

ANNEXATION AND PUBLIC FACILITIES AGREEMENT

THIS ANNEXATION AND PUBLIC FACILITIES AGREEMENT (“**Agreement**”) made this ____ day of _____, 2017, by the TOWN OF EASTON, a Maryland municipal corporation (“**Town**”) and JASON M. WEBB, MARIA WEBB GOMES (F/K/A MARIA A. WEBB), PORT STREET VENTURES, LLC, a Maryland limited liability company, THE BOATHOUSE AT EASTON POINT, LLC, a Maryland limited liability company, TIMOTHY M. MILLER, AMY M. MILLER, and 930 PORT STREET, INC., a Maryland corporation (collectively, the “**Petitioners**”).

RECITALS

The Recitals set forth herein, to the extent that they set forth the intentions of or commitments by the parties, are enforceable provisions of this Agreement.

A. Petitioners are the fee simple owners of several parcels of land designated as Parcels 47, 48, 80, 118, 120, 139, 140, and 247 of Talbot County Tax Map 34, which are located along Port Street on Easton Point in Easton, Maryland. Such parcels, together with portions of the public road right-of-way known as “Port Street” and the Tred Avon River, total 6.533 acres, more or less, and are referred to herein collectively as the “**Annexation Property**”.

B. The Annexation Property is contiguous and adjacent to the present corporate boundary of the Town. The Annexation Property is more particularly depicted and described by a plat entitled “2016 ANNEXATION TOWN OF EASTON OF THE LANDS OF 930 PORT STREET, INC.; THE BOATHOUSE AT EASTON POINT, LLC; PORT STREET VENTURES, LLC; TIMOTHY MILLER AND AMY MILLER; JASON WEBB AND MARIA WEBB; AND A PORTION OF PORT STREET, FIRST ELECTION DISTRICT, TALBOT COUNTY, MARYLAND,” prepared by Rauch inc. and dated July, 2016, and intended to be recorded among the Plat Records of Talbot County, Maryland (“**Annexation Plat**”), which plat is incorporated herein and a reduced scale copy of which is attached hereto as Exhibit A. The Annexation Property is also more particularly described by metes, bounds, courses and distances by a legal description (“**Annexation Description**”) prepared by Rauch, inc., entitled “DESCRIPTION OF 6.533 ACRES OF LAND, MORE OR LESS, ANNEXATION TOWN OF EASTON, THE LANDS NOW OF FORMERLY OF 930 PORT STREET, INC.; THE BOATHOUSE AT EASTON POINT, LLC; PORT STREET VENTURES, LLC; TIMOTHY M. MILLER AND AMY M. MILLER; JASON M. WEBB AND MARIA A. WEBB AND A PORTION OF PORT STREET” and dated August 16, 2016, which is attached hereto as Exhibit B.

C. In order to effectuate the annexation of the Annexation Property, Petitioners executed and submitted to the Town a Petition for Annexation of the Annexation Property (“**Annexation Petition**”). Petitioners constitute the owners of one hundred percent (100%) of the assessed valuation of the Annexation Property.

D. The 2010 Town of Easton Comprehensive Plan specifically maps and identifies the Annexation Property as part of the “Priority 1 – Boundary Refinement Area”. The Town Comprehensive Plan generally characterizes these areas as presenting an “opportunity for redevelopment... or an intensification of development as a result of moving from the zoning and

health department regulations (i.e. septic systems and the limitations thereof) of Talbot County to those of the Town of Easton...”

E. The Comprehensive Plan more specifically explains that the “Priority 1 – Boundary Refinement” designation on the Growth Area Map is applied to areas that:

“... are not presently within the Town of Easton but should be.... Generally these consist of already developed areas like Crofton, Old Stoney Ridge, Old Beechwood, and most of Easton Point. They have long ago been developed under Talbot County rules and regulations and have increasingly become surrounded by properties developed under Town of Easton guidelines. To virtually any outsider, these areas would be assumed to currently be in the Town of Easton corporate limits. It is important to bring these areas into Town for at least three reasons. First, all of these areas are served by septic systems and most utilize individual private wells for water. This is both potentially environmentally damaging and inefficient given the relative close proximity and availability of Town water and sewer.

The second reason these properties should be in the Town of Easton is that given their location, they enjoy many of the conveniences of being in Town without paying a fair share. Finally, from the Town’s perspective the most important reason these areas should be in Town is that they preclude the Town’s ability to grow in the future. This is due to the fact that Maryland annexation law makes it illegal to create an enclave or island of unincorporated land surrounded by a municipality. Thus when such areas exist, they have the short-term effect of causing some rather strange Town boundaries as developers annex in such a way as to technically comply with this requirement. The long-term effect is that growth is stopped in a given direction. As indicated in the Land Use chapter, these are the only areas that should be annexed during the next planning period.

F. Annexation and rezoning of the Annexation Property will facilitate redevelopment of the westerly end of the Port Street corridor, which is designated as a “Redevelopment Area” by the Future Land Use Map of the Plan. The Town is also in the process of considering the adoption of the Easton Economic Development Corporation’s “Port Street and Easton Point Small Area Master Plan”.

