FILL MANAGEMENT PLAN

Former Route 44 Sand & Gravel Property
Carver, Massachusetts
AMENDMENT TWO – October 24, 2017

Prepared for: Route 44 Development, LLC

Langdon Environmental LLC
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Section 1
Project Overview

1.1 Introduction
This document is the Fill Management Plan (Plan) for proposed soil acceptance activities at the former Route 44 Sand and Gravel Site located off Montello Street and Park Avenue in Carver, Massachusetts (the Site). This Plan has been prepared for Route 44 Development LLC (Site Owner) by Langdon Environmental LLC (Langdon) to describe and summarize the procedures to be utilized to accept soil fill materials at the former sand and gravel pit to raise existing grades in preparation for future commercial development at the Site. This Plan was developed to fulfill the requirements for fill management plans outlined in the “Interim Policy on the Re-Use of Soil for Large Reclamation Projects (Policy #COMM-15-01)” as issued by the Massachusetts Department of Environmental Protection (MassDEP) on August 28, 2015. A Locus Plan for the Site is provided in Figure 1-1.

On November 16, 2015, the Site Owner submitted to MassDEP a Draft Fill Management Plan (“Original FMP”), entitled, “Fill Management Plan Former Route 44 Sand & Gravel Property Carver, Massachusetts” prepared by Langdon Environmental LLC (“Langdon”). The Original FMP was revised to address comments raised by MassDEP during the review process. The Original FMP was finalized on June 23, 2016. The Original FMP establishes the criteria for the acceptance of soil and other fill materials at the Property during Phase I of the reclamation operations. The Original FMP also describes the protocol for monitoring and recording environmental conditions before, during and after Site activities during Phase I. A first amendment to the Original FMP dated January 23, 2017 was approved by MassDEP. This version clarified the Acceptance Criteria for reclamation soils accepted at the Site.

On October 16, 2017, the Respondent submitted to MassDEP a Revised FMP entitled ‘Fill Management Plan, Former Route 44 Sand & Gravel Property, Carver, Massachusetts, Amendment Two – October 13, 2017.’ This Revised FMP covers the Phase II portion of the reclamation operations and supersedes prior versions. A copy of the FMP will be attached to this First Amendment to the Administrative Consent Order (ACO) and is the Plan presented herein.

All modifications to the FMP must be approved in writing by MassDEP. A summary of the modifications to the FMP to date is provided in Appendix E.

All the soils accepted under this Plan will be placed within the limits of the Site as shown on the attached locus plan and the design plans in Appendix B-1 and B-2. Soils are proposed to be received to support the long-term commercial development of the Site. Concurrently with the placement of soils as outlined in this Plan, the Site Owner will be conducting additional site improvement and remediation activities. The acceptance of soils and associated activities will be completed in two phases:
Figure 1-1
Site Locus

October 2017

Route 44 Development LLC
Fill Management Plan
Amendment Two

Prepared by:
SCALE (Feet)

Existing Area of Buried Logs & Stumps
Approximate Limit of Proposed Activity Operations Area
Existing Stump Dump

Route 58
Montello Street
Dunkin Donuts
Cranberry Bogs
Route 58
Heather's Path
Middleborough Landfill
Cranley
Park Avenue

Route 44

SCALE (Feet)

Existing Area of
Buried Logs & Stumps
Approximate Limit of Property Owned by Route 44 Development

Middleborough Landfill
Cranley
Park Avenue

Route 44

SCALE (Feet)
Phase I: Initial Site Preparation. This phase includes the acceptance of up to 82,000 cubic yards (cy) of soils to either surcharge an existing peat area or up to 60,000 cy of soils to begin site grading. The initial phase has been approved by the Town of Carver Planning Board as a Special Permit (copy attached in Appendix A). The plans for the initial phase of work for each option including the proposed stormwater controls and design criteria are attached in Appendix B-1. Other work completed outside of the scope of this Plan during this phase includes the clean-up of numerous debris piles located throughout the Site; importing and processing of asphalt, brick and concrete (ABC) materials; and improvements to Park Avenue. All the work completed during the initial phase will be outside of the buffer zones to wetland resource areas at the Site as approved by the Carver Conservation Commission. Phase I was completed on or about September 1, 2017 in accordance with the Fill Management Plan finalized on June 23, 2016.

Phase II: Completion of Site Preparation. During the second and final phase, the Site Owner proposes to import up to an additional 710,000 cy of appropriate soils to prepare the Site for development. The placement of the additional soils will be completed throughout the Site including areas within the wetland buffer zones. This phase will also include remediation of the existing stump dump; completing clean-up of the remaining debris piles located within the buffer zones; acceptance and processing of ABC materials; and general long-term site improvements to move towards future development. Design plans for Phase II are included in Appendix B-2.

Phase II is the subject of a second Special Permit issued by the Carver Planning Board that will serve as the local approval required by the Interim Policy (copy in Appendix A). It is anticipated that the completion of the second phase of site preparation activities will take between an additional 24 to 36 months from the effective date of the First Amendment to the ACO.

The Site Owner intends on importing up to 792,000 cy of soils from off-site sources (Source Sites) to prepare the Site for future development. This Plan will describe the procedures that will be utilized during both Phase II to evaluate potential Source Sites; monitor and place soils as they are received; conduct inspections of the ongoing operations; and stabilize the Site after soils are received and before the long-term development plans are implemented.

MassDEP’s COMM-15-01 policy utilizes ACO’s with potential-reclamation site owners and operators as the interim implementation method for large reclamation projects (greater than 100,000 cubic yards of imported soils) at sand pits, gravel pits and quarries. The ACO references the procedures and design documents incorporated into this Plan. The ACO including any amendments between MassDEP and the Site Owner are included into Appendix C.

The detailed procedures for the acceptance and management of the soils to be accepted at the Site in accordance with the Plan is included in Section 2. In general, the Site Owner will accept soils from Source Sites that are either listed under MassDEP’s Massachusetts Contingency Plan (MCP, 310 CMR...
Section 1
Project Overview

40.0000 regulations or non-MCP listed properties. The same standards and procedures a described herein will be utilized for both types of Source Sites.

1.2 Site Background and Investigations to Date
The portion of the former Route 44 Sand and Gravel property located in the Town of Carver and owned by Route 44 Development LLC covers approximately 127 acres as shown as Lot 2 on Map Number 20 of the Town of Carver’s Assessor’s maps. Most the Site has been actively mined for sand over several decades and had numerous piles of soil, debris, wood and miscellaneous items. Grades at the Site are variable and uneven and the previously excavated areas have sparse vegetation with limited organic soils on the surface.

An existing metal building is currently located on the southern portion of the Site. The building will be utilized to support the proposed site reclamation activities.

The stump dump is in the center of the Site along with a large stockpile of stumps and logs located adjacent to the metal building and the manmade pond located along the southern property line. Both areas will be remediated during Phase II. Route 44 is immediately to the south of the Site and the active Middleborough Landfill is located to the northeast.

1.2.1 Topographic Survey
A topographic survey of the Site was prepared by Dana Perkins, Inc. and is dated February 2014. Prior to the start of site preparation activities, there was not any significant activity at the Site since the completion of the survey and it forms the base plan for the design plans developed for the Plan.

1.2.2 Wetland Delineation and Permitting
The Site Owner has completed the delineation of the wetland resource areas on the Site and filed an Abbreviated Notice of Resource Area Delineation (ANRAD) with the Carver Conservation Commission. The Commission issued an approval of the ANRAD, a copy of which is included in Appendix F. The final edge of wetland resource as approved by the Carver Conservation Commission has been incorporated onto the final design plans included in Appendices B-1 and B-2.

A Notice of Intent (NOI) was filed with the Carver Conservation Commission for the Phase II activities that will occur within buffer zones of the wetland resource areas. The Commission issued an Order of Conditions for these activities dated August 23, 2017 approving the Phase II activities. A copy of the Order of Conditions is provided in Appendix F.

1.2.3 Site Setting and Potential Receptors
Based on a review of MassGIS on-line database, the Site does not contain any mapped Federal Emergency Management Agency (FEMA) floodplains; public water supply areas; suspected or confirmed vernal pools, or identified habitat of endangered or protected species. The entire Site and Town is mapped as part of the Town’s Water Resource Protection Overlay District. The Site is also located in a high yield aquifer (i.e. potentially productive aquifer). The homes along Montello Street in Carver are all currently served by private wells and there are mapped water supply wells along Montello Street and Heather’s Path. Based on these assessments, the Soil Reporting Category, RCS-1 as defined in the MCP (310 CMR 40.0361) has been determined to be appropriate for the Site.
1.3 Concurrent Site Activities
This Plan outlines the specific requirements related to the acceptance of soils to prepare the Site in accordance with MassDEP’s COMM-15-01 Interim Policy. There are other activities required at the Site as initial site preparation activities and will be coordinated with the activities discussed in this document. These activities include:

- During Phase I, the Site Owner received a Special Permit from the Carver Planning Board to conduct general site preparation including upgrading the access road (Park Avenue) and improvements to Montello Street; clean-up existing debris piles and other items outside of the 200-foot buffer to the delineated wetland resource areas; and import and on-site processing of asphalt, brick and concrete (ABC) materials and potentially process them on-site.

