

DEVELOPMENT AGREEMENT

This Development Agreement (the "**Agreement**") is effective as of the 20th day of July, 2022, by and between the Town of Douglas, Massachusetts (the "**Town**"), acting through its Board of Selectmen (the "**Selectmen**"), and The Cubes at Gilboa, LLC, a Delaware limited liability company (the "**Proponent**"), which has an approximately 83.8 acre site at 123 Gilboa Street in Douglas, Massachusetts (the "**Site**") under agreement and expects to develop with an approximately 1,102,500 square foot warehouse and associated parking, loading and other improvements (the "**Project**"). The Town and the Proponent may be referred to individually as a "**Party**" or collectively as the "**Parties**."

1. RECITALS

1.1 The Proponent is seeking permits and approvals (collectively, the "**Entitlements**") from certain Town boards, commissions and departments for the Project. The specific permits and approvals are identified in Section 2.2, below.

1.2 The Project includes the following elements: (i) an approximately 1,102,500 sf warehouse distribution facility, (ii) 611 employee parking spaces, (iii) 183 loading spaces, (iv) 218 trailer truck parking spaces, (v) two site driveways, one connecting the Site to Gilboa Street, and another connecting the Site to Northeast Main Street, and (vi) associated infrastructure, including driveways, utilities, and stormwater drainage, all as shown on a plan entitled "Warehouse Distribution Facility, Gilboa Street, Douglas, MA, Site Plan" dated 2/11/22 (the "Site Plan"), a copy of which is attached as Exhibit A.

1.3 The Proponent and the Town wish to enter into this Development Agreement to memorialize their mutual understandings and agreements with respect to certain mitigation for the Project to be provided by the Proponent and certain other agreements between the Proponent and the Town on the terms and conditions set forth herein.

1.4 The Parties' obligations under this Development Agreement shall become effective upon issuance of the first building permit for the Project.

2. GENERAL

2.1 The Proponent shall comply with applicable laws, rules, regulations and bylaws of the Town, the Commonwealth of Massachusetts and Federal Agencies as they apply to the construction, maintenance and operation of the Project, including, without limitation, compliance with approvals by Town Boards and Commissions, the Massachusetts Wetlands Protection Act final orders, the Massachusetts Environmental Policy Act (MEPA), if applicable, the Massachusetts Endangered Species Act, and the State Building Code, including but not limited to the codes listed in Section 2.3 below.

2.2 The Entitlements are anticipated to include, but not be limited to (i) Site Plan Approval from the Town Planning Board, and the Planning Board's signed Decision (ii) an Order of Conditions from the Town Conservation Commission, (iii) street opening permits from the Douglas Highway Department, (iv) street alteration permits from the Town Board of Selectmen,

and (v) such other building permits, sewer connection permits, water connection permits and other permits and approvals normally associated with similar projects in the Town.

2.3 Construction of all structures on the Site is to be in accordance with all applicable zoning regulations and with all applicable codes, including but not limited to, the International Building Code 2015, National Fire Protection Association 70, National Fire Protection Association 25, International Energy Conservation Code 2018, International Electrical Code, International Mechanical Code, International Plumbing Code, International Gas Code, and the State Building Code 9th Edition, except and to the extent that the same are modified or for which a variance or other relief has been granted in connection with the Project.

3. TRAFFIC MITIGATION

3.1 It is the intent of Proponent that certain roadway improvements will be put in place by the time of opening of the Project (commencing Q4, 2023). The Proponent, with the cooperation of the Town, has agreed to the roadway improvements (the “**Roadway Improvements**”) described on **Exhibit B**, attached hereto.

3.2 The Proponent agrees to provide funding for pre- and post-occupancy traffic planning and monitoring studies for the Project. The studies must include reviews of the traffic counts and conditions at the intersections identified in the March 2022 TIAS (defined below). These intersections are:

- Lackey Dam Rd./Rte. 146 NB Ramps
- Lackey Dam Rd./Rte. 146 SB Ramps
- Gilboa St./North St.
- Northeast Main St./Davis St.
- Northeast Main St./Charles St.
- Hartford Ave. West/Walnut Grove St.

3.3 Not less than thirty (30) days prior to commencement of occupation by any user or users (the “Tenant”) utilizing thirty-three (33%) percent or more of the gross floor area of the Project, a written statement of the proposed user and its traffic operational characteristics (“Tenant’s Initial Traffic Report”) must be provided to the Douglas Planning Board. In the event that the Tenant’s Initial Traffic Report indicates an increase in estimated peak hour site related traffic volumes that is materially (more than 25% for trailer trucks, which shall mean any truck in Class 7 or higher) greater than projected in the March 2022 TIAS (“Transportation Impact Assessment Proposed Warehouse Building Gilboa Street Douglas, Massachusetts,” prepared by VAI, dated March 2022), the Town of Douglas may retain a traffic engineering firm having an office in the Commonwealth of Massachusetts to peer review the Tenant’s Initial Traffic Report

to determine if the additional traffic, attributable to the Site, results in unanticipated traffic impacts.