G. The Petitioners requested the establishment of Town General Commercial (CG) zoning for the Annexation Property. The proposed CG Town zoning is supported by the Town Comprehensive Plan, which recognizes the need to retain and expand existing businesses and notes the importance of providing employment opportunities to community residents. Connection of public utilities to and rezoning of the Annexation Property will facilitate reinvestment in these properties through redevelopment, which is likely to implement several objectives of the Land Use Chapter of the Plan, including “Increase Density”, “Build Neighborhoods”, and “Improve Design”.

H. Petitioners request annexation of the Annexation Property by the Town so long as certain matters pertaining to its present use and future development are resolved, including without limitation, matters related to zoning and extension of public utilities and services.

I. The Town desires to provide access to municipal services for existing developed areas located immediately adjacent to the municipal boundary, to control the growth that will occur

adjacent to its boundaries, and to ensure that such growth enhances the character of the Town and that the impacts of such growth are managed for the benefit of the Town and its citizens.

J. The Town is willing to annex the Annexation Property, provided that the Petitioners agree to adhere to the laws, ordinances and regulations of the Town and such other provisions set forth herein regarding the use and development of the Annexation Property.

K. Appropriate and required Town public hearings have been held pursuant to applicable law and the Easton Town Council voted to adopt Annexation Resolution No. 6071 on _____, 2017, a copy of which is attached hereto as Exhibit C.

L. Petitioners and the Town desire to set forth the terms and conditions of the proposed annexation.

NOW, THEREFORE, in consideration of the mutual interests, provisions and covenants, agreements, and undertakings set forth herein, the sufficiency of which is expressly acknowledged, Petitioners and the Town mutually agree as follows:

1. **Property; Town Taxes.** The Annexation Property was annexed pursuant to the Annexation Resolution. This Annexation Agreement shall apply to, run with and bind the Annexation Property. The Annexation Property shall be subject to all applicable Town taxes, unless otherwise exempt.

2. **Zoning Upon Annexation.**

2.1. **Existing Uses.** Except as provided herein, Petitioners and the Town agree that all existing land uses, lots and structures, whether permitted, accessory, conforming, non-conforming, or special exceptions, currently made in and upon the Annexation Property may continue following annexation subject to the Minimum Property Maintenance Standards of the Easton Town Code and subject to the provisions regarding non-conforming uses contained in the Town Zoning Ordinance.

2.2. **Zoning.** Simultaneously with the filing of the Annexation Petition, Petitioners requested that the Town adopt an ordinance to: (i) amend the official Town zoning map to include the Annexation Property and (ii) apply the General Commercial (CG) zoning district to the Annexation Property. The Town introduced Ordinance No. 690, a copy of which is attached hereto as Exhibit D, on August 1, 2016.

2.3. **County Consent.** Petitioners acknowledge that due to the differences between the proposed Town zoning classification and the pre-annexation County zoning classification, the Town submitted a request to the Talbot County Council for express approval of the proposed Town CG zoning, which was approved by adoption of Talbot County Resolution No. 234 on November 15, 2016. If, within the first five years after annexation, such County authorization is required by law for rezoning of all or any portion of the Annexation Property and the Talbot County Council fails or refuses to authorize the residential density and/or other land uses permitted by the Town's proposed zoning of the Annexation Property, Petitioners agree that any development of such affected portion(s) of the Annexation Property within the five year period following the effective date of the annexation will be designed, located, and constructed to be

consistent with CG zoning applicable to such affected portion(s) of the Annexation Property by Resolution No. 234.

3. **Future Uses of Annexation Property.** Petitioners hereby acknowledge and agree that any future development of the Annexation Property must comply with applicable zoning and approval processes of the Town. Development must also comply with development impact fee ordinances of the Town and County, as applicable. Nothing herein shall, in any way, constitute a development approval of a specific project or a waiver of any associated fees. Petitioners also acknowledge that they must comply with any applicable noise or disturbing the peace standards that are applicable within the Town of Easton as they currently exist or are enacted in the future.

4. **Public Services and Improvements.** The following provisions, at a minimum, will govern the obligations of the parties with respect to public services and improvements. Notwithstanding anything herein to the contrary, this Agreement shall not preclude, limit or otherwise affect the ability of any Petitioner to propose and enter into development impact fee credit agreement(s) with the Town and/or County.

4.1. **Standards for Public Improvements; Equality of Exactions.** Each Petitioner agrees to comply with the Town's design standards and requirements in effect at the time of construction ("**Town Standards**") with respect to any public improvements or infrastructure to be owned and maintained by the Town, such as roads, streets and alleys, curbs and gutters, sidewalks, and water, sewer and stormwater drainage systems. Each Petitioner undertaking such work shall cause all work on the improvements to be completed in a good and workmanlike manner and with due dispatch. Where the construction and installation of any improvement requires the consent, permission, or approval of any public agency or private party, any Petitioner proposing construction or installation shall promptly file all applications, enter into all agreements, post all security, pay all fees and costs, and otherwise take all steps that may be legally required to obtain such consent, permission or approval.