- During Phase II, the operations outlined in Phase I will continue including activities within the wetland resource area buffer zones as well as corrective actions at the existing stump dump and clean-up of the existing extensive wood pile. This phase may also include upgrades to utilities to the Site and activities associated with the existing structures.

All the activities will include the implementation of appropriate stormwater and erosion controls as described herein. A copy of the Stormwater Pollution Prevention Plan (SWPPP) as required by the MassDEP’s COMM-15-01 Interim Policy and the National Pollution Discharge Elimination System (NPDES) regulations overseen by the USEPA is included in Appendix D (bound separately).

1.4 Other Required Permits and Regulatory Approvals
In addition to the Special Permits issued by the Planning Board, the following permits and approvals will be required to complete Phase I and II of the site preparation tasks as outlined herein:

- Wetland-Related Approvals. To complete the filling operations for Phase I, the Site Owner has obtained an ANRAD from the Carver Conservation Commission under MassDEP’s Wetlands Regulations and the Carver Wetlands Protection By-Law. Phase II activities were approved by the Carver Conservation Commission in an Order of Conditions dated August 23, 2017. Copies of both these approvals are included in Appendix F.

- MassDEP Solid Waste Management Regulations (310 CMR 19.000). The corrective actions at the stump dump to be conducted in Phase II will require approval of a Corrective Action Design (CAD) permit application from MassDEP.

- Site Assignment for Solid Waste Facilities Regulations (310 CMR 16.00). Most of the Site was Site Assigned in 1986 for a stump dump by the Carver Board of Health. If the site preparation tasks can be completed and approved, the Site Owner intends on requesting to rescind the Site Assignment from both MassDEP and the Carver Board of Health.

- Massachusetts Environmental Protection Act (MEPA, 301 CMR 11.00). The long-term development of the Site will require mandatory filing of an Environmental Notification Form (ENF) and Environmental Impact Report (EIR) under the MEPA regulations. The Site Owner has
discussed permitting the initial site preparation project with the MEPA office to move forward. An ENF for the future development project was submitted in February 2017 and a Certificate requiring a Draft EIR has been issued by the MEPA office.

1.4.1 MCP Status
A review of MassDEP records near the Site identified the following Release Tracking Numbers (RTNs) associated with the MCP. The status of each of these RTN’s is provided below:

- 4-19098 - 44 Gravel and Sand – Closed - methyl ethyl ketone and acetone in groundwater (on former Route 44 Sand & Gravel property – closed with a Permanent Solution with No Conditions)
- 4-18160 - 44 Gravel and Sand – Closed - elevated background thallium in soil (on former Route 44 Sand & Gravel property)
- 4-0911 - Simeone Asphalt Plant/Aggregate Industries (upgradient source)
- 4-19784 - Simeone Asphalt Plant/Aggregate Industries (upgradient source)
- 4-18745 - Simeone Asphalt Plant/Aggregate Industries (upgradient source)
- 4-15951 - Off Montello Street IRA (upgradient source related to 4-0911)
- 4-0950 - Ravenbrook Polymer Concrete Site – Closed (former upgradient source)
- 4-16222- Ravenbrook IRA - Closed (former upgradient source related to RTN 4-0950)

The Licensed Site Professional (LSP) for the upgradient contamination source sites is in the process of decommissioning the monitoring wells on the former Route 44 Sand & Gravel property related to upgradient sources of contamination in the deep groundwater well.

1.4.2 Groundwater Monitoring Program
As required by MassDEP, the Site Owner has implemented a groundwater monitoring program at the Site.

Groundwater at the Site generally flows from the south to the northwest. The existing monitoring network consists of six monitoring well locations, three upgradient (MWs-1,2,3) and three downgradient (MWs-4,5,6). The upgradient wells are water table wells only and the downgradient locations are couplets, each with a shallow water table well with a ten-foot screen and a deeper well set with a screen 10 to 20 ft. below the water table. The deeper well is designed to intercept groundwater migrating from the most upgradient extent of the fill area. The approximate locations of the monitoring wells are provided on Figure 1-2.
The groundwater samples collected from the monitoring wells will be analyzed for Polychlorinated biphenyls (PCBs), Semi-Volatile Organic Compounds (SVOCs), Total MCP-14 metals (antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, nickel, selenium, silver, thallium, vanadium and zinc), Volatile Organic Compounds (VOCs), herbicides, pesticides, and extractable petroleum hydrocarbons (EPH). Method reporting limits used in the analysis of groundwater samples including but not limited to the compound 1,4-dioxane, shall be at or below the reportable concentrations that are applicable to the Site (i.e., RCGW-1).

An initial groundwater sampling round was performed shortly after the commencement of Phase I activities and sampling will continue to be performed annually through completion of the site reclamation activities. The first annual sampling round was collected in August 2017 and reported to MassDEP in a letter from Langdon dated September 28, 2017. A final round of groundwater sampling and analysis will be conducted two years after the completion of the site reclamation activities.

1.5 Contact Information
The Site Owner and operator is Route 44 Development, LLC, 500 Harrison Avenue, Boston, Massachusetts 02118.

The Site LSP/QEP is Bruce W. Haskell, P.E. of Langdon with an office at Two Summer Street, Suite 300, Natick, Massachusetts 01760 (617) 875-3693.
2.1 Operating Procedures

The operation procedures proposed below have proven to be effective in mitigating potential impacts from activities involving the receipt and placement of soils at inactive sand pits and quarries and similar operations. The procedures are focused on the requirements for the proposed Site activities so that operations can proceed in an appropriate manner and allow the Site to be returned to a beneficial use. These procedures are intended to demonstrate compliance with MassDEP’s COMM-15-01 policy.

The following are the general site operations protocols proposed for all phases of Site preparation activities:

- **Hours of Operations.** During Phase I, the Site was operated between the hours of 7:00 am and 5:00 pm from Monday through Friday. During Phase I, soils were accepted at the Site between the hours of 8:00 am and 4:00 pm. During Phase II, hours for accepting soils will be from 7:00 am to a 1/2-hour prior to sundown or 7:00 pm, whichever is earlier. On-Site activities may continue until 7:00 pm as needed to comply with the requirements outlined herein. ABC processing is limited to 7:00 am to 5:00 pm, Monday through Friday. There will be no work during evenings or on weekends (Saturday or Sunday) or holidays except as needed to comply with the requirements of regulatory approvals (e.g. prepare the Site in prior to a major rain event). Note that the hours of operations may be modified as approved by the Town of Carver Planning Board as part of the Special Permit process.

- **Site Access.** The Site shall be accessed through the existing Route 44 Sand and Gravel driveway (Park Avenue) off Montello Street from Routes 44 and 58. No trucks shall be allowed on Montello Street north of the Park Avenue driveway. Trucks shall enter and exit only via this route. The Site Owner will implement a program to monitor compliance with the truck route. Drivers who violate the designated truck routes will be initially suspended from making deliveries for a period of time. Subsequent violations of the truck route by a specific driver or company will result in them being banned from making deliveries to the Site.

- **Inspections.** A monthly randomly-scheduled, unannounced inspection of the operations shall be completed by Site Owner’s Third Party Inspector as defined in the ACO with MassDEP. A summary report of each inspection will be submitted to the Town’s Director of Planning and Development and MassDEP. The detailed requirements for Third Party inspections are outlined in the ACO. The Town’s Director of Planning and Development will be invited to attend the site inspection. The site inspection report shall include all the information required in the attached ACO and the Special Permit issued by the Planning Board.

- **Confirmatory Testing.** All incoming soil loads will be inspected for any odors, consistency with soils from same Source Site and excessive debris. Any load that appears to have an odor, debris...
including solid waste materials, or is visibly different than prior loads from the same Source Site, will be set aside and investigated.

As required by the attached ACO with MassDEP, the Third-Party Inspector shall collect a confirmatory sample each month during the inspection (assuming soils are being delivered) and submit the sample to a MassDEP-certified analytical laboratory for analysis of all the standard parameters included in Table 2-1.

- **Dust Control.** Applying water to surfaces where dust may be generated will be conducted to control dust at the Site. A water truck or similar equipment will be available as needed during operations to apply water and control dust. The use of a water truck may be suspended during the winter months to avoid creating safety issues at the Site. Alternative dust control measures such as calcium may be used as needed. If needed, the Site Owner will make arrangements to sweep the public roads used for site access.

- **Stormwater.** The approach to stormwater controls around the operating areas are summarized in the Stormwater Pollution Prevention Plan (SWPPP) as required by the National Pollution Discharge Elimination System (NPDES) permit process that is included in Appendix D to this document.

- **Erosion Control.** Straw bales and silt fences will be installed at the locations shown on the attached plans. Proper maintenance of the unpaved roads will also be conducted to minimize erosion and siltation from Site activities.

  All areas where soils have been placed to final proposed grades will be stabilized using a temporary layer of organic soils and seeded as appropriate to minimize erosion. Slopes steeper than 4 horizontal to 1 vertical shall have erosion control fabric or other appropriate erosion control method installed at the base of the slope.

