

**FIRST AMENDMENT
TO MAX PAK DEVELOPMENT COVENANT**

This First Amendment to a Development Covenant ("Covenant") dated June 6, 2007, is made this 9th day of November, 2010, by and between the City of Somerville, a Massachusetts municipal corporation with usual address of 93 Highland Avenue, Somerville, MA 02143 ("City") and Master Clyde Street Acquisition Realty Trust with a mailing address of 20 Park Plaza, Suite 468, Boston, MA 02116 ("Owner" or "Developer"). The Developer is the successor in interest to 56 Clyde Street Acquisition, LLC and 61 Clyde Street Acquisition, LLC, the original signatories to the Covenant.

BACKGROUND

WHEREAS, the Developer and the City, as a public/private partnership, have applied to the Massachusetts Department of Transportation for a Transit Oriented Development grant ("TOD Grant") in the amount of \$490,000 to construct infrastructure at the Max Pak property ("Property"); and

WHEREAS, the Developer has agreed to extend the hours of public access to the Community Path over portions of the usable open space at the Property if the TOD grant is used to construct infrastructure at the Property;

NOW THEREFORE, the parties have agreed to amend the Covenant as follows:

The underlined language shall be added to Paragraph E of the Covenant.

E. OPEN SPACE AND COMMUNITY PATH

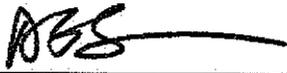
The Developer shall provide usable open space in conformity with the City's PUDB zoning requirements and landscape improvements on the Property adjacent to the Community Path. In addition, the Developer has agreed to expand the public access hours beyond the minimum requirements of §16.6.1 of the Somerville Zoning Ordinance. The usable open space shall be accessible to the public from 7:00 a.m. to 6:30 p.m., except that during Daylight Savings, the usable open space shall be

accessible to the public from dawn to dusk. The Developer further agrees that if the TOD Grant is used to construct infrastructure at the Property, the public shall have 24-hour pedestrian and bicycle access to the Community Path over a portion of the usable open space, provided that if such public access creates unsafe or obnoxious conditions at the Property between the hours of 1:00 a.m. and 5:00 a.m. (the hours when the proposed MBTA Green Line Extension will not be operating) and these conditions are unable to be resolved through the cooperative efforts of the Developer and the City, the Developer with the consent of the City may reduce the hours of public access to the Community Path to 20 hours a day, between 5:00 a.m. and 1:00 a.m. Notwithstanding the foregoing, it is expressly agreed that public access to the usable open space to be designated as a park (the "Community Green"), located at the center of the Property, shall be limited to 7:00 a.m. to 6:30 p.m. or dawn to dusk, whichever is longer.

EXECUTED UNDER SEAL on the day and year first written above.

**OWNER: Master Clyde Street Acquisition
Realty Trust**

CITY OF SOMERVILLE:

By: 
Darin S. Samaraweera, Trustee

By: _____
Joseph A. Curtatone, Mayor

and

By: 
Edward B. Tobin, Trustee

Approved as to Form:

By: _____
Francis X. Wright, Jr.
City Solicitor