3.4 If additional impacts attributable to the Site are identified, and the peer reviewer recommends that additional traffic impact mitigation measures should be implemented by the Proponent or, where appropriate, by the Town of Douglas, the Proponent shall be responsible for up to Two Hundred and Fifty Thousand Dollars (\$250,000) for design and construction of such improvements, whether completed by the Proponent or the Town of Douglas. If the improvements are completed by the Town of Douglas, the Proponent shall be required to reimburse the Town of Douglas for such costs within twelve (12) months of the issuance of a certificate of occupancy for the Tenant. The completion of the traffic review by the Town of Douglas shall not be deemed a condition to the Tenant taking occupancy or commencing its use at the Project. Where necessary, the Proponent agrees to make applications to appropriate agencies and board to obtain necessary approvals, and/or to cooperate with such applications, if such permits or permissions are necessary to construct or implement the recommendations of the peer reviewer. All costs and expenses incurred by the Proponent in obtaining such approvals shall not apply to the \$250,000 maximum cost incurred by Proponent. The Town and the Proponent acknowledge that some recommendations may exceed the Town's authority to permit or impose as a condition, such as signalization or other infrastructure improvements. The Proponent nonetheless agrees to pursue such measures, if recommended, with reasonable diligence and subject to the limitations set forth herein. The Proponent's maximum cost shall not exceed an aggregate of \$250,000, exclusive of the costs associated with obtaining approvals and entitlements necessary for completion of recommended improvements.

3.5 Post-occupancy monitoring studies may be conducted at six (6) months after initial occupancy and again at twelve (12) months after full occupancy.

3.6 The Town of Douglas may retain a qualified traffic engineering firm of its choice to conduct a traffic monitoring study at each of these two milestones, at the Proponent's expense per G.L. c. 44, §53G. In the event the monitoring study demonstrates a material (defined as more than 25% for trailer trucks¹ above the estimated peak hour site related traffic volumes as set forth in the TIAS) increase in peak hour traffic volumes that are identified as being generated from this Project (as opposed to other significant developments in the area or background traffic growth), the Proponent may retain a qualified traffic engineering firm to conduct a peer review, at the Proponent's expense per G.L. c. 44, §53G, of the Town's monitoring report.

3.7 In the event that such peer reviewer recommends additional and mutually agreeable traffic impact mitigation measures to be implemented by the Proponent or, where appropriate, by the Town of Douglas with reimbursement from the Proponent, the Proponent shall fund such measures in an amount not to exceed Two Hundred and Fifty Thousand Dollars (\$250,000). The Proponent must promptly implement such traffic measures, or reimburse the Town of Douglas for such costs within thirty (30) days of the accounting provided by the Town of the detailed costs of the measures taken. Where necessary, the Proponent agrees to make applications to appropriate agencies and boards to obtain necessary approvals, and/or to

¹ A "trailer truck" shall mean any truck in Class 7 or higher.

cooperate with such applications, if such permits or permissions are necessary to construct or implement the recommendations of the peer reviewer. All costs and expenses incurred by the Proponent in obtaining such approvals shall not apply to the \$250,000 maximum costs to be incurred by the Proponent. The Board and the Proponent acknowledge that some recommendations may exceed the Board's authority to permit or impose as a condition, such as signalization or other infrastructure improvements. Notwithstanding, the Proponent agrees to pursue such measures, if recommended, with reasonable diligence and subject to the limitations set forth herein.

3.8. Under all circumstances, the Proponent's maximum responsibility for design and construction of traffic improvements pursuant to this Section 3 shall not exceed Five Hundred Thousand Dollars (\$500,000.00).

4. PUBLIC INFRASTRUCTURE AND ROADWAYS

4.1 Water infrastructure upgrades by the Town are required on (a) North Street, from Main Street to Gilboa Street (replace 1300 LF of existing 8-inch water main with new 16-inch water main), (b) Gilboa Street, from North Street to the west end of the 120 Gilboa Street mill parking lot (replace 2800 LF of existing 6-inch water main with new 12-inch water main), and (c) Northeast Main Street, from Davis Street to the Uxbridge town line (replace 2600 LF of existing 8-inch water main with new 12-inch water main).

4.2 Sewer infrastructure upgrades by the Town are required on (a) Gilboa Street (replace 2800 LF of existing 4-inch sewer force main with new 6-inch sewer force main), (b) install gravity feed sewer main on Gilboa Street, from a new SMH located abeam the proposed warehouse access bridge, which crosses the Mumford River, to the new Gilboa Street sewer pump station, and (c) replace an existing sewer pump station with a new energy efficient sewer pump station to process the increased flows.

4.3 One Stop MassWorks - The total estimated cost of the required water/sewer infrastructure upgrades is \$8,627,993. The Town applied for, and was awarded, a State One Stop MassWorks grant of \$3,300,000, where the Proponent pledged up to a maximum of \$2,282,186 towards said MassWorks grant application. This pledged amount will be reduced accordingly as other funding sources become available (see 4.5 below) and/or construction costs are reduced accordingly. The Proponent's maximum obligation for water and sewer infrastructure upgrades shall not exceed Two Million, Two Hundred Eighty Two Thousand, One Hundred Eighty Six Dollars (\$2,282,186.00), although it is the expectation of the Parties that this obligation shall be reduced by other funding sources pursuant to Section 4.5, below.

4.4 Douglas Gas Extension - The Town is not currently franchised for natural gas. However, the Town is working with Eversource Energy, a natural gas supplier/distributor, to franchise the Town (the "Gas Extension Project"). The current Gas Extension Project plan with Eversource includes extending an 8-inch gas main from a point in Uxbridge on Lackey Dam Road, into Douglas under Gilboa Street, continuing to North Street, southward on North Street, ending at Main Street, a total distance of 8,950 LF. Eversource has committed that the total non-Eversource contribution to the Gas Extension Project is One Million, One Hundred Thirty Thousand, Five Hundred Twenty Six Dollars (\$1,130,526.00). The Town has committed to apply

a Seven Hundred Thousand Dollar (\$700,000) MassWorks Grant award to the Gas Extension Project. The Proponent has pledged Four Hundred Thirty Thousand, Five Hundred Twenty-Six Dollars (\$430,526.00) towards the Gas Extension Project.