- **Noise.** Typical noise sources from this project will include construction vehicles and other construction-related activities including the processing of ABC materials. Site personnel and incoming truck traffic will be directed to limit noise to the greatest extent practical. Particularly, drivers will be instructed to minimize noise associated with tailgates closing and use of transmission brakes. The existing buffer areas and distance between the proposed work area and residential properties will mitigate the audibility of construction activities.

  Trucks will be required by OSHA regulations to have operational back-up alarms.

- **Odors.** It is not anticipated that soil acceptance operations will create detectable odors off-Site. Materials received that are odorous and potentially create an off-Site odor condition will be rejected and further deliveries terminated until the generator at the Source Site can demonstrate that any odor issues have been adequately addressed. Note that the operator may
incorporate approaches such as immediately covering loads with inert soils to mitigate any potential odor issue.

- **Site Security.** Access to the Site will be restricted by the existing entrance gate at the access point to the Site. A “No Trespassing” sign will be posted at the gate. There is no other Site security currently planned. If unauthorized access becomes an issue, the Site Owner will install appropriate security measures to further limit access by vehicles and trespassers.

- **Staffing and Equipment.** Appropriate equipment to complete the ongoing activities shall be on-Site whenever specific activities are occurring. Equipment operators will be licensed to operate all of the equipment provided at the Site. An adequate number of equipment operators will be provided to operate the required equipment.

One employee will be designated to monitor incoming loads, collect and process the necessary transportation and material tracking forms from drivers, track all incoming and outgoing vehicles, inspect trucks prior to exiting the Site, and control access to the Site. Additional employees to inspect loads or any of the other requirements for the operations at the Site will be provided as necessary.

Portable toilet facilities and potable water supply will be provided at the Site for use by all personnel.

- **Unloading and Placement of Materials.** All material unloading will be under the direct supervision of a representative of the Site Owner. They will grade the soils after they are unloaded. The material will be placed utilizing appropriate construction equipment.

Appropriate signage will be placed or verbal direction via an on-Site CB radio with a dedicated channel shall be given to direct delivery vehicles to the active work area. These signs will be mobile and will be moved as appropriate.

The on-Site representative will observe any materials or soils as they are unloaded from the delivery trucks. This individual may direct materials to be unloaded in a separate area if they visibly appear to be different than the approved materials or prior deliveries from a specific Source Site; contain solid waste; or exhibit an odor or have free-draining liquids. Separated materials and soils may either be sampled to confirm similarity to the approved Source Site; or re-loaded and removed from the Site.

All acceptable soils received shall be spread and compacted using the on-site equipment after it is unloaded in close proximity to the area where it will be placed. Temporary barricades such as barrels and signage will be used as needed to delineate the unloading and active work areas.

- **Accident Prevention and Employee Health and Safety.** All personnel at the Site will be appropriately trained in the principles of first aid and safety and the specific operational requirements to prevent accidents in their respective jobs. First aid kits will be provided at the
Site for use by employees. The emergency phone numbers at the Site for Ambulance, Fire Department and Police is 911.

2.2 Source Site Review and Acceptance Procedures
The soils proposed to be accepted and placed at the Site will originate from Source Site construction projects where the soils have either been pre-characterized during the engineering phase of the development or characterized from stockpile(s). All soils shall be pre-characterized by the generator using appropriate characterization guidelines as outlined below.

During Phase I, imported soils will include soils accepted to begin development of the necessary Site reuse grades. The grading shown on the attached plans shows approximately 82,000 cy of imported soils to be placed to raise the elevations in the middle of the Site. During Phase II, up to an additional 710,000 cy of soils will be accepted at the Site to prepare it for future commercial development. The following is a summary of the general procedures to be implemented during both Phase I and II and the specific soil acceptance criteria.

2.2.1 General Procedures
The following general procedures for review and acceptance of soils will be implemented during both the reclamation and site preparation project.

2.2.1.1 Overview of Testing and Acceptance Criteria
Soils proposed for re-use at the Site will be tested as outlined below to demonstrate that all parameters meet the Acceptance Criteria as outlined herein. Soils that do not meet the Acceptance Criteria will not be re-used at the Site.

2.2.1.2 Screening Criteria
Candidate soils from a specific Source Site must be evaluated by a Licensed Site Professional (LSP) or Qualified Environmental Professional (QEP) retained by the Source Site owner for acceptance at the Site.

The following initial screening criteria to be incorporated into a Source Site Submittal Package that will be reviewed by Site Owner’s LSP/QEP for completeness and compliance with the Site’s acceptance criteria. Proposed soils to be accepted during the initial phase of work shall not exceed the following field screening and visual criteria at any point during the in-situ pre-characterization effort, stockpile characterization, excavation or load out phase at the Source Site:

- Soil and fill materials approved for use at the property may contain only incidental, randomly dispersed, *de minimis* quantities of ash and/or Solid Waste (e.g. Municipal Solid Waste and/or Construction and Demolition Waste) as defined in 310 CMR 16.00 and 310 CMR 19.00, which collectively shall comprise less than 1% by volume of the soil and fill materials.

- Visually, the soil must not exhibit any staining or other discoloration indicating releases of oil and/or hazardous materials.
• Soils shall not contain any free-draining liquids that cannot be managed within the operating area where they are being placed. Soils may contain naturally deposited silts and clay with minor amounts of naturally occurring organic material and moisture since natural drying of the soil can occur while it is being worked and spread.

• Soils mixed with bentonite or other slurry materials may be accepted on a case-by-case basis. A description of the process and materials generating soil with slurry must be provided. The Material Safety Data Sheet (MSDS) for all slurry and any other additive products must be submitted to Site Owner’s LSP/QEP for review. Soils that contain de minimis amounts (based on visual observations of <1% by volume) of mixed-in slurry may be accepted for re-use based on review and approval by the Site Owner’s LSP/QEP. Soils with more than de minimis amounts of mixed-in slurry will require MassDEP approval.

• Materials received that are odorous and potentially create an off-Site odor condition will be rejected and further deliveries terminated until the generator at the Source Site can demonstrate that any odor issues have been adequately addressed. Soils with strong natural organic or hydrogen sulfide odors that cannot be managed in a manner to minimize potential off-Site odor impacts will not be accepted at the Site.

2.2.1.3 Contents of Soil Packages for Each Source Site

Prior to transporting any materials to the Site, the Source Site generator must submit the following information to the Site Owner for review and approval:

• Location of the Source Site and contact information for the Source Site owner, the generator and their LSP/QEP.

• Brief description of Source Site history, including current and past uses and a description/source of any release(s) that may have impacted the proposed soil, including the Release Tracking Number(s) (RTNs) associated with the release(s) at the Source Site.

• Checklist stating that the Source Site’s LSP/QEP has evaluated the proposed soils for each of the Screening Criteria Outlined in Section 2.2.2.1.

• Boring logs, test pit logs, or physical description of the material (e.g. sand, silt, clay).

• Table with analytical results compared to the project’s acceptance criteria.

• Site map or sketch showing the location from which the soil/fill will be removed or is stockpiled as well as the location of samples.

• A completed signed Material Shipping Record (MSR) or Bill of Lading (BOL) on forms provided by the MassDEP.
Any investigative reports deemed necessary by either the Source Site LSP/QEP or Site Owner’s LSP/QEP to characterize the soils proposed for the Site.

Soils must be analyzed for the parameters and frequencies outlined in Section 2.3. Samples presented for approval shall be a composite representative of the proposed soils. At a minimum, all concentrations of potential contaminants in the soils shall meet the Acceptance Criteria set forth in this plan and the equivalent frequency of testing requirements is appropriate to demonstrate that the samples represent the proposed soils.

2.2.1.4 Soil Source Site Approval

A request for approval of a Source Site shall be provided in a letter format with attachments to the Site Owner who will provide initial review of the potential acceptance of the proposed Source Site soils.

After the initial review by the Site Owner is completed, the package will be sent to the Site’s LSP/QEP for review. The Submittal Packages from each Source Site will be reviewed by the Site Owner’s LSP/QEP to confirm that the proposed soil meets the acceptance criteria. The Site’s LSP/QEP shall then prepare an acknowledgement and approval letter addressed to Site Owner’s confirming the acceptability of the soils. The letter shall specify the approved quantity, the quantity to be shipped, restrictions (if any), and other pertinent items. The letter will be forwarded by the Site Owner to the Source Site owner.

2.2.1.5 Soil Tracking Procedures

All of the soils from a specific Source Site will be tracked by an on-Site representative using the truck weigh scale installed at the end of Park Avenue. Records of all soils accepted will be maintained on-Site. These records will include information on the source of the material, date of receipt at the Site, and weight.

For each approved Source Site, the Site Owner will track the received volume based on the weight measured at the scale and an assumed density against the quantity approved by the Site Owner’s LSP/QEP in response to the Submittal Package described previously. Additional source testing shall be required if the quantity delivered to the Site exceeds the quantity approved based on the sampling frequencies outlined below.

The transportation of all soils to the Site shall be conducted in accordance with the MassDEP’s MSR or BOL requirements as outlined in the appropriate regulations or guidance documents.