The Town (i) acknowledges that the Petitioners' willingness to annex the Annexation Property prior to development of road and infrastructure improvement plans or cost estimates for the Easton Point area results in uncertainty regarding the scope of the Petitioners' costs for such improvements, and (ii) hopes that such action will serve as an impetus for further annexation of and reinvestment in Easton Point. Accordingly, notwithstanding any provision herein to the contrary, the Town agrees that the provisions of this Section 4 shall be interpreted, implemented and enforced to provide Petitioners with a "most-favored" status, such that Petitioners shall be entitled to any additional benefits granted by the Town to or upon other properties located in the area known as Easton Point in any subsequent annexation resolution, annexation agreement or other agreement, ordinance or understanding related to road and/or utility infrastructure. It being the intentions of the parties that the Petitioners shall contribute to road and utility improvements in the same manner as other properties in Easton Point and shall not be disadvantaged by being the first properties to initiate annexation or redevelopment of this important growth area of the Town. Grant or loan funding, tax incentives and other economic benefits available for area-wide or regional improvements shall inure to the benefit of the Petitioners in the same manner they benefit other properties in Easton Point. Any grants or tax incentives award to a specific property or project shall not be considered under the foregoing sentence.

4.2. Provision of Public Services; Reservation and Allocation of Water and Sewer Capacity. The Town represents that it generally favors the investment in and redevelopment of the Annexation Property. The Town further represents, subject to the obligations of Petitioners set forth in this Section 4, that it will support existing uses and proposed redevelopment of the Annexation Property by providing all necessary municipal services required by the Annexation Property, including, but not limited to, adequate water, sewer, gas, data/communication and electric (if applicable) services through Easton Utilities, fire and police protection, garbage collection and other municipal services generally available to Town residents subject to applicable Town fees and tariffs and other costs in effect at the time services is rendered, unless otherwise agreed between the Town and the applicable property owner(s).

With regard to public water and sewer allocation, the Town guarantees, covenants and warrants that it will not set any policy, position or course of action that is detrimental to existing use or development of the Annexation Property provided that development is consistent with other applicable Town regulations and standards. These covenants notwithstanding and subject to limitations established by any subsequent development rights and responsibilities agreement(s), the parties understand and agree that the Town, if otherwise authorized by law, may enact future ordinances, charter provisions, or amendments deemed necessary to protect the public health, safety and welfare of the citizens of the Town and said ordinances, charter provisions, or amendments shall apply to the use and development of the Annexation Property, provided such application does not interfere with Petitioner's vested rights. Nothing in this Agreement shall entitle or obligate the Town through the Easton Utilities Commission ("EUC") to provide electric service to any portion of the Annexation Property located outside of its authorized service area.

Petitioners acknowledge and agree that no public water or wastewater capacity for existing uses or redevelopment of any portion of the Annexation Property shall be allocated or reserved by EUC unless and until the owner of the parcel(s) for which capacity is desired pays to EUC the capital charges applicable for such allocation or reservation under the then-applicable water and wastewater tariffs. Notwithstanding any provision herein to the contrary, no Petitioner shall be obligated to pay such capital charges or connect its property to the Town water or wastewater systems unless and until the occurrence of the earlier of: (i) election by the owner of such property to connect to such systems, (ii) issuance by the Talbot County Health Department or Maryland Department of the Environment of a final, non-appealable order requiring connection of such property to such systems, (iii) expansion of existing improvements or redevelopment of such property in a manner that requires capacity in excess of the capacity of the existing septic system on such property, or (iv) replacement of an existing septic system on such property is required for any reason.

4.3. Roads. To the extent that public roadway improvements are lawfully required to serve future development or redevelopment of any portion of the Annexation Property, each Petitioner shall be responsible for constructing or causing to be constructed, at its expense, all roadway improvements required or imposed due to development, redevelopment or other actions on such Petitioner's property in accordance with the applicable standards, specifications and requirements of the Town. The portion of Port Street located between its western terminus and Maryland Route 322 will be upgraded to Town standards and specifications (including appropriate road width, sidewalk(s), on-street parking, and a bike lane) by the Town as part of the extension of infrastructure to the Annexation Property, at the expense of all property owners

having access from or over such segment of Port Street, except to the extent that public funding is otherwise available, with each property that has access from or over Port Street paying its proportionate share. Each property's proportionate share shall be calculated based on the acreage of the property in question divided by the total acreage of all properties having access from or over Port Street, which denominator shall be 86.9 acres. The assessment and repayment of such costs against the Annexation Property shall be consistent with the assessment and repayment of such costs imposed upon other properties having access from or over Port Street (*e.g.*, form or assessment, manner and duration of repayment, etc.) and, in any event, with the provisions of Section 4.1 and 4.8. If any owner of the Annexation Property actually constructs frontage or other public road, drainage, sidewalk or right-of-way improvements in conjunction with the development or redevelopment of its property, the actual costs of such improvements shall be credited against the proportionate cost required from such owner under the provisions of this Section 4.3. At the time of execution of this Agreement, the Town anticipates that the road section extending from the Easton Bypass west to the Tred Avon River will consist of two 11' travel lanes, on-street parking, a bike lane, sidewalks, curb, gutter, street trees, and street lights as conceptually depicted by the cross-section attached hereto as Exhibit E. If additional right-of-way is required for such improvements, the Town agrees that it will be established by easement, rather than in fee simple, to avoid changes in zoning setbacks applicable to the Annexation Property. The estimated cost of such improvements contemplated by the Parties is \$1.791 million. Such figure is not binding on any Parties, but is hereby accepted as an illustrative of the current expectations and intentions of the Parties. The Town agrees to use its best efforts to complete construction of such improvements prior to December 31, 2019, with no guarantees that such construction will be completed by then. The parties also acknowledge that pursuing grants to offset the infrastructure costs may be beneficial even if they will delay the anticipated construction dates.