4.5 Economic Development Administration (EDA) - The Town applied for a \$3,313,251 sewer/water grant and is currently awaiting a decision by the EDA on the status of the grant application.

5. RESERVED

6. ADDITIONAL CONTRIBUTIONS AND OBLIGATIONS

6.1 Because the Proponent's proposed 1,102,500 square foot warehouse project requires water and sewer infrastructure upgrades, and the Town does not possess the necessary equipment to support, maintain and/or repair said required water/sewer upgraded infrastructure, the Proponent will contribute to the Town sufficient funding to acquire the following equipment:

(a) One (1) hydraulic valve exerciser maintenance trailer, with options as listed, or equivalent, estimated cost, \$99,000.

(b) One (1) Mini-excavator, with options as listed, or equivalent, estimated cost, \$89,000.

(c) One (1) Mini-excavator trailer, with options as listed, or equivalent, estimated cost, \$25,000.

(d) One (1) mobile diesel generator, with options as listed, or equivalent, estimated \$64,000.

(e) The total estimated cost for items (a) through (d) inclusive is approximately \$277,000.

(f) The Proponent will establish a \$300,000 account with the Town, to be used exclusively for the purchase of equipment, as specified in (a), (b), (c), and (d) above. Any funds which remain unspent after all four (4) items have been purchased will be returned to the Proponent. The Proponent's obligations under this Section 6 shall not exceed \$300,000.00.

7. LOCAL LICENSES AND REGULATIONS

7.1 Subject to compliance with all applicable law, the Selectmen agree to issue any required permits for signs related to the Project, which may include signs located in or upon any street, sidewalk, or town way, as required by Article 9 of the Town's General Bylaws.

8. ENFORCEMENT AND SECURITY

8.1 In connection with construction of any [Public Infrastructure Improvements], the Proponent's contractor shall obtain street opening permits and issue such bonds and other sureties as are commonly required for such work.

8.2 Except to the extent that provisions have otherwise been made for specific remedies and security, the Agreement may be enforced by any remedy provided at law or in equity.

9. MISCELLANEOUS

9.1 All notices required or permitted hereunder shall be in writing and addressed or by written telecommunication, and shall be deemed to have been duly given if delivered personally or if mailed by certified mail, return receipt requested, postage prepaid, or if sent by a nationally recognized overnight courier service, as follows (or to such other address as a party may specify by written notice to the other party):

If to the Town to:

Town of Douglas
c/o Board of Selectmen
Municipal Center
29 Depot Street
Douglas, MA 01516
Email: mwojcik@douglas-ma.gov

with a copy to:

Email: lfreeman@douglas-ma.gov

If to the Proponent to:

CRG Acquisition, LLC
c/o Clayco, Inc.
2199 Innerbelt Business Center Drive
St. Louis, Missouri 63114
Attention: Chris McKee
Email: mckeec@realcrg.com

with a copy to:

General Counsel
c/o Clayco, Inc.
2199 Innerbelt Business Center Drive

St. Louis, Missouri 63114
Email: nicholsj@realcrg.com

with a copy to:

Pierce Atwood LLP
100 Summer Street
Boston, MA 02111
Attention: Daniel J. Bailey, III, Esq.

Any such notice shall be effective (a) if delivered personally, when received, (b) if sent by overnight courier, when receipted for, or (c) if mailed, three (3) days after being mailed as described above.

9.2 If and to the extent that either party is prevented from performing its obligations hereunder by an event of *force majeure*, such party shall be excused from performing hereunder and shall not be liable in damages or otherwise, and the parties instead shall negotiate in good faith with respect to appropriate modifications to the terms hereof. For purposes of this Agreement, the term *force majeure* shall mean any cause beyond the reasonable control of the affected party, including without limitation requirements of statute or regulation; action of any court, regulatory authority, or public authority having jurisdiction; acts of God, fire, earthquake, floods, explosion, actions of the elements, war, terrorism, riots, mob violence, inability to procure or a general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, actions of labor unions, condemnation, laws or orders of governmental or military authorities, denial of, refusal to grant or appeals of any permit, approval, or action of any public or quasi-public authority, official, agency or subdivision, or any other cause similar to the foregoing, not within the reasonable control of such party obligated to perform such obligation.

9.3 Failure by either Party to perform any term or provision of this Agreement shall not constitute a default under this Agreement unless and until the defaulting Party fails to commence to cure, correct or remedy such failure within fifteen (15) days of receipt of written notice of such failure from the other Party and thereafter fails to complete such cure, correction, or remedy within sixty (60) days of the receipt of such written notice, or, with respect to defaults that cannot reasonably be cured, corrected or remedied within such sixty (60) day period, within such additional period of time as is reasonably required to remedy such default, provided the defaulting Party exercises due diligence in the remedying of such default. Notwithstanding the foregoing, the Proponent shall cure any monetary default hereunder within fifteen (15) days following the receipt of written notice of such default from the Town. If the Proponent shall forward to the Town an executed copy of any mortgage with respect to the Site or any portion thereof, together with the recording information and a written notice setting forth the name and address of the lender (the "Lender"), the Town agrees to provide such Lender with a default notice simultaneously with its delivery of such notice to the Proponent. During the applicable cure period, any such Lender shall have the right to perform any term, covenant, or condition and

to remedy any default by the Proponent hereunder, and the Town shall accept such performance with the same force and effect as if furnished by the Proponent.