The quantity of soils received from each approved Source Site will be incorporated into the quarterly inspection reports to be submitted to the Town of Carver Planning Director and MassDEP.

2.2.1.6 Source Site Confirmatory Testing

Soils shall be screened per MassDEP Policy #WSC-94-400 at the Source Site at a frequency of 1 field screening test per 50 cubic yards of soil regardless of the olfactory and visual screening results. Soils that exhibit a reading of total organic vapor (TOV) in the jar headspace exceeding 5 ppm by volume due to volatile constituents shall not be used at the Site. If soils appear to differ olfactorily or visually from the original characterization information, that soil will either be rejected or set aside and analyzed.
to determine if it meets the acceptance criteria.

Natural organic soils that exhibit TOV screening levels above 5 ppmv may be considered on a case-by-case basis provided the

- results of the analytical testing, particularly VOC analysis, for the soil that exceeds the 5 ppmv TOV value identifies no exceedances of acceptance criteria; and
- the source of elevated TOV screening levels can be demonstrated to be from a source other than oil or hazardous material (e.g. hydrogen sulfide or moisture interference on PID).

### 2.3 Acceptance Testing Requirements and Standards

The soils proposed in Phases I and II shall comply with the acceptance testing outlined in this section.

For all Source Sites where laboratory analytical testing is required, the samples presented shall be representative of the soils to be delivered to the Site. The sampling frequency shall be a minimum of one sample per every 500 cy to be delivered for fill soils and one for every 1,000 cy for natural soils. More frequent samples may be required if determined by the Source Site’s LSP/QEP or the Site Owner’s LSP/QEP.

The testing procedures to be utilized as part of both Phases are summarized on Table 2-1.

A summary of the proposed acceptance standards for the soils to be accepted at the Site during both Phase I and II is presented in Table 2-2.
Table 2-1  
Required Testing Parameters for Reclamation Soils  
Route 44 Sand & Gravel Reclamation Project

<table>
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<th>Constituent (See Note 3)</th>
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<tbody>
<tr>
<td>Semi-Volatile Organic Compounds (SVOCs) – see note 4</td>
<td></td>
</tr>
<tr>
<td>Volatile Organic Compounds (VOCs) – see note 5</td>
<td></td>
</tr>
<tr>
<td>Polychlorinated Biphenyls (PCBs)</td>
<td></td>
</tr>
<tr>
<td>Pesticides and Herbicides – see note 6</td>
<td></td>
</tr>
<tr>
<td>MCP-14 Metals</td>
<td></td>
</tr>
<tr>
<td>Total Petroleum Hydrocarbons or EPH Fractions</td>
<td></td>
</tr>
<tr>
<td>pH, Ignitability, Reactive Sulfide, Reactive Cyanide, Specific Conductance</td>
<td></td>
</tr>
<tr>
<td>Other constituents deemed prudent based on source site history</td>
<td></td>
</tr>
</tbody>
</table>

Notes:

1. Current EPA/MassDEP or other approved methods for laboratory testing. MassDEP Compendium of Analytical Methods (CAM) methods and levels must be utilized where applicable.
2. Detection limits for laboratory tests must be appropriate and adequate for comparison to acceptance criteria.
3. Other constituents may be required based on review of source site history.
4. For SVOCs EPA method 8270 shall be used with the full list of SVOCs analyzed.
5. For VOCs, EPA Method 8260 shall be used with low-level detection limits.
6. Pesticides/Herbicides may be excluded from analysis only if the Source Site can demonstrate that pesticides/herbicides were not used at the Source Site.
### Table 2-2

**Summary of Acceptance Criteria**  
**Route 44 Development Site Reclamation Project**

<table>
<thead>
<tr>
<th>Semi-Volatile Organic Compounds (SVOCs)</th>
<th>Acceptance Criteria (mg/kg) and Basis</th>
<th>Source Site Approved by</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ACENAPHTHENE</strong></td>
<td>&lt;4</td>
<td>Site’s QEP/LSP</td>
</tr>
<tr>
<td><strong>ACENAPHTHYLENE</strong></td>
<td>&lt;1</td>
<td></td>
</tr>
<tr>
<td><strong>ANTHRACENE</strong></td>
<td>&lt;1000</td>
<td></td>
</tr>
<tr>
<td><strong>BENZO[a]ANTHRACENE</strong></td>
<td>&lt;7</td>
<td></td>
</tr>
<tr>
<td><strong>BENZO[a]PYRENE</strong></td>
<td>&lt;2</td>
<td></td>
</tr>
<tr>
<td><strong>BENZO(b)FLUORANTHENE</strong></td>
<td>&lt;7</td>
<td></td>
</tr>
<tr>
<td><strong>BENZO(g,h,i)PERYLENE</strong></td>
<td>&lt;1000</td>
<td></td>
</tr>
<tr>
<td><strong>BENZO(k)FLUORANTHENE</strong></td>
<td>&lt;70</td>
<td></td>
</tr>
<tr>
<td><strong>CHRYSENE</strong></td>
<td>&lt;70</td>
<td></td>
</tr>
<tr>
<td><strong>DIBENZO(a,h)ANTHRACENE</strong></td>
<td>&lt;0.7</td>
<td></td>
</tr>
<tr>
<td><strong>FLUORANTHENE</strong></td>
<td>&lt;1000</td>
<td></td>
</tr>
<tr>
<td><strong>FLUORENE</strong></td>
<td>&lt;1000</td>
<td></td>
</tr>
<tr>
<td><strong>INDENO(1,2,3-cd) PYRENE</strong></td>
<td>&lt;7</td>
<td></td>
</tr>
<tr>
<td><strong>METHYLNAPHTHALENE, 2-</strong></td>
<td>&lt;0.7</td>
<td></td>
</tr>
<tr>
<td><strong>NAPHTHALENE</strong></td>
<td>&lt;4</td>
<td></td>
</tr>
<tr>
<td><strong>PHENANTHRENE</strong></td>
<td>&lt;10</td>
<td></td>
</tr>
<tr>
<td><strong>PYRENE</strong></td>
<td>&lt;1000</td>
<td></td>
</tr>
</tbody>
</table>

**Other SVOCs with Category RCS-1 Reportable Concentrations**  
Not Detected or Detected at <10% of Category RCS-1 Reportable Concentration in any sample proposed for acceptance.  
Site’s QEP/LSP

**SVOCs with no Listed Category RCS-1 Reportable Concentrations**  
Not detected in any sample proposed for acceptance.  
Site’s QEP/LSP

**SVOCs with no Listed Category RCS-1 Reportable Concentrations**  
Detected in a sample proposed for acceptance.  
Site’s QEP/LSP and MassDEP

### Volatile Organic Compounds (VOCs)

**VOCs with Listed Category RCS-1 Reportable Concentrations**  
Not Detected or Detected at <10% of Category RCS-1 Reportable Concentration  
Site’s QEP/LSP

**VOCs with no Listed Category RCS-1 Reportable Concentration**  
Not Detected in any sample proposed for acceptance.  
Site’s QEP/LSP

**VOCs with no Listed Category RCS-1 Reportable Concentrations**  
Detected in a sample proposed for acceptance.  
Site’s QEP/LSP and MassDEP

### Polychlorinated Biphenyls (PCBs)

**Total PCBs**  
Not Detected  
Detection Limit at or below 10% of Category RCS-1 Reportable Concentration (<0.1 mg/kg) or  
Site’s QEP/LSP

**Total PCBs**  
Not Detected  
If no evidence of disposal or handling of PCB waste on-site - detection limit at or below 50% of Category RCS-1 Reportable Concentration (0.5 mg/kg for each isomer and total PCBs)  
(See Notes 1 and 4)  
Site’s QEP/LSP
### Table 2-2, continued
**Summary of Acceptance Criteria**
*Route 44 Development Site Reclamation Project*