4.4. Public Utility Improvements and Extensions. Except as provided herein, to the extent that extensions of public utilities will be necessary to meet the utility service requirements within the Annexation Property, each Petitioner will design and construct or cause to be constructed, at its sole expense including charges provided for in the applicable tariff(s) in effect at the time service is rendered, such lighting, gas, cable, electric (if applicable) and public water and sanitary sewer utility extensions, including water and sewer mains, trunk lines, fire hydrants and appurtenant facilities, required or imposed to serve development, redevelopment or other actions on such Petitioner's property in accordance with the standards and specifications of the Town and Easton Utilities. Upon completion of construction and satisfactory inspection in accordance with Town Standards, the Town shall assume the ownership and on-going operation and maintenance of these facilities in accordance with Town ownership and maintenance policies or pursuant to the terms of a development rights and responsibilities agreement.

Except as specifically provided below, the Town shall not require any Petitioner to design, construct, locate or oversize any water and sewer extensions and/or improvements so as to serve any properties other than such Petitioner's respective portion of the Annexation Property unless otherwise agreed in writing between the Town and the applicable Petitioners. The Parties shall cooperate in connection with the design of all utility infrastructure for their mutual benefit. Agreements regarding details of such infrastructure may be set forth in subsequent development rights and responsibilities agreements.

4.4.1. Wastewater Improvements

A. *Connection of Annexation Property.* Annexation shall be effective before any connection to the Town's collection system will be permitted.

B. *Interim Service Design Concept.* Initial wastewater service to portions of the Annexation Property electing to connect will be provided via a low pressure small diameter grinder pump collection system. Individual properties will be served by privately-owned Environment One (or comparable) grinder pumps sized to accommodate the wastewater flows from each property. Other than Parcel 80 (Webb), the individual connections from each property will be connected to a new, EUC-owned low pressure main/header that will connect to an existing 6" sanitary sewer force main located within Port Street. If Parcel 80 elects to connect to the public wastewater system, its grinder pump lateral will connect directly to the existing 6" sanitary sewer force main located within Port Street or to a nearby manhole, rather than the manifold proposed at the west end of Port Street. Each service lateral will be constructed with a check valve and isolation valve/curb stop. The owner of each parcel electing to be served shall be responsible for the cost of the grinder pump and lateral for its property. The costs of designing, permitting and constructing the manifold, its connection to the existing Town forcemain and repairs to all public infrastructure disturbed by the installation of the new service shall be allocated between the participating property owners as agreed by them.

C. *Future Regional System.* The Town anticipates that a regional wastewater pumping station and related conveyance will be constructed in the future to serve the full redevelopment of Easton Point. At such time that the regional pump station is available to serve the area, the properties served by the low pressure system described above will be responsible for connecting their sewer service to the regional system at their cost and expense and contributing their pro rata share of the costs of the regional pump station improvements with no credit for any costs already expended for the interim wastewater service. Notwithstanding the foregoing, any capacity allocated to a property upon payment to EUC of capital charges in connection with the interim wastewater connections shall be retained and such owner shall not be required to pay additional capital charges for such capacity in the Future Regional System. Each property's pro rata share of the cost of such improvements shall be based on the number of EDUs of wastewater system capacity acquired by such property by payment of applicable capital charges to Easton Utilities multiplied by the per EDU cost for the Future Regional System. The per EDU cost shall be determined by dividing the total cost of the Future Regional System (including, design, permitting and construction, less any grant funding) by 500, the total EDU service capacity of such improvements. In the event that a property owner redevelops their property during the 10 year payback period for a use that requires a different number of EDUs than originally required, then that property owner's pro rata share of the Future Regional System shall be adjusted accordingly in accordance with the formula outlined herein. The costs included in such calculation, shall include the collection lines, manholes, pump station and similar regional improvements, but shall not include laterals, grinder pumps or other components designed to serve individual parcel(s), rather than the Easton Point "sewershed" as a whole. The estimated cost of such improvements contemplated by the Parties is \$2.1 million, excluding the value or cost of land for the pump station, which is anticipated to be provided outside of the Annexation Property. Such figure is not binding on any Parties, but is hereby accepted as an illustrative of the current expectations and intentions of the Parties. The Town agrees to use its best efforts to complete construction of such improvements prior to December 31, 2019, with no guarantees that such construction will be

completed by then. The parties acknowledge that the events triggering the need for the Future Regional System are to some extent beyond the control of the parties to this Agreement. In addition, the land necessary for the Future Regional System is not currently owned by the Town. The parties further acknowledge that construction, permitting, applying for and obtaining grants, and other related items have time estimates that are unknown to the parties at this time leaving the construction date very uncertain. The parties also acknowledge that pursuing grants to offset the infrastructure costs may be beneficial even if they will delay the anticipated construction dates.

