town and the Developer hereby covenant and agree that the assumptions, estimates, analysis and results set forth in the Development Program shall in no way (a) prejudice the rights of any party to be used, in any way, by any party in either presenting evidence or making argument in any dispute which may arise in connection with valuation of or abatement proceedings relating to Developer's property for purposes of ad valorem property taxation or (b) vary the terms of this Agreement even if the actual results differ substantially from the estimates, assumptions or analysis.

IN WITNESS WHEREOF, the Town and the Developer have caused this Agreement to be executed in their respective corporate names and their respective corporate seals to be hereunto affixed and attested by the duly authorized officers or members, as the case may be, all as of the date first above written.

WITNESS

TOWN OF FREEPORT

By: _____
Peter Joseph, its Town
Manager

FHT QUARRY RIDGE LP, Developer

BY: FHT Holdings, Inc., its General
Partner

By: _____
Matthew Peters, its Authorized
Agent