<table>
<thead>
<tr>
<th>Constituent</th>
<th>Acceptance Criteria (mg/kg)</th>
<th>Basis of Standard</th>
<th>Approved by</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Metals</strong></td>
<td></td>
<td></td>
<td>Site’s QEP/LSP</td>
</tr>
<tr>
<td>ANTIMONY</td>
<td>&lt;20</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ARSENIC</td>
<td>&lt;20</td>
<td></td>
<td></td>
</tr>
<tr>
<td>BARIUM</td>
<td>&lt;1000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>BERYLLIUM</td>
<td>&lt;90</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CADMIUM</td>
<td>&lt;70</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CHROMIUM (TOTAL)</td>
<td>&lt;100</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CHROMIUM VI</td>
<td>&lt;100</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CHROMIUM III</td>
<td>&lt;225</td>
<td></td>
<td></td>
</tr>
<tr>
<td>LEAD</td>
<td>&lt;200</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MERCURY</td>
<td>&lt;20</td>
<td></td>
<td></td>
</tr>
<tr>
<td>NICKEL</td>
<td>&lt;600</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SELENIUM</td>
<td>&lt;400</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SILVER</td>
<td>&lt;100</td>
<td></td>
<td></td>
</tr>
<tr>
<td>THALLIUM</td>
<td>&lt;8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>VANADIUM</td>
<td>&lt;400</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ZINC</td>
<td>&lt;1000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other Metals with Category RCS-1 Reportable Concentration</td>
<td>Not Detected or Detected at &lt;10% of Category RCS-1 Reportable Concentration in any sample proposed for acceptance.</td>
<td>Site’s QEP/LSP</td>
<td></td>
</tr>
<tr>
<td>Toxicity Characteristic Leaching Procedure (TCLP) Testing</td>
<td>Detected Concentrations of Metals Exceed &quot;20-times rule&quot; and require TCLP analysis</td>
<td>Site’s QEP/LSP</td>
<td></td>
</tr>
<tr>
<td>Other Metals with Category RCS-1 Reportable Concentration</td>
<td>Detected at concentration ≥10% of Category RCS-1 Reportable Concentration in any sample proposed for acceptance.</td>
<td>Site’s QEP/LSP and MassDEP</td>
<td></td>
</tr>
<tr>
<td><strong>Petroleum Hydrocarbons</strong></td>
<td></td>
<td></td>
<td>Site’s QEP/LSP</td>
</tr>
<tr>
<td>TOTAL PETROLEUM HYDROCARBONS (TPH)</td>
<td>&lt;500</td>
<td>½ of Category RCS-1 Reportable Concentration</td>
<td></td>
</tr>
<tr>
<td><strong>OR</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C9-C18 ALIPHATIC FRACTION – EPH</td>
<td>Sum of EPH Fractions &lt;500</td>
<td>Category RCS-1 Reportable Concentration</td>
<td>Site’s QEP/LSP</td>
</tr>
<tr>
<td>C19-C36 ALIPHATIC FRACTION – EPH</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C11-C22 AROMATIC FRACTION – EPH</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C5-C8 ALIPHATIC – VPH</td>
<td>&lt;10</td>
<td>&lt;10% Category RCS-1 Reportable Concentration</td>
<td>Site’s QEP/LSP</td>
</tr>
<tr>
<td>C9-C12 ALIPHATIC – VPH</td>
<td>&lt;100</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C9-C10 AROMATIC - VPH</td>
<td>&lt;10</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Table 2-2, Continued
Summary of Acceptance Criteria
Route 44 Development Site Reclamation Project

<table>
<thead>
<tr>
<th>Constituent</th>
<th>Acceptance Criteria (mg/kg)</th>
<th>Basis of Standard</th>
<th>Approved by</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Characteristic Parameters and Other Criterion</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pesticides and Herbicides</td>
<td>Below CAM detection limits may be accepted (see Note 1)</td>
<td>Site's QEP/LSP</td>
<td></td>
</tr>
<tr>
<td>pH of soils</td>
<td>5 to 9</td>
<td>None</td>
<td>Site's QEP/LSP</td>
</tr>
<tr>
<td>Soils mixed with slurry or bentonite</td>
<td>Visual</td>
<td>De minimis volumes of mixed-in slurry materials may be accepted See Note 5.</td>
<td>Site's QEP/LSP</td>
</tr>
<tr>
<td>Specific Conductance</td>
<td>&lt;2000 umhos/cm</td>
<td></td>
<td>Site's QEP/LSP</td>
</tr>
<tr>
<td>Ignitability</td>
<td>Not capable under standard temperature and pressure of catching fire through friction, absorption of moisture or spontaneous chemical changes and, when ignited, burns so vigorously and persistently that it creates a hazard.</td>
<td>Site's QEP/LSP</td>
<td></td>
</tr>
<tr>
<td>Reactive Sulfide</td>
<td>&lt;500</td>
<td>Standard</td>
<td>Site's QEP/LSP</td>
</tr>
<tr>
<td>Reactive Cyanide</td>
<td>&lt;250</td>
<td>Standard</td>
<td>Site's QEP/LSP</td>
</tr>
</tbody>
</table>

**Notes**

1. Current EPA/MassDEP or other approved methods for laboratory testing. MassDEP CAM utilized where appropriate.
2. Detection limits for laboratory tests must be appropriate and adequate for comparison to acceptance criteria.
3. Averaging of concentrations is not allowed. All constituents must be below their corresponding Acceptance Criteria for acceptance of soil.
4. Method reporting limits < 0.5 mg/kg only applies if PCBs are not detected anywhere on the Source Site.
5. Soils mixed with *de minimis* amounts of bentonite or other slurry materials (<1% by volume) may be accepted on a case by case basis.
Appendix A
Carver Planning Board – Phase I and II
Special Permits
May 9, 2017

Ms. Lynn Doyle, Town Clerk
Town of Carver
108 Main St.
Carver, MA 02330

Dear Ms. Doyle,

Re: Decision — Route 44 Development LLC Phase II - Special Permit — Section 4300

Applicant: Route 44 Development LLC
Applicant Address: 500 Harrison Avenue Suite 4R, Boston MA 02118
Location: 3-4 Park Avenue Carver MA 02330
Zoning District: Green Business Park
Title Reference: Book: 43733 Page: 3
Land Owner: Route 44 Development LLC

In accordance to MGL Ch. 40A, Sections 9 and 11, and Carver Zoning By Law Sections 4300 and 5300, a public hearing, duly posted and advertised was held March 28, 2017 and April 25, 2017 and closed on April 25, 2017 on the application of Route 44 Development LLC, 3-4 Park Avenue Carver MA 02330, for a Special Permit for Phase II of site preparations under the Water Resource Protection Section 4300, at 3-4 Park Avenue shown on Assessors Map 20 Lot 2 in the GBP Zoning District. On May 9, 2017 the Planning Board voted 4-0 to approve the Special Permit for Route 44 Development LLC Phase II as follows:

The Board finds the following facts:

1. Special Permit per Section 4300 Site preparation in a GBP District
   a.) Is in accordance with the provisions of Section 4360 - The Planning Board finds that the proposal meets the Design and Operation Standards of the Town of Carver and that proper safeguards have been implemented in this decision to protect the water quality; ground water; and soils of the site and the surrounding area.

Special Permit- Phase II - Route 44 Development LLC decision May 9, 2017
May 9, 2017

Ms. Lynn Doyle, Town Clerk
Town of Carver
108 Main St.
Carver, MA 02330

Dear Ms. Doyle,

Re: Decision — Route 44 Development LLC Phase II- Special Permit – Section 4300

Applicant: Route 44 Development LLC
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Special Permit- Phase II - Route 44 Development LLC decision May 9, 2017
b.) Is in harmony with the purpose and intent of this bylaw – The Planning Board finds that through the series of conditions as outlined in this decision the intent of the By Law has been satisfied.

c.) Is appropriate to the natural topography, soils and other characteristics of the site to be developed – The Planning Board finds that due to the nature of the existing conditions of this site, the proposal will effectively improve the conditions of the site with clean soils; quality water management and the licensed cleanup of contaminated areas.

d.) Will not, during construction or thereafter, have an adverse environmental impact on the aquifer or recharge area (i.e., quality, or quantity of groundwater) - The Planning Board finds that no adverse effect will occur during the construction of this site and that all proper measures have been taken to protect the quality of the groundwater.

e.) Will not adversely affect an existing or potential water resource – No existing or potential water resource have been identified on or near this site.

2. Section 5300 Special Permit

a.) Social, economic, or community needs which are served by the proposal - The Planning Board finds that the social, economic, and community needs have been met. The property has been zoned Industrial; Highway Commercial; and now Green Business Park for many years and has been identified as the number one priority development site in the Town of Carver in its 2001 Master Plan. It was also designated by the Planning Board; Board of Selectman and Town Meeting as a Priority Development Site (PDS) in its designation as an Expedited Permit Site.

b.) Traffic flow and safety, including parking and loading – The Planning Board finds that all traffic and safety concerns have been met. The proposed improvements to both Park Avenue and Montello Street satisfy the Planning Board’s concern over truck traffic generated from this site and any conflicts that may occur.

c.) Adequacy of utilities and other public services - The Planning Board finds that all proposed utilities and other public services are sufficient for this proposal. No utilities are necessary at this time.

d.). Neighborhood character and social structures – The Planning Board finds that the proposed development will have minimal detrimental impact on the neighborhood character or social structure. As stated previously this site has long been identified as a priority development site.

e.) Impacts on the natural environment – The Planning Board find that there will be no negative impact on the natural environment with this proposal. The project involves a positive change to the natural environment. In fact, this phase of the project is just one phase of many that will properly remedy many cited contaminations on the site and rectify the site into a marketable usable condition.
f.) Potential fiscal impact, including impact on town services, tax base, and employment – The Planning Board finds that there will be no negative impact on town services, tax base or employment with this proposal. Eventual development of this site will substantially increase the town’s tax base and potentially provide numerous employment opportunities.

The Planning Board at their regularly scheduled meeting on May 9, 2017 voted 4 in favor (Maki; Sinclair; Robinson and Hoffman) and 0 against to grant a Special Permit to allow Phase II site preparations on the application by Route 44 Development 44 LLC for 3-4 Park Avenue, Carver.

**The granting of this petition is subject to the following conditions:**

1. The project shall be substantially completed no later than four (4) years from the date of expiration of the appeal period from this decision, assuming no appeal is taken therefrom.

2. The Planning Board and its Staff shall have access to the project site to ensure that these conditions are complied with.