D. *Available Capacity.* Sewer capacity to the Annexation Property is available to accommodate current uses, subject to the provisions of Section 4.2. Additional capacity for future uses may be available subject to an analysis of the available capacity of the existing force main and approval by EUC at the time a development plan is proposed. Present analysis indicates that the interim improvements described above could accommodate at least 15 EDUs for Parcel 118 (Port Street Ventures), 1 EDU for Parcel 247 (Miller), 15 EDUs for Parcel 140 (Boathouse at Easton Point), 1 EDU for Parcel 120 (930 Port Street), and 6 EDUs for Parcel 80 (Webb). The Town agrees that the regional pump station improvements described by subsection C above shall be designed to accommodate redevelopment of the Annexation Property without regard to the foregoing interim capacity projections and that parcel(s) comprising the Annexation Property may obtain greater capacity allocation than outlined above, subject only to the applicable tariff and to the adjustment of the pro rata share of the Future Regional System contribution as outlined above.

4.4.2. Water Improvements.

A. *Connection of Annexation Property.* Annexation shall be effective before any connection to the Town's water system will be permitted. Prior to any connection to the EUC water system, the structure to be connected to the water system shall be physically disconnected by a minimum of five (5) feet from any other source of water.

B. *Service Configuration.* Town water service will be available to the Annexation Property. Each property to be served shall construct a service connection to an existing 12" EUC water main located within the Port Street right-of-way. The size of the water service will be based on the current or approved flow demands of such property. Each property will be individually metered. The owner of each parcel electing to be served shall be responsible for all costs associated with the design and construction of the individual water services to the EUC public water main, including; taps to the water main, service to the property line, curb stops, water meter installation, and repairs to public infrastructure disturbed with the installation of the new water services.

C. *Available Capacity.* Water capacity to the Annexation Property is available to accommodate current uses, subject to the provisions of Section 4.2. Additional water service for future demands may be provided subject to an analysis of the capacity of the existing water main and approval by EUC at the time a development plan is proposed.

4.5. Easements and Rights-of-Ways. Each Petitioner hereby agrees to grant to the Town upon request, at no cost, rights-of-way or easements over its property in the event that such rights-of-way or easements shall be necessary for the installation, maintenance, replacement and/or removal of public utilities and roads in accordance with the provisions of this Section 4.

4.6. Public Works Agreements. If required by the Town, a Petitioner proposing to develop or redevelop its portion of the Annexation Property and Town shall enter into one or more public works agreements that provide more detailed provisions regarding the construction of all required improvements and extension of public utilities and which shall be in a form reasonably acceptable to the Town Attorney.

4.7. Amendment of Comprehensive Water and Sewer Plan. Petitioners and the Town agree and acknowledge that it may be necessary to amend the County Comprehensive Water and Sewer Plan before Petitioners undertake the water and sewer facilities improvements and the Town extends water and sewer services to the Annexation Property. Petitioners and the Town agree to cooperate to apply for and obtain any amendments to the Talbot County Comprehensive Water and Sewer Plan as may be required.

4.8. Special Tax District. Petitioners irrevocably consent to the imposition of a special tax district to finance their proportionate share of the infrastructure costs provided for in sections 4.3 and 4.4.1.C in the event that the Town determines that a special tax district is an appropriate mechanism to finance such improvements. Petitioners shall execute any documentation required to effectuate the special tax district or other legal mechanism and demonstrate their respective consent. The special tax district or other legal mechanism would provide that the infrastructure costs plus the interest on, redemption premium, if any, and ongoing expenses of or security for any bonds or other loan obligation used to finance the infrastructure improvements and reimburse the Town for the costs incurred for the infrastructure would be included in the assessment. The assessment shall be imposed uniformly and following completion of construction of the improvements for which the assessments or costs are imposed. The annual assessment shall be calculated and levied by amortizing the total cost to be attributed to each property owner over a ten (10) year period at an interest rate that is equal to the interest rate on the bonds or other loan obligation incurred by the Town or as otherwise set by the Town.

4.9. Boardwalk. For each property that is part of the Annexation Property that has frontage on the Tred Avon River, the owners of those properties shall grant the Town a non-exclusive public easement for a twelve (12) foot wide boardwalk along the entire waterfront edge of such property within sixty (60) days of this Agreement, with the exact location to be approved by the Town Engineer, except that the foregoing requirement shall not require the relocation of any structure, an increase of existing structure setbacks from mean high water, or a reduction of existing boat slip lengths. Such easement shall be in a form reasonably acceptable to the Town Attorney and counsel for Petitioners, to allow the boardwalk in its entire width to be open to the public and allow connection of the boardwalk to adjoining properties. Each such owner shall cooperate with the Town or its designee to facilitate the permitting and construction of the boardwalk at no expense to the owner. The Town shall be responsible for construction and maintenance of the boardwalk, including, without limitation, bulkhead and shoreline armoring repairs or modifications necessary to support the shoreline under or adjacent to the boardwalk, if applicable and required. Town agrees that it will not utilize the easements granted herein for the construction of a boardwalk unless and until the Town is able to construct or connect to at least 1,475 continuous, linear feet of boardwalk. Additional segments may be added in any increment. Further, Town agrees that the boardwalk easement applicable to any particular parcel shall not be opened to the public until the Town has completed construction of the applicable section of the

boardwalk across the entire shoreline of such parcel. The boardwalk easement shall not convey any riparian rights or other rights to use piers or wharfs of such property and shall not restrict or prohibit the rights of the property owners to use the shoreline and any structures appurtenant thereto for any purpose that is otherwise permitted by applicable law and is located outside of the boardwalk easement; such as, for example, operation of a marina, boat launching facilities, marine fuel sales, etc. The owners of the lots encumbered by the proposed boardwalk agree to execute any additional documentation reasonably required to implement this paragraph. The Town acknowledges and agrees that such owners shall be entitled to any liability protection provided by Title 5, Subtitle 11 of the Natural Resources Article of the Maryland Code for claims resulting from use of the boardwalk by the public. The parties recognize that the boardwalk has not been designed as of the date of this Agreement. In the event that there are matters that arise that were not contemplated at the time of this Agreement, the parties agree to negotiate in good faith to resolve those items.