9.4 The obligations of the Proponent do not constitute personal obligations of the Proponent or of the members, trustees, partners, directors, officers or shareholders of the Proponent, or any direct or indirect constituent entity of the Proponent or any of its or their affiliates or agents, and the Town shall not seek recourse against any of the foregoing or any of their personal assets for satisfaction of any liability with respect to this Agreement or otherwise. The liability of the Proponent is in all cases limited to its interest in the Site or in any bond or insurance coverage purchased for the benefit of the Proponent's activities at the Site. In no event shall the Proponent be liable for any incidental, indirect, punitive, special or consequential damages. In the event of any transfer or assignment by the Proponent of all or any portion of its rights and obligations hereunder, such transfer or assignment shall be effected pursuant to a written agreement whereby the transferee is responsible for all applicable obligations or liabilities arising from and after the date of assignment, and the Proponent is responsible (except to the extent assumed by transferee) for all applicable obligations or liabilities arising prior to the date of assignment, and a copy of such written agreement shall be provided to the Town. Following execution of such written agreement, the Town agrees that it shall look to the transferee and not the Proponent with respect to any applicable obligations or liabilities in accordance with the terms of the assignment.

9.5 Each party agrees, from time to time, upon not less than twenty-one (21) days' prior written request from the other, to execute, acknowledge and deliver a statement in writing certifying that this Agreement is unmodified and in full force and effect (or if there have been modifications, setting them forth in reasonable detail); that the party delivering such statement has no defenses, offsets or counterclaims against its obligations to perform its covenants hereunder (or if there are any of the foregoing, setting them forth in reasonable detail); that there are no uncured defaults of either party under this Agreement (or, if there are any defaults, setting them forth in reasonable detail); and any other information reasonably requested by the party seeking such statement. If the party delivering an estoppel certificate is unable to verify compliance by the other party with certain provisions hereof despite the use of due diligence, it shall so state with specificity in the estoppel certificate, and deliver an updated estoppel certificate as to such provisions as soon thereafter as practicable. Any such statement delivered pursuant to this Section 10.6 shall be in a form reasonably acceptable to, and may be relied upon by any, actual or prospective purchaser, tenant, mortgagee or other party having an interest in the Project.

9.6 This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts. If any term, covenant, condition or provision of this Agreement or the application thereof to any person or circumstances shall be declared invalid or unenforceable by the final ruling of a court of competent jurisdiction having final review, the remaining terms, covenants, conditions and provisions of this Agreement and their application to other persons or circumstances shall not be affected thereby and shall continue to be enforced and recognized as valid agreements of the parties, and in the place of such invalid or unenforceable provision, there shall be substituted a like, but valid and enforceable provision which comports to the findings of the aforesaid court and most nearly accomplishes the original

intention of the parties. The parties agree that any dispute hereunder shall be adjudicated in the Massachusetts Land Court or Worcester Superior Court.

9.7 This Agreement sets forth the entire agreement of the parties with respect to the subject matter hereof, and supersedes (i) any prior agreements, discussions or understandings of the parties and their respective agents and representatives, and (ii) any prior agreements, discussions or understandings affecting the Site.

9.8 The Parties agree to work cooperatively, on a going-forward basis, to execute and deliver documents, seek approvals, and take such other actions, whether or not explicitly set forth herein, that may be necessary in connection with the development of the Project or the implementation of the goals and objectives of this Agreement. Such potential future actions may include, without limitation, issuing letters of support in connection with permitting activities, effecting additional eminent domain takings and granting easement rights, processing requests for TIF, Investment Tax Credit, and other incentives for Project tenants, holding a Special Town Meeting to enact any required revisions to zoning (including signage provisions) and other regulations, and ame

DEVELOPMENT AGREEMENT

This Development Agreement (the “**Agreement**”) is effective as of the ____ day of _____, 2022, by and between the Town of Douglas, Massachusetts (the “**Town**”), acting through its Board of Selectmen (the “**Selectmen**”), and The Cubes at Gilboa, LLC, a Delaware limited liability company (the “**Proponent**”), which has an approximately 83.8 acre site at 123 Gilboa Street in Douglas, Massachusetts (the “**Site**”) under agreement and expects to develop with an approximately 1,102,500 square foot warehouse and associated parking, loading and other improvements (the “**Project**”). The Town and the Proponent may be referred to individually as a “**Party**” or collectively as the “**Parties**.”

1. RECITALS

1.1 The Proponent is seeking permits and approvals (collectively, the “**Entitlements**”) from certain Town boards, commissions and departments for the Project. The specific permits and approvals are identified in Section 2.2, below.

1.2 The Project includes the following elements: (i) an approximately 1,102,500 sf warehouse distribution facility, (ii) 611 employee parking spaces, (iii) 183 loading spaces, (iv) 218 trailer truck parking spaces, (v) two site driveways, one connecting the Site to Gilboa Street, and another connecting the Site to Northeast Main Street, and (vi) associated infrastructure, including driveways, utilities, and stormwater drainage, all as shown on a plan entitled “Warehouse Distribution Facility, Gilboa Street, Douglas, MA, Site Plan” dated 2/11/22 (the “Site Plan”), a copy of which is attached as Exhibit A.

1.3 The Proponent and the Town wish to enter into this Development Agreement to memorialize their mutual understandings and agreements with respect to certain mitigation for the Project to be provided by the Proponent and certain other agreements between the Proponent and the Town on the terms and conditions set forth herein.