3. Any plan revisions shall be submitted to and approved by the Planning Board and construction shall conform to those final plans so approved. The Planning Board reserves the right to approve, without the need for a new noticed public hearing, any minor modifications.

4. Prior to the commencement of operations, a true photocopy of the Planning Board’s decision as registered at the “Plymouth County Registry of Deeds” shall be submitted to the Carver Planning Department.

5. The Town of Carver or its representative shall conduct periodic site inspections to verify compliance with the approved plans and to determine whether additional erosion and sedimentation controls are required to protect adjacent properties or drainage systems. Dust control is required during construction.

6. The developer is responsible for the proper operation and maintenance of the construction site and shall inspect, repair, replace, and supplement controls as needed to minimize soil erosion and sedimentation.

7. Any significant revisions to plans will require approval from the Town of Carver Planning Board as a modification to the Special Permit and Site Plan Review.

Special Permit- Phase II - Route 44 Development LLC decision May 9, 2017
8. Any outstanding balance in the Review and Inspection deposit shall be paid immediately by the applicant. Failure to do so in a timely manner shall at the discretion of the Planning Board require the applicant to cease and desist all operations until the balance is restored.

9. Public roadways servicing the site shall be swept as needed during construction.

10. Construction waste shall be controlled and disposed of offsite in conformance with applicable state and/or federal laws.

11. All future phases of this site remediation project shall come before the Planning Board as a Special Permit.

12. ABC processing shall be limited to 7AM to 5PM Monday through Friday and shall adhere to MASSDEP’s Noise Policy as well as to the Town of Carver Zoning by Laws Section 3600 regarding noise.

13. ABC Processing Hours: “Fourteen (14) days written notice will be provided to the Planning Board prior to the commencement of any on-site processing of asphalt, brick and concrete (ABC) materials. Any single processing period for ABC shall not to exceed 30 calendar days in length from the start of processing operations unless subsequent notice is provided to the Planning Board and approval for an extension is granted.”

14. Trucks shall be inspected to insure they are not tracking soil on to Montello Street during rainy days. A water truck with a pressure washer will be available on-site to wash trucks when necessary.

15. If operations create unanticipated odors on-site, the operator will take immediate action to mitigate odors and insure they do not leave the site.

16. There shall be a continued designated truck route and at no times will trucks be allowed to exit left on to Montello Street going north.

17. Prior to the commencement of Phase II operations, the surety currently in place with the Planning Board for $50,000 shall be continued to cover costs in the event the operation is abandoned.

Special Permit- Phase II - Route 44 Development LLC decision May 9, 2017
18. The operation shall be subject to unannounced site inspections by the Town’s License Site Professional. These inspections shall not exceed (1) one inspection per month on average over a (6) six month period. The applicant shall be responsible for all costs accrued for these services not to exceed $20,000.

19. Applicant shall be subject to a review of all soil packages by the Towns License Site Professional at the expense of the applicant not to exceed $10,000.

20. Montello Street culvert will be inspected by the Applicant’s engineer every three (3) months with a report submitted to the Planning Board and DPW Superintendent.

21. Trucks will be limited to Monday through Friday from 7AM to a ½ hour prior to sundown or 7PM, whichever is applicable and not on Holidays.

22. During the entirety of Phase II activities, both Park Avenue and Montello Street and its intersections, including pavement markings, repair of potholes and damage to Montello Street, signage, vegetation removal and road widening (where necessary) shall be properly maintained by the applicant at the direction and approval of the Director of Planning and Development and the DPW Superintendent.

23. Proper security for the site shall be maintained including but not limited to Security Cameras and Gates for the site.

24. Six (6) months after the commencement of Phase II operations, the Applicant shall meet with the Director of Planning and Community Development to discuss progress of the site and any violations or issues regarding this decision. It will be at the discretion of the Director of Planning and Community Development whether any issues or violations will be brought to the Planning Boards attention.

25. Prior to the start of Phase II operations the applicant shall submit an application to the Carver Earth Removal Committee (ERC) under the remediation clause of the ERC by Laws.
If substantial use and construction permitted by this Special Permit is not commenced within two (2) years from the date on which a copy of this Decision is filed with the Carver Town Clerk, excluding the amount of time required for the appeal period to expire or the amount of time required to pursue and await the determination of any such appeal, then this Special Permit shall expire.

This Decision shall not take effect until a copy of this Decision, certified by the Town Clerk that twenty (20) days have elapsed since the Decision was filed with the Town Clerk without any appeal having been filed therefrom, or that any such appeal has been finally determined, has been filed at the Plymouth County Registry of Deeds, and a certified copy indicating such Registry recording has been filed with the Carver Planning Board.

Any appeal of this decision must be filed pursuant to MGL Chapter 40A, Section 17, and shall be filed within 20 days of the filing of this decision with the Town Clerk.

Carver Planning Board

Bruce Maki, Chair
Kevin Robinson

Will Sinclair
Jim Hoffman

DATE 8/9/17
September 29, 2015

Ms. Lynn Doyle, Town Clerk
Town of Carver
108 Main St.
Carver, MA 02330

Dear Ms. Doyle,

Re: Decision — Route 44 Development LLC - Special Permit — Section 4300

Applicant: Route 44 Development LLC
Applicant Address: 500 Harrison Avenue Suite 4R, Boston MA 02118
Location: 3-4 Park Avenue Carver MA 02330
Zoning District: Green Business Park
Title Reference: Book: 43733 Page: 3
Land Owner: Route 44 Development LLC

In accordance to MGL Ch. 40A, Sections 9 and 11, and Carver Zoning By Law Sections 4300 and 5300, a public hearing, duly posted and advertised was held and closed on September 22, 2015 on the application of Route 44 Development LLC, 3-4 Park Avenue Carver MA 02330, for a Special Permit for site preparation under the Water Resource Protection Section 4300, at 3-4 Park Avenue shown on Assessors Map 20 Lot 2 in the GBP Zoning District. On September 22, 2015 the Planning Board voted 4-0 to approve the Special Permit for Route 44 Development LLC as follows:

The Board finds the following facts:

1. Special Permit per Section 4300 Site preparation in a GBP District
   a.) Is in accordance with the provisions of Section 4360 - The Planning Board finds that the proposal meets the Design and Operation Standards of the Town of Carver and that proper safeguards have been implemented in this decision to protect the water quality; ground water; and soils of the site and the surrounding area.

Special Permit- Route 44 Development LLC decision September 22, 2015
b.) Is in harmony with the purpose and intent of this bylaw – The Planning Board finds that through the series of conditions as outlined in this decision the intent of the By Law has been satisfied.

c.) Is appropriate to the natural topography, soils and other characteristics of the site to be developed – The Planning Board finds that due to the nature of the existing conditions of this site, the proposal will effectively improve the conditions of the site with clean soils; quality water management and the licensed cleanup of contaminated areas.

d.) Will not, during construction or thereafter, have an adverse environmental impact on the aquifer or recharge area (i.e., quality, or quantity of groundwater) - The Planning Board finds that no adverse effect will occur during the construction of this site and that all proper measures have been taken to protect the quality of the groundwater.

e.) Will not adversely affect an existing or potential water resource – No existing or potential water resource have been identified on or near this site.

2. Section 5300 Special Permit

a.) Social, economic, or community needs which are served by the proposal - The Planning Board finds that the social, economic, and community needs have been met. The property has been zoned Industrial; Highway Commercial; and now Green Business Park for many years and has been identified as the number one priority development site in the Town of Carver in its 2001 Master Plan. It was also designated by the Planning Board; Board of Selectman and Town Meeting as a Priority Development Site (PDS) in its designation as an Expedited Permit Site.

b.) Traffic flow and safety, including parking and loading – The Planning Board finds that all traffic and safety concerns have been met. The proposed improvements to both Park Avenue and Montello Street satisfy the Planning Boards concern over truck traffic generated from this site and any conflicts that may occur.

c.) Adequacy of utilities and other public services - The Planning Board finds that all proposed utilities and other public services are sufficient for this proposal. No utilities are necessary at this time.

d.) Neighborhood character and social structures – The Planning Board finds that the proposed development will have minimal detrimental impact on the neighborhood character or social structure. As stated previously this site has long been identified as a priority development site.

e.) Impacts on the natural environment – The Planning Board find that there will be no negative impact on the natural environment with this proposal. The project involves a positive change to the natural environment. In fact, this phase of the project is just one phase of many that will properly remedy many cited contaminations on the site and rectify the site into a marketable usable condition.

f.) Potential fiscal impact, including impact on town services, tax base, and employment – The Planning Board finds that there will be no negative impact on town services, tax

Special Permit- Route 44 Development LLC decision September 22, 2015
base or employment with this proposal. Eventual development of this site will substantially increase the town’s tax base and potentially provide numerous employment opportunities.

The Planning Board at their regularly scheduled meeting on September 22, 2015 voted 4 in favor (Maki; Sinclair; Robinson and Cavicchi) and 0 against to grant a Special Permit to allow site preparations on the application by Route 44 Development 44 LLC for 3-4 Park Avenue, Carver.