5. **Mutual Assistance.** The parties shall do all things reasonably necessary or appropriate to carry out and to expedite the terms and provisions of this Agreement and to aid and assist each other in carrying out the terms and provisions of this Agreement and the intentions of the parties as reflected by said terms including, without limitation, the giving of such notices, the holding of such public hearings, the enactment by the Town of such resolutions and ordinances and the taking of such other actions as may be necessary to enable the parties' compliance with the terms and provisions of this Agreement and as may be necessary to give effect to the terms and objectives of this Agreement and the intentions of the parties as reflected by said terms.

Each Petitioner and the Town agree to promptly execute all permit applications needed by such Petitioner for permits or approvals from federal, State or County agencies and departments or any other public or private agencies from whom a permit is required to develop such Petitioner's portion of the Annexation Property, provided that such permit applications are prepared in accordance with applicable laws, ordinances, rules, and regulations and consistent with development approvals granted by the Town for the Annexation Property. The parties each further agree to cooperate in the securing of such permits or approvals from such agencies. Nothing in this Agreement shall require the Town to vary, deviate, or depart from applicable rules, regulations, or standards in processing any permit, application, or in issuing any approval. All such rules, regulations, and standards shall remain in full force and effect.

6. **Notices.** All notices and other communication in connection with this Agreement shall be in writing and shall be deemed delivered to the addressee thereof (1) when delivered in person on a business day at the address set forth below; (2) on the third business day after being deposited in any main or branch United States post office, for delivery by properly addressed, postage prepaid certified or registered mail, return receipt requested, at the address set forth below; or (3) by a nationally-recognized delivery service company to the street address with written proof of delivery.

Notices and communications to the Petitioners shall be addressed to, and delivered at, the following addresses:

Port Street Ventures, LLC
c/o Diane L. Ruegg

With a copy to:
Ryan Showalter, Esquire

3519 Saratoga Avenue
Annapolis, Maryland 21403

McAllister, DeTar, Showalter & Walker
100 N. West Street
Easton, Maryland 21601

The Boathouse at Easton Point, LLC
911 Port Street
Easton, Maryland 21601

Timothy M. and Amy Miller
28102 Baileys Neck Road
Easton, Maryland 21601

930 Port Street, Inc.
28102 Baileys Neck Road
Easton, Maryland 21601

Jason M. Webb and Maria Webb Gomes
446 Emerson Street NW
Washington, DC 20011

Notices and communications to the Town shall be addressed to, and delivered at, the following addresses:

Town of Easton
14 S. Harrison Street
Easton, Maryland 21601
Attn: Mayor

With a copy to:
Sharon M. VanEmburch, Esquire
Ewing, Dietz, Fountain & Kehoe, P.A.
16 South Washington Street
Easton, Maryland 21601

7. **Other Provisions.**

7.1. **Applicable Law.** It is the intention of the parties that all questions with respect to the construction of this Agreement and rights and liabilities of the parties hereunder shall be determined in accordance with the laws of the State of Maryland.

7.2. **Scope of Agreement.** This Agreement is not intended to limit the exercise of police powers of the Town or to limit the operation of the Town government, or to guarantee the outcome of any administrative process. Unless otherwise specifically provided in writing in this Agreement or any other subsequent agreement, this Agreement shall be subject to all properly enacted laws, and properly adopted governmental regulations, now or hereafter existing and applicable. This Agreement shall not be rendered invalid by reason of the enactment or amendment of any law or the adoption or amendment of any regulation, which law or regulation is either (1) enacted or adopted in the exercise of a governmental power for a valid governmental purpose; (2) enacted or adopted by the Town as the result of a mandate by the State of Maryland or the U.S. Government; or (3) applicable to both the Annexation Property and to similarly situated property located outside of the Town in Talbot County.

7.3. Entire Agreement. Except as specifically provided herein, this Agreement embodies and constitutes the entire understanding between the parties with respect to the transactions contemplated herein, and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement.

7.4. Estoppel. The parties to this Agreement agree not to challenge or contest, and waive any right to challenge or contest, in any legal or equitable proceeding, in any forum whatsoever, the validity, legality, or enforceability of this Agreement, or any of its provisions, terms or conditions.

7.5. Waiver of Breaches. No waiver of any contingency or the breach of any of the terms or provisions of this document shall be a waiver of any other contingency or proceeding or succeeding breach of this document or any provision hereof.

7.6. Project as a Private Undertaking. It is understood and agreed by and between the parties hereto that the development or redevelopment of each parcel comprising the Annexation Property is a private undertaking, that neither the Town nor any Petitioner is acting as the agent of any other party hereto in any respect hereunder, and that each party is an independent contracting entity with respect to the provisions of this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement.