1.4 The Parties’ obligations under this Development Agreement shall become effective upon issuance of the first building permit for the Project.

2. GENERAL

2.1 The Proponent shall comply with applicable laws, rules, regulations and bylaws of the Town, the Commonwealth of Massachusetts and Federal Agencies as they apply to the construction, maintenance and operation of the Project, including, without limitation, compliance with approvals by Town Boards and Commissions, the Massachusetts Wetlands Protection Act final orders, the Massachusetts Environmental Policy Act (MEPA), if applicable, the Massachusetts Endangered Species Act, and the State Building Code, including but not limited to the codes listed in Section 2.3 below.

2.2 The Entitlements are anticipated to include, but not be limited to (i) Site Plan Approval from the Town Planning Board, and the Planning Board’s signed Decision (ii) an Order of Conditions from the Town Conservation Commission, (iii) street opening permits from the Douglas Highway Department, (iv) street alteration permits from the Town Board of Selectmen,

and (v) such other building permits, sewer connection permits, water connection permits and other permits and approvals normally associated with similar projects in the Town.

2.3 Construction of all structures on the Site is to be in accordance with all applicable zoning regulations and with all applicable codes, including but not limited to, the International Building Code 2015, National Fire Protection Association 70, National Fire Protection Association 25, International Energy Conservation Code 2018, International Electrical Code, International Mechanical Code, International Plumbing Code, International Gas Code, and the State Building Code 9th Edition, except and to the extent that the same are modified or for which a variance or other relief has been granted in connection with the Project.

3. TRAFFIC MITIGATION

3.1 It is the intent of Proponent that certain roadway improvements will be put in place by the time of opening of the Project (commencing Q4, 2023). The Proponent, with the cooperation of the Town, has agreed to the roadway improvements (the “**Roadway Improvements**”) described on **Exhibit B**, attached hereto.

3.2 The Proponent agrees to provide funding for pre- and post-occupancy traffic planning and monitoring studies for the Project. The studies must include reviews of the traffic counts and conditions at the intersections identified in the March 2022 TIAS (defined below). These intersections are:

- Lackey Dam Rd./Rte. 146 NB Ramps
- Lackey Dam Rd./Rte. 146 SB Ramps
- Gilboa St./North St.
- Northeast Main St./Davis St.
- Northeast Main St./Charles St.
- Hartford Ave. West/Walnut Grove St.

3.3 Not less than thirty (30) days prior to commencement of occupation by any user or users (the “Tenant”) utilizing thirty-three (33%) percent or more of the gross floor area of the Project, a written statement of the proposed user and its traffic operational characteristics (“Tenant’s Initial Traffic Report”) must be provided to the Douglas Planning Board. In the event that the Tenant’s Initial Traffic Report indicates an increase in estimated peak hour site related traffic volumes that is materially (more than 25% for trailer trucks, which shall mean any truck in Class 7 or higher) greater than projected in the March 2022 TIAS (“Transportation Impact Assessment Proposed Warehouse Building Gilboa Street Douglas, Massachusetts,” prepared by VAI, dated March 2022), the Town of Douglas may retain a traffic engineering firm having an office in the Commonwealth of Massachusetts to peer review the Tenant’s Initial Traffic Report

to determine if the additional traffic, attributable to the Site, results in unanticipated traffic impacts.

3.4 If additional impacts attributable to the Site are identified, and the peer reviewer recommends that additional traffic impact mitigation measures should be implemented by the Proponent or, where appropriate, by the Town of Douglas, the Proponent shall be responsible for up to Two Hundred and Fifty Thousand Dollars (\$250,000) for design and construction of such improvements, whether completed by the Proponent or the Town of Douglas. If the improvements are completed by the Town of Douglas, the Proponent shall be required to reimburse the Town of Douglas for such costs within twelve (12) months of the issuance of a certificate of occupancy for the Tenant. The completion of the traffic review by the Town of Douglas shall not be deemed a condition to the Tenant taking occupancy or commencing its use at the Project. Where necessary, the Proponent agrees to make applications to appropriate agencies and board to obtain necessary approvals, and/or to cooperate with such applications, if such permits or permissions are necessary to construct or implement the recommendations of the peer reviewer. All costs and expenses incurred by the Proponent in obtaining such approvals shall not apply to the \$250,000 maximum cost incurred by Proponent. The Town and the Proponent acknowledge that some recommendations may exceed the Town's authority to permit or impose as a condition, such as signalization or other infrastructure improvements. The Proponent nonetheless agrees to pursue such measures, if recommended, with reasonable diligence and subject to the limitations set forth herein. The Proponent's maximum cost shall not exceed an aggregate of \$250,000, exclusive of the costs associated with obtaining approvals and entitlements necessary for completion of recommended improvements.

3.5 Post-occupancy monitoring studies may be conducted at six (6) months after initial occupancy and again at twelve (12) months after full occupancy.

3.6 The Town of Douglas may retain a qualified traffic engineering firm of its choice to conduct a traffic monitoring study at each of these two milestones, at the Proponent's expense per G.L. c. 44, §53G. In the event the monitoring study demonstrates a material (defined as more than 25% for trailer trucks¹ above the estimated peak hour site related traffic volumes as set forth in the TIAS) increase in peak hour traffic volumes that are identified as being generated from this Project (as opposed to other significant developments in the area or background traffic growth), the Proponent may retain a qualified traffic engineering firm to conduct a peer review, at the Proponent's expense per G.L. c. 44, §53G, of the Town's monitoring report.