The granting of this petition is subject to the following conditions:

1. The project shall be substantially completed no later than two (2) years from the date of expiration of the appeal period from this decision, assuming no appeal is taken therefrom.

2. The Planning Board and its Staff shall have access to the project site to ensure that these conditions are complied with.

3. Any plan revisions shall be submitted to and approved by the Planning Board and construction shall conform to those final plans so approved. The Planning Board reserves the right to approve, without the need for a new noticed public hearing, any minor modifications.

4. Prior to the commencement of operations, a true photocopy of the Planning Board’s decision as registered at the “Plymouth County Registry of Deeds” shall be submitted to the Carver Planning Department.

5. The Town of Carver or its representative shall conduct periodic site inspections to verify compliance with the approved plans and to determine whether additional erosion and sedimentation controls are required to protect adjacent properties or drainage systems. Dust control is required during construction.

6. The developer is responsible for the proper operation and maintenance of the construction site and shall inspect, repair, replace, and supplement controls as needed to minimize soil erosion and sedimentation.

7. Any revisions to plans will require approval from the Town of Carver Planning Board as a modification to the Special Permit and Site Plan Review.

Special Permit- Route 44 Development LLC decision September 22, 2015
8. Any outstanding balance in the Review and Inspection deposit shall be paid prior to Certificate of Occupancy.

9. Public roadways servicing the site shall be swept as needed during construction.

10. Construction waste shall be controlled and disposed of offsite in conformance with applicable state and/or federal laws.

11. All future phases of this development shall come before the Planning Board as a Special Permit.

12. ABC processing shall be limited to 7AM to 5PM Monday through Friday and shall adhere to MASSDEP’s Noise Policy as well as to the Town of Carver Zoning by Laws Section 3600 regarding noise.

13. Trucks shall be inspected to insure they are not tracking soil on to Park and Montello Streets during rainy days. A water truck with a pressure washer will be available on-site at all times to wash trucks when necessary.

14. If operations create unanticipated odors on-site, the operator will take immediate action to mitigate odors and insure they do not leave the site.

15. There shall be a designated truck route and at no times will trucks be allowed to exit left on to Montello Street going north.

16. Prior to the commencement of operations, the applicant shall place a surety with the Planning Board for $50,000 to cover costs in the event the operation is abandoned. The form of surety shall be subject to the mutual approval of the Planning Board, Town Treasurer and Applicant.

17. The operation shall be subject to unannounced site inspections by the Town’s License Site Professional. These inspections shall not exceed (1) one inspection per month on average over a (6) six month period. The applicant shall be responsible for all costs accrued for these services not to exceed $4,500.

18. Applicant shall be subject to a review of all soil packages by the Towns License Site Professional at the expense of the applicant not to exceed $1,500.

Special Permit- Route 44 Development LLC decision September 22, 2015
19. Montello Street culvert will be inspected by the Applicant's engineer every three (3) months with a report submitted to the Planning Board and DPW Superintendent.

20. Trucks will be limited to Monday through Friday from 8AM to 4PM and not on Holidays.

21. Prior to the commencement of activities a schedule of improvements to both Park Avenue and Montello Street and its intersections, including pavement markings, signage, vegetation removal and road widening (where necessary) shall be approved by the Director of Planning and Development and the DPW Superintendent. It is noted that ABC materials as defined in the Application will be imported and processed on-site as necessary to improve Park Avenue to a condition suitable for the proposed site improvements.

22. Proper security for the site shall be installed, including but not limited to Security Cameras and Gates for the site.

23. 6 months after the commencement of operations, the Applicant shall meet with the Director of Planning and Community Development to discuss progress of the site and any violations or issues regarding this decision. It will be at the discretion of the Director of Planning and Community Development whether any issues or violations will be brought to the Planning Boards attention.
If substantial use and construction permitted by this Special Permit is not commenced within two (2) years from the date on which a copy of this Decision is filed with the Carver Town Clerk, excluding the amount of time required for the appeal period to expire or the amount of time required to pursue and await the determination of any such appeal, then this Special Permit shall expire.

This Decision shall not take effect until a copy of this Decision, certified by the Town Clerk that twenty (20) days have elapsed since the Decision was filed with the Town Clerk without any appeal having been filed therefrom, or that any such appeal has been finally determined, has been filed at the Plymouth County Registry of Deeds, and a certified copy indicating such Registry recording has been filed with the Carver Planning Board.

Any appeal of this decision must be filed pursuant to MGL, Chapter 40A, Section 17, and shall be filed within 20 days of the filing of this decision with the Town Clerk.

Carver Planning Board

Bruce Maki, Chair
Kevin Robinson
Will Sheldon
Chad Cavicchi

October 6, 2015
DATE
Appendix B-1
Phase I Design Plans
Appendix B-2
Phase II Design Plans
Appendix C
Final Administrative Consent Order and Amendments with MassDEP
COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the matter of:

Route 44 Development, LLC

File No.: ACO-SE-16-4002

ADMINISTRATIVE CONSENT ORDER

I. THE PARTIES

1. The Department of Environmental Protection ("Department" or "MassDEP") is a duly constituted agency of the Commonwealth of Massachusetts established pursuant to M.G.L. c. 21A, § 7. MassDEP maintains its principal office at One Winter Street, Boston, Massachusetts 02108, and its Southeast Regional Office at 20 Riverside Drive, Lakeville, Massachusetts 02347.

2. Route 44 Development, LLC ("Route 44 Development" or the "owner") is a Massachusetts Limited Liability Corporation with its offices located at 500 Harrison Avenue, Suite 4R, Boston, Massachusetts 02108. Route 44 Development's mailing address for purposes of this Consent Order is 500 Harrison Avenue, Suite 4R, Boston, Massachusetts 02108.

3. Route 44 Development is hereafter referred to herein as the Respondent.

II. STATEMENT OF FACTS AND LAW

4. MassDEP is responsible for the implementation and enforcement of M.G.L. c 111, §§ 142A-142O and the associated Air Pollution Control Regulations at 310 CMR 6.00, 310 CMR 7.00, and 310 CMR 8.00; M.G.L. c. 131 §40 and the associated Wetlands Regulations at 310 CMR 10.00; M.G.L. c. 111, §§ 150A and 150A1/2, the Solid Waste Regulations at 310 CMR 19.000, and the Site Assignment Regulations for Solid Waste Facilities at 310 CMR 16.00; M.G.L. c. 21E and the Massachusetts Contingency Plan ("MCP") at 310 CMR 40.0000; and Section 277 of Chapter 165 of the Acts of 2014. MassDEP has authority under M.G.L. c. 21E, §6 to specify reasonable requirements to regulate activities which may cause, contribute to, or exacerbate a release of oil or hazardous materials, to prevent and control and to counter the effects of such releases. MassDEP also has authority under M.G.L. c. 21A, §16 and the Administrative Penalty Regulations at 310 CMR 5.00 to assess civil administrative penalties to persons in noncompliance with the laws and regulations set forth above.

5. The Respondent is the current owner and operator of the property commonly known as the Former Route 44 Sand and Gravel Property located at 3-4 Park Avenue in Carver, Massachusetts 02330 ("Property" or "Site"), at which reclamation and restoration activities ("Site Reclamation Activities") are being proposed to prepare the Site for a future commercial development ("Project"). The entire Property owned by the Respondent encompasses approximately 127 acres as shown on lot 2 of Map number 20 of the Town of Carver’s Assessor’s Map. To implement this future development Project, the Respondent needs to remediate the historic issues at the Site including piles of debris and waste, an inactive stump dump, a large stockpile of logs and stumps and potentially surcharge an area of buried peat. Project implementation also requires importing fill soils to develop the grades necessary for the larger buildings that the Site area can accommodate.
6. The following facts and allegations have led MassDEP to issue this Administrative Consent Order:

A. The Respondent and MassDEP are entering into this Administrative Consent Order to establish the requirements for the Respondent to reclaim the Site and prepare it for its future development in accordance with the “Interim Policy on the Re-Use of Soil for Large Reclamation Projects” (COMM-15-01 or “Reclamation Soil Policy”). These activities include, but are not limited to, an enforceable schedule and stipulated penalties for noncompliance with the requirements of this Consent Order. MassDEP and the Respondent are not entering into this Consent Order as the result of any existing non-compliance by the Respondent.

B. The Respondent is proposing to conduct sand and gravel-pit Reclamation Activities on the Property to support the Project. The Respondent proposes to re-grade the Site with imported soils. The Project’s development of the large buildings and parking areas required for the proposed final use of the Site will require significant quantities of structural fill and gravel materials. The Respondent proposes to either create some of these necessary materials by processing both the on-site piles of concrete and debris and importing Asphalt, Brick, and Concrete Rubble ("ABC") materials or receiving and stockpiling ABC materials that were processed off-site.

C. A total of approximately 732,000 cubic yards (cy) of soil is proposed to be imported to the Site in two phases. The Respondent is proposing to import approximately 82,000 cy of soil during Phase I and the remaining 650,000 cy during Phase II operations to complete grading activities. During both Phase I and II, up to 61,500 cy (processed volume) of ABC materials are proposed to be imported and processed at the Site. It is estimated that Phase I will take approximately six active months to complete from the effective date of this Consent Order and Phase II will take an additional 18 to 24 months to complete.