7.7. Modification. Neither this Agreement nor any provision hereof may be waived, modified, amended, discharged or terminated except by an instrument in writing signed by the party against which the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument. No such modification shall be binding on the other parties hereto nor affect their rights under this Agreement as to any other party without such parties' written consent.

7.8. Headings. Descriptive headings are for convenience only and shall not control or affect the meaning or construction of any provision of this Agreement.

7.9. Binding Effect. The terms of this Agreement shall be binding upon and shall inure to the benefit of the parties, any successor municipal authorities of the Town and successor owners of record of the Annexation Property, it being expressly understood and agreed that this Agreement shall be assignable, in whole or in part, by each Petitioner, with respect to its portion of the Annexation Property, without the consent of any other Petitioner the Town, any of its elected officials, employees or agents. Notwithstanding the foregoing, any transfer of all or a portion of the Annexation Property shall be subject to the terms of this Agreement.

Except with respect to Section 7.17, Petitioners' obligations hereunder shall be contingent upon annexation of the Annexation Property and establishment of the Town zoning described by Section 2.2, and shall not constitute personal obligations independent of ownership of the Annexation Property. All obligations of Petitioners or successors thereof shall relate only to the portion(s) of the Annexation Property owned by such Petitioner or successor.

7.10. No Third-Party Beneficiaries. This Agreement shall not confer any rights or remedies upon any person other than the parties hereto and their respective successors and

assigns as permitted and limited by this Agreement. It is expressly agreed by all parties that the owner or successor owner of a portion of the Annexation Property shall have no contractual rights by virtue of this Agreement to control, approve or otherwise direct the size, density, proposed use, style, arrangement, timing, phasing or any other aspect of development of the remainder of the Annexation Property that it does not own.

7.11. Severability. The parties hereto intend that should any provision, covenant, agreement, or portion of this Agreement or its application to any person, entity, or property be held invalid by a court of competent jurisdiction, the remaining provisions of this Agreement and the validity, enforceability, and application to any person, entity, or property shall not be impaired thereby, but such remaining provisions shall be interpreted, applied and enforced so as to achieve, as near as may be, the purpose and intent of this Agreement to the greatest extent permitted by applicable law.

7.12. Enforceability. This Agreement shall be specifically enforceable in any court of competent jurisdiction by any of the parties hereto by any appropriate action or suit at law or in equity to secure the performance of the covenants herein contained.

7.13. Survival. The terms and conditions of this Agreement shall survive the effective date of the Annexation Resolution and shall not be merged or expunged by the annexation of the Annexation Property or any part thereof by the Town.

7.14. Exhibits. Each exhibit referred to herein or affixed hereto shall constitute a part of this Agreement and be incorporated herein by reference:

Exhibit A – Reduced-scale copy of the Annexation Plat;

Exhibit B – Legal Description;

Exhibit C – Town Annexation Resolution No. 6071;

Exhibit D – Town Ordinance No. 690; and

Exhibit E – Conceptual Cross-Section - Port Street Reconstruction

7.15. Time. Time is of the essence of this Agreement and of each and every provision thereof.

7.16. Town's Annexation Action. This Agreement memorializes the Town's approval of the annexation and the negotiated terms thereof, as approved by the Town during its meeting on June __, 2017.

7.17. Annexation Fees. Petitioners collectively shall be responsible for fees and expenses incurred by the Town of Easton associated with the annexation process, including, but not limited to, legal fees, engineering fees, consulting fees, and advertising expenses, as described herein. Such fees shall include fees from third parties employed by the Town. Petitioners paid the annexation fee of \$10,000.00 with their filing of the annexation petition ("**Annexation Fee**"). The Annexation Fee shall be applied as a credit to the fees and expenses incurred by the Town in connection with annexation of the Annexation Property. In consideration of the significant efforts incurred by all parties through the annexation process related to evaluation and resolution of issues critical to the successful redevelopment of Easton Point, of which the Annexation Property comprises a part, the Petitioners, collectively, will be billed for \$10,000.00 in additional fees and expenses, which sum shall be paid within 60 days of the date of such invoice. This provision shall

remain in full force and effect irrespective of whether or not the Annexation Property is successfully annexed into the Town.

7.18. Mutual Drafting; No Presumption. The drafting and negotiation of this Agreement has been undertaken by all parties hereto and their respective counsel. For all purposes, this Agreement shall be deemed to have been drafted jointly by all of the parties hereto with no presumption in favor of one party over another in the event of any ambiguity.

7.19. Remedies. The remedies set forth in the agreement are in addition to, and not in lieu of, any other rights or remedies available to the parties in law or equity.

IN WITNESS WHEREOF, the parties have executed and sealed this Agreement as of the day and year first above written, provided, however, that for the purposes of determining the date hereof, as used in this Agreement, such date shall be the last date any of the parties hereto executes this Agreement.

SIGNATURES ON FOLLOWING PAGES

WITNESS:

TOWN OF EASTON

Kathy M. Ruf, Town Clerk

By: _____
Robert C. Willey, Mayor

Approved as to form and legal sufficiency
by Sharon VanEmburch, Esq., Town Attorney

STATE OF MARYLAND, COUNTY OF _____, TO WIT:

I HEREBY CERTIFY, that on this ____ day of _____, 2017, before me, a Notary Public of the State aforesaid, personally appeared ROBERT C. WILLEY, who acknowledged himself to be the Mayor of the Town of Easton, a Maryland municipal corporation, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within Annexation Agreement, and acknowledged that he executed the same for the purposes therein contained as the fully authorized agent of said Town of Easton.