3.7 In the event that such peer reviewer recommends additional and mutually agreeable traffic impact mitigation measures to be implemented by the Proponent or, where appropriate, by the Town of Douglas with reimbursement from the Proponent, the Proponent shall fund such measures in an amount not to exceed Two Hundred and Fifty Thousand Dollars (\$250,000). The Proponent must promptly implement such traffic measures, or reimburse the Town of Douglas for such costs within thirty (30) days of the accounting provided by the Town of the detailed costs of the measures taken. Where necessary, the Proponent agrees to make applications to appropriate agencies and boards to obtain necessary approvals, and/or to

¹ A "trailer truck" shall mean any truck in Class 7 or higher.

cooperate with such applications, if such permits or permissions are necessary to construct or implement the recommendations of the peer reviewer. All costs and expenses incurred by the Proponent in obtaining such approvals shall not apply to the \$250,000 maximum costs to be incurred by the Proponent. The Board and the Proponent acknowledge that some recommendations may exceed the Board's authority to permit or impose as a condition, such as signalization or other infrastructure improvements. Notwithstanding, the Proponent agrees to pursue such measures, if recommended, with reasonable diligence and subject to the limitations set forth herein.

3.8. Under all circumstances, the Proponent's maximum responsibility for design and construction of traffic improvements pursuant to this Section 3 shall not exceed Five Hundred Thousand Dollars (\$500,000.00).

4. PUBLIC INFRASTRUCTURE AND ROADWAYS

4.1 Water infrastructure upgrades by the Town are required on (a) North Street, from Main Street to Gilboa Street (replace 1300 LF of existing 8-inch water main with new 16-inch water main), (b) Gilboa Street, from North Street to the west end of the 120 Gilboa Street mill parking lot (replace 2800 LF of existing 6-inch water main with new 12-inch water main), and (c) Northeast Main Street, from Davis Street to the Uxbridge town line (replace 2600 LF of existing 8-inch water main with new 12-inch water main).

4.2 Sewer infrastructure upgrades by the Town are required on (a) Gilboa Street (replace 2800 LF of existing 4-inch sewer force main with new 6-inch sewer force main), (b) install gravity feed sewer main on Gilboa Street, from a new SMH located abeam the proposed warehouse access bridge, which crosses the Mumford River, to the new Gilboa Street sewer pump station, and (c) replace an existing sewer pump station with a new energy efficient sewer pump station to process the increased flows.

4.3 One Stop MassWorks - The total estimated cost of the required water/sewer infrastructure upgrades is \$8,627,993. The Town applied for, and was awarded, a State One Stop MassWorks grant of \$3,300,000, where the Proponent pledged up to a maximum of \$2,282,186 towards said MassWorks grant application. This pledged amount will be reduced accordingly as other funding sources become available (see 4.5 below) and/or construction costs are reduced accordingly. The Proponent's maximum obligation for water and sewer infrastructure upgrades shall not exceed Two Million, Two Hundred Eighty Two Thousand, One Hundred Eighty Six Dollars (\$2,282,186.00), although it is the expectation of the Parties that this obligation shall be reduced by other funding sources pursuant to Section 4.5, below.

4.4 Douglas Gas Extension - The Town is not currently franchised for natural gas. However, the Town is working with Eversource Energy, a natural gas supplier/distributor, to franchise the Town (the "Gas Extension Project"). The current Gas Extension Project plan with Eversource includes extending an 8-inch gas main from a point in Uxbridge on Lackey Dam Road, into Douglas under Gilboa Street, continuing to North Street, southward on North Street, ending at Main Street, a total distance of 8,950 LF. Eversource has committed that the total non-Eversource contribution to the Gas Extension Project is One Million, One Hundred Thirty Thousand, Five Hundred Twenty Six Dollars (\$1,130,526.00). The Town has committed to apply

a Seven Hundred Thousand Dollar (\$700,000) MassWorks Grant award to the Gas Extension Project. The Proponent has pledged Four Hundred Thirty Thousand, Five Hundred Twenty-Six Dollars (\$430,526.00) towards the Gas Extension Project.

4.5 Economic Development Administration (EDA) - The Town applied for a \$3,313,251 sewer/water grant and is currently awaiting a decision by the EDA on the status of the grant application.

5. RESERVED

6. ADDITIONAL CONTRIBUTIONS AND OBLIGATIONS

6.1 Because the Proponent's proposed 1,102,500 square foot warehouse project requires water and sewer infrastructure upgrades, and the Town does not possess the necessary equipment to support, maintain and/or repair said required water/sewer upgraded infrastructure, the Proponent will contribute to the Town sufficient funding to acquire the following equipment:

(a) One (1) hydraulic valve exerciser maintenance trailer, with options as listed, or equivalent, estimated cost, \$99,000.

(b) One (1) Mini-excavator, with options as listed, or equivalent, estimated cost, \$89,000.

(c) One (1) Mini-excavator trailer, with options as listed, or equivalent, estimated cost, \$25,000.

(d) One (1) mobile diesel generator, with options as listed, or equivalent, estimated \$64,000.

(e) The total estimated cost for items (a) through (d) inclusive is approximately \$277,000.

(f) The Proponent will establish a \$300,000 account with the Town, to be used exclusively for the purchase of equipment, as specified in (a), (b), (c), and (d) above. Any funds which remain unspent after all four (4) items have been purchased will be returned to the Proponent. The Proponent's obligations under this Section 6 shall not exceed \$300,000.00.