WITNESS my hand and Notarial Seal.

My Commission expires: _____

Notary Public

SIGNATURES CONTINUE ON FOLLOWING PAGES

WITNESS

JASON M. WEBB

MARIA WEBB GOMES (f/k/a MARIA A. WEBB)

STATE OF _____, COUNTY OF _____, TO WIT:

I HEREBY CERTIFY, that on this ____ day of _____, 2017, before me, a Notary Public of the jurisdiction aforesaid, personally appeared JASON M. WEBB, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within Annexation Agreement, and acknowledged that he executed the same for the purposes therein contained.

WITNESS my hand and Notarial Seal.

My Commission expires: _____

Notary Public

STATE OF _____, COUNTY OF _____, TO WIT:

I HEREBY CERTIFY, that on this ____ day of _____, 2017, before me, a Notary Public of the jurisdiction aforesaid, personally appeared MARIA WEBB GOMES (f/k/a MARIA A. WEBB), known to me (or satisfactorily proven) to be the person whose name is subscribed to the within Annexation Agreement, and acknowledged that she executed the same for the purposes therein contained.

WITNESS my hand and Notarial Seal.

My Commission expires: _____

Notary Public

SIGNATURES CONTINUE ON FOLLOWING PAGES

WITNESS

PORT STREET VENTURES, LLC

By: _____

Daniel L. Ruegg, Managing Member

STATE OF MARYLAND, COUNTY OF _____, TO WIT:

I HEREBY CERTIFY, that on this ____ day of _____, 2017, before me, a Notary Public of the State aforesaid, personally appeared DANIEL L. RUEGG, who acknowledged himself to be the Managing Member of PORT STREET VENTURES, LLC (“Company”), known to me (or satisfactorily proven) to be the person whose name is subscribed to the within Annexation Agreement, and acknowledged that he, as Managing Member of the Company, being authorized to do so, executed the same for the purposes therein contained on behalf of the Company.

WITNESS my hand and Notarial Seal.

My Commission expires: _____

Notary Public

SIGNATURES CONTINUE ON FOLLOWING PAGES

WITNESS

THE BOATHOUSE AT EASTON POINT, LLC

By: _____
John P. Schroeder, Member

By: _____
Jane M. Hawkey, Member

STATE OF MARYLAND, COUNTY OF _____, TO WIT:

I HEREBY CERTIFY, that on this ____ day of _____, 2017, before me, a Notary Public of the State aforesaid, personally appeared JOHN M. SCHROEDER, who acknowledged himself to be a Member of THE BOATHOUSE AT EASTON POINT, LLC (“Company”), known to me (or satisfactorily proven) to be the person whose name is subscribed to the within Annexation Agreement, and acknowledged that he, as Member of the Company, being authorized to do so, executed the same for the purposes therein contained on behalf of the Company.

WITNESS my hand and Notarial Seal.

My Commission expires: _____

Notary Public

STATE OF MARYLAND, COUNTY OF _____, TO WIT:

I HEREBY CERTIFY, that on this ____ day of _____, 2017, before me, a Notary Public of the State aforesaid, personally appeared JANE M. HAWKEY, who acknowledged herself to be a Member of THE BOATHOUSE AT EASTON POINT, LLC (“Company”), known to me (or satisfactorily proven) to be the person whose name is subscribed to the within Annexation Agreement, and acknowledged that she, as Member of the Company, being authorized to do so, executed the same for the purposes therein contained on behalf of the Company.

WITNESS my hand and Notarial Seal.

My Commission expires: _____

Notary Public

SIGNATURES CONTINUE ON FOLLOWING PAGE

WITNESS

930 PORT STREET, INC.

By: _____
Timothy M. Miller, President

STATE OF MARYLAND, COUNTY OF _____, TO WIT:

I HEREBY CERTIFY, that on this ____ day of _____, 2017, before me, a Notary Public of the State aforesaid, personally appeared TIMOTHY M. MILLER, who acknowledged himself to be the President of 930 PORT STREET, INC. (“Company”), known to me (or satisfactorily proven) to be the person whose name is subscribed to the within Annexation Agreement, and acknowledged that he, as President of the Company, being authorized to do so, executed the same for the purposes therein contained on behalf of the Company.

WITNESS my hand and Notarial Seal.

My Commission expires: _____

Notary Public

TIMOTHY M. MILLER

AMY M. MILLER

STATE OF MARYLAND, COUNTY OF _____, TO WIT:

I HEREBY CERTIFY, that on this ____ day of _____, 2017, before me, a Notary Public of the State aforesaid, personally appeared TIMOTHY M. MILLER and AMY M. MILLER, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within Annexation Agreement, and acknowledged that they executed the same for the purposes therein contained.

WITNESS my hand and Notarial Seal.

My Commission expires: _____

Notary Public

ATTORNEY CERTIFICATION

I HEREBY CERTIFY THAT I am an attorney in good standing and duly licensed to practice before the Court of Appeals of Maryland, and that this instrument was prepared by me or under my supervision.

Ryan D. Showalter