7. LOCAL LICENSES AND REGULATIONS

7.1 Subject to compliance with all applicable law, the Selectmen agree to issue any required permits for signs related to the Project, which may include signs located in or upon any street, sidewalk, or town way, as required by Article 9 of the Town's General Bylaws.

8. ENFORCEMENT AND SECURITY

8.1 In connection with construction of any [Public Infrastructure Improvements], the Proponent's contractor shall obtain street opening permits and issue such bonds and other sureties as are commonly required for such work.

8.2 Except to the extent that provisions have otherwise been made for specific remedies and security, the Agreement may be enforced by any remedy provided at law or in equity.

9. MISCELLANEOUS

9.1 All notices required or permitted hereunder shall be in writing and addressed or by written telecommunication, and shall be deemed to have been duly given if delivered personally or if mailed by certified mail, return receipt requested, postage prepaid, or if sent by a nationally recognized overnight courier service, as follows (or to such other address as a party may specify by written notice to the other party):

If to the Town to:

Town of Douglas
c/o Board of Selectmen
Municipal Center
29 Depot Street
Douglas, MA 01516
Email: mwojcik@douglas-ma.gov

with a copy to:

Email: lfreeman@douglas-ma.gov

If to the Proponent to:

CRG Acquisition, LLC
c/o Clayco, Inc.
2199 Innerbelt Business Center Drive
St. Louis, Missouri 63114
Attention: Chris McKee
Email: mckeec@realcrg.com

with a copy to:

General Counsel
c/o Clayco, Inc.
2199 Innerbelt Business Center Drive

St. Louis, Missouri 63114
Email: nicholsj@realcrg.com

with a copy to:

Pierce Atwood LLP
100 Summer Street
Boston, MA 02111
Attention: Daniel J. Bailey, III, Esq.

Any such notice shall be effective (a) if delivered personally, when received, (b) if sent by overnight courier, when receipted for, or (c) if mailed, three (3) days after being mailed as described above.

9.2 If and to the extent that either party is prevented from performing its obligations hereunder by an event of *force majeure*, such party shall be excused from performing hereunder and shall not be liable in damages or otherwise, and the parties instead shall negotiate in good faith with respect to appropriate modifications to the terms hereof. For purposes of this Agreement, the term *force majeure* shall mean any cause beyond the reasonable control of the affected party, including without limitation requirements of statute or regulation; action of any court, regulatory authority, or public authority having jurisdiction; acts of God, fire, earthquake, floods, explosion, actions of the elements, war, terrorism, riots, mob violence, inability to procure or a general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, actions of labor unions, condemnation, laws or orders of governmental or military authorities, denial of, refusal to grant or appeals of any permit, approval, or action of any public or quasi-public authority, official, agency or subdivision, or any other cause similar to the foregoing, not within the reasonable control of such party obligated to perform such obligation.

9.3 Failure by either Party to perform any term or provision of this Agreement shall not constitute a default under this Agreement unless and until the defaulting Party fails to commence to cure, correct or remedy such failure within fifteen (15) days of receipt of written notice of such failure from the other Party and thereafter fails to complete such cure, correction, or remedy within sixty (60) days of the receipt of such written notice, or, with respect to defaults that cannot reasonably be cured, corrected or remedied within such sixty (60) day period, within such additional period of time as is reasonably required to remedy such default, provided the defaulting Party exercises due diligence in the remedying of such default. Notwithstanding the foregoing, the Proponent shall cure any monetary default hereunder within fifteen (15) days following the receipt of written notice of such default from the Town. If the Proponent shall forward to the Town an executed copy of any mortgage with respect to the Site or any portion thereof, together with the recording information and a written notice setting forth the name and address of the lender (the "Lender"), the Town agrees to provide such Lender with a default notice simultaneously with its delivery of such notice to the Proponent. During the applicable cure period, any such Lender shall have the right to perform any term, covenant, or condition and

to remedy any default by the Proponent hereunder, and the Town shall accept such performance with the same force and effect as if furnished by the Proponent.

9.4 The obligations of the Proponent do not constitute personal obligations of the Proponent or of the members, trustees, partners, directors, officers or shareholders of the Proponent, or any direct or indirect constituent entity of the Proponent or any of its or their affiliates or agents, and the Town shall not seek recourse against any of the foregoing or any of their personal assets for satisfaction of any liability with respect to this Agreement or otherwise. The liability of the Proponent is in all cases limited to its interest in the Site or in any bond or insurance coverage purchased for the benefit of the Proponent's activities at the Site. In no event shall the Proponent be liable for any incidental, indirect, punitive, special or consequential damages. In the event of any transfer or assignment by the Proponent of all or any portion of its rights and obligations hereunder, such transfer or assignment shall be effected pursuant to a written agreement whereby the transferee is responsible for all applicable obligations or liabilities arising from and after the date of assignment, and the Proponent is responsible (except to the extent assumed by transferee) for all applicable obligations or liabilities arising prior to the date of assignment, and a copy of such written agreement shall be provided to the Town. Following execution of such written agreement, the Town agrees that it shall look to the transferee and not the Proponent with respect to any applicable obligations or liabilities in accordance with the terms of the assignment.

9.5 Each party agrees, from time to time, upon not less than twenty-one (21) days' prior written request from the other, to execute, acknowledge and deliver a statement in writing certifying that this Agreement is unmodified and in full force and effect (or if there have been modifications, setting them forth in reasonable detail); that the party delivering such statement has no defenses, offsets or counterclaims against its obligations to perform its covenants hereunder (or if there are any of the foregoing, setting them forth in reasonable detail); that there are no uncured defaults of either party under this Agreement (or, if there are any defaults, setting them forth in reasonable detail); and any other information reasonably requested by the party seeking such statement. If the party delivering an estoppel certificate is unable to verify compliance by the other party with certain provisions hereof despite the use of due diligence, it shall so state with specificity in the estoppel certificate, and deliver an updated estoppel certificate as to such provisions as soon thereafter as practicable. Any such statement delivered pursuant to this Section 10.6 shall be in a form reasonably acceptable to, and may be relied upon by any, actual or prospective purchaser, tenant, mortgagee or other party having an interest in the Project.

9.6 This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts. If any term, covenant, condition or provision of this Agreement or the application thereof to any person or circumstances shall be declared invalid or unenforceable by the final ruling of a court of competent jurisdiction having final review, the remaining terms, covenants, conditions and provisions of this Agreement and their application to other persons or circumstances shall not be affected thereby and shall continue to be enforced and recognized as valid agreements of the parties, and in the place of such invalid or unenforceable provision, there shall be substituted a like, but valid and enforceable provision which comports to the findings of the aforesaid court and most nearly accomplishes the original

intention of the parties. The parties agree that any dispute hereunder shall be adjudicated in the Massachusetts Land Court or Worcester Superior Court.

9.7 This Agreement sets forth the entire agreement of the parties with respect to the subject matter hereof, and supersedes (i) any prior agreements, discussions or understandings of the parties and their respective agents and representatives, and (ii) any prior agreements, discussions or understandings affecting the Site.

9.8 The Parties agree to work cooperatively, on a going-forward basis, to execute and deliver documents, seek approvals, and take such other actions, whether or not explicitly set forth herein, that may be necessary in connection with the development of the Project or the implementation of the goals and objectives of this Agreement. Such potential future actions may include, without limitation, issuing letters of support in connection with permitting activities, effecting additional eminent domain takings and granting easement rights, processing requests for TIF, Investment Tax Credit, and other incentives for Project tenants, holding a Special Town Meeting to enact any required revisions to zoning (including signage provisions) and other regulations, and amending existing approvals.

9.9 No representation, promise or other agreement with respect to the subject matter hereof shall be binding on any party unless it is expressly set forth herein. Without limiting the foregoing, it is expressly acknowledged and agreed that the obligations hereunder shall apply to, and be enforceable against, only the Proponent and its successors and assigns, and no third-party developer, owner, tenant, or other entity shall be liable for the performance or breach of any obligations hereunder. This Agreement may not be amended, altered or modified except by an instrument in writing and signed by the parties hereto. The failure of any party to strictly enforce the provisions hereof shall not be construed as a waiver of any obligation hereunder. This Agreement may be executed in several counterparts and by each party on a separate counterpart, each of which when so executed and delivered shall be an original, and all of which together shall constitute one instrument. It is agreed that electronic signatures shall constitute originals for all purposes. The parties do not intend for any third party to be benefitted hereby. This Agreement shall be binding upon the parties and their successors and assigns and shall run with the land. A notice of this Agreement shall be recorded with the Registry.

[Remainder of Page Intentionally Left Blank]

Executed as a sealed instrument as of the date first set forth above.

THE TOWN OF DOUGLAS, ACTING BY AND
THROUGH ITS BOARD OF SELECTMEN

By: Matthew Wigle 7/20/2022
Town Administrator Date

THE CUBES AT GILBOA, LLC, a Delaware limited
liability company

By: CRG – USLF II Gilboa, LLC, a Delaware
limited liability company, its Manager

By: CRG – Gilboa Developer, LLC, a Missouri
limited liability company, its Managing Member

By: CRG – Gilboa, LLC, a Missouri limited
liability company, its Manager

By: CRG GP Investments ii, LLC, a Delaware
limited liability company, its Managing Member

By: CRG Services Management, LLC, a Missouri
limited liability company, its Manager

By: CPM
Name: Christopher P. McKee
Title: Chief Development Officer

EXHIBIT A

Site Plan

Please see attached.

EXHIBIT B

Roadway Improvements – Section 3.1

As stipulated in Section VII of the Site Plan Review, condition #9 requires Proponent to complete the following:

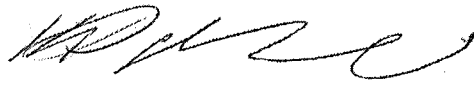
- 1) Proponent must construct a westbound left turn lane into the Project at the Site driveway at the expense of Proponent prior to the issuance of an occupancy permit.**

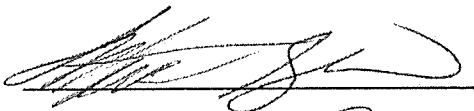
CERTIFICATE OF VOTE

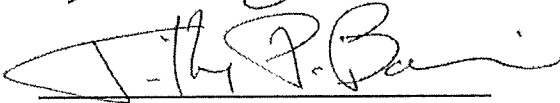
At its duly convened meeting held on 7/19/22, the Douglas Board of Selectmen voted unanimously (4-0) to:

- 1) Authorize Town Administrator Matthew Wojcik to execute the Davis/Lobisser deed and any related transactional documents; and
- 2) Approve a use license for Town property, a copy of such license being attached hereto.

Douglas Board of Selectmen



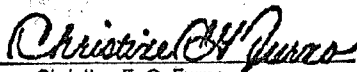






A True Copy

ATTEST:



Christine E. G. Furno
Town Clerk
Douglas, Massachusetts