D. Significant stockpiles of ABC, woodwaste, (e.g. stumps and logs) and other miscellaneous debris currently exist at the Site. Approximately 2,500 cy of ABC is located on the southern and central portion of the Site, 5,000 cy of wood including a log and stump pile is located on the southern portion of the Site and within a wetlands buffer zone, and 1,000 cy of miscellaneous debris exists throughout the Site.

E. The Respondent is proposing to process and re-use the approximately 2,500 cy of existing ABC and up to 61,500 cy of imported ABC at the Site as necessary to complete the grading and construction activities. The Respondent is proposing to handle and/or dispose of the approximately 1,000 cy of debris. The Respondent will take appropriate corrective actions for all wood material and the active Woodwaste Landfill (Phase I) that exists at the Site as required by MassDEP regulations and guidance documents.

F. The majority of the Site was site assigned on September 30, 1986 under M.G.L. Chapter 111, Section 150A by the Town of Carver Board of Health for the disposal of stumps (i.e., “Woodwaste Landfill”). According to MassDEP records, on May 18, 1987, MassDEP issued an approval for the operation and disposal of stumps on a portion of the Site. MassDEP approved a plan entitled “Stump Disposal Plan and Operational Report for Nemasket Sand and Gravel, Inc., Montello Street, North Carver”. The Woodwaste Landfill encompasses approximately 3 acres of the Site and has not been closed in accordance with Massachusetts Solid Waste Regulations, 310 CMR 19.120.

G. All ABC is required to be managed in accordance with MassDEP’s Solid Waste Management Regulations, 310 CMR 16.03(2)(b)5c.

H. All wood is required to be handled in accordance with MassDEP’s Solid Waste Management Regulations, 310 CMR 19.017(3).
I. 310 CMR 16.02 contains the following useful definitions:

Asphalt Pavement, Brick, and Concrete Rubble means rubble that contains only weathered (cured) asphalt pavement, clay bricks and attached mortar normally used in construction, or concrete that may contain rebar. The rubble shall not be painted, coated or impregnated with any substance. The rubble shall not be mixed with or contaminated by any other wastes or debris.

Clean Wood means discarded material consisting of trees, stumps, brush, including but not limited to sawdust, chips, shavings, bark, and new or used lumber. Clean wood does not include:

(a) Wood from commingled construction and demolition waste;

(b) Engineered wood products; and

(c) Wood containing or likely to contain:

1. Asbestos;

2. Chemical preservatives such as, but not limited to, chromate copper arsenate (CCA), creosote or pentachlorophenol; or

3. Paints, stains or other coatings, or adhesives.

Construction and Demolition Waste means the waste building materials and rubble resulting from the construction, remodeling, repair or demolition of buildings, pavements, roads or other structures. Construction and demolition waste includes but is not limited to concrete, bricks, asphalt pavement, masonry, plaster, gypsum wallboard, metal, lumber, and wood.

Handling means processing, storing, transferring or treating a material or solid waste.

Landfill means a facility or part of a facility established in accordance with a valid site assignment and Department-issued permit for the disposal of solid waste into or on land.

Processing means the use of any method, technique or process to alter the physical characteristics of a material or solid waste through any means, including, without limitation, separating, baling, shredding, crushing or reworking. Storage alone does not constitute processing.

Residual means all waste remaining after treatment or processing. Residual remaining after treatment or processing is not pre-sorted material. Air and water discharges managed in accordance with applicable regulations are not residuals.

Site Assignment means a determination by a board of health or by the Department as specified in M.G.L. c. 111, § 150A which:

(a) Designates an area of land for one or more solid waste uses subject to conditions with respect to the extent, character and nature of the facility that may be imposed by the assigning agency after a public hearing in accordance with M.G.L. c. 111, § 150 A; or

(b) Establishes that an area of land was utilized as a site for the disposal onto land of solid waste or as a site for a refuse disposal incinerator prior to July 25, 1955 as provided in St. 1955, c. 310, § 2. The area of land site assigned under 310 CMR 16.02: Site Assignment shall be limited to the lateral limits of the waste deposition area ("the footprint"), or the area occupied by the incinerator, as they existed on July 25, 1955, except as otherwise approved by the Department in approved plans. Said assignment shall apply only to uninterrupted solid waste disposal activities within the footprint or plan-approved area and shall have no legal force or effect at any time after cessation of disposal activities except as otherwise provided at 310 CMR 16.21.
J. 

310 CMR 19.006 contains the following useful definitions:

**Wood** means treated and untreated wood, including woodwaste.

**Solid Waste or waste** means, any useless, unwanted or discarded solid, liquid or contained gaseous material resulting from industrial, commercial, mining, agricultural, municipal or household activities that is disposed or is stored, treated, processed or transferred pending such disposal, but does not include:

(a) hazardous waste as defined and regulated pursuant to 310 CMR 30.000: *Hazardous Waste*;

(b) sludge or septage which is land applied in compliance with 310 CMR 32.00: *Land Application of Sludge and Septage*;

(c) waste-water treatment facility residuals and sludge ash from either publicly or privately owned waste-water treatment facilities that treat only sewage and which is treated and/or disposed at a site regulated pursuant to M.G.L. c.83, §§ 6 and 7 and/or M.G.L. c.21, §§ 26 through 53 and the regulations promulgated there under, unless the waste-water treatment residuals and/or sludge ash are co-disposed with solid waste;

(d) septage and sewage as defined and regulated pursuant to 314 CMR 5.00; *Ground Water Discharge Permit Program*, and regulated pursuant to M.G.L. c.21, §§ 26 through 53 or 310 CMR 15.00: *The State Environmental Code, Title 5: Standard Requirements for the Siting, Construction, Inspection, Upgrade and Expansion of On-site Sewage Treatment and Disposal Systems and/or for the Transport and Disposal of Septage*, provided that 310 CMR 16.00 does not apply to solid waste management facilities which co-dispose septage and sewage with solid waste;

(e) ash produced from the combustion of coal when reused as prescribed pursuant to M.G.L. c.111, § 150A;

(f) solid or dissolved materials in irrigation return flows;

(g) source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954;

(h) materials and by-products generated from and reused within an original manufacturing process;

(i) materials which are recycled, composted, or converted in compliance with 310 CMR 16.03, 16.04 or 16.05; and

(j) organic material when handled at a Publicly Owned Treatment Works as defined in 314 CMR 12.00: *Operation and Maintenance and Pretreatment Standards for Wastewater Treatment Works and Indirect Dischargers* and as approved by the Department pursuant to 314 CMR 12.00: *Operation and Maintenance and Pretreatment Standards for Wastewater Treatment Works and Indirect Dischargers*.

K. The placement, dumping, disposing or reuse of soil containing oil and hazardous material ("OHM") into the environment at concentrations equal to or greater than the applicable reportable concentrations is a release as that term is defined in M.G.L. c. 21E § 2. Depending on the site-specific conditions and the nature of the OHM present in the soil, such releases may have significant adverse human health and environmental effects.

L. MassDEP has authority under Section 277 of Chapter 165 of the Acts of 2014 to establish regulations, guidelines, standards or procedures for determining the suitability of soil used as fill material for the reclamation of quarries, sand pits and gravel pits. The regulations, standards or procedures shall ensure that the reuse of soil poses no significant risk of harm to health, safety, public welfare or the environment considering the transport, filling operations and the foreseeable future use of the filled land.
M. MassDEP has authority under M.G.L. c. 21E, §6 to specify reasonable requirements to regulate activities which may cause, contribute to, or exacerbate a release of OHM, to prevent and control and to counter the effects of such releases to the environment.

N. MassDEP has authority under M.G.L. c. 21E, §9 to order potentially responsible parties ("PRPs") to conduct assessment, containment and removal actions, or to require the production or analysis of samples or records, consistent with the requirements of the MCP and as MassDEP reasonably deems necessary. Issuance of an order pursuant to §9 does not preclude MassDEP from recovering damages, costs, civil penalties, criminal fines and sanctions, injunctive relief, or any action authorized by M.G.L. c. 21E, §4.

O. M.G.L. c. 21E, §5 sets out liability for the release or any threat of release of oil or hazardous material. This liability includes the owner or operator of a site from or at which there is or has been a release or threat of release; any person who at the time of storage or disposal of any hazardous material owned or operated the site at or on which such hazardous material is stored or disposed of and from which there is a or has been a release or threat of release; and any person who contracts to arrange for the transport, disposal, storage or treatment of hazardous material to or in a site from or at which there is or has been a release or threat of a release.

P. Pursuant to M.G.L. c. 21E, §3, MassDEP promulgated the regulations found at 310 CMR 40.0000, commonly known as the Massachusetts Contingency Plan ("MCP").

Q. 310 CMR 40.0032(3), known as the "similar soils" section of the MCP, states:

Soils containing oil or waste oil at concentrations less than an otherwise applicable Reportable Concentration and that are not otherwise a hazardous waste, and soils that contain one or more hazardous materials at concentrations less than an otherwise applicable Reportable Concentration and that are not a hazardous waste, may be transported from a disposal site without notice to or approval from the Department under the provisions of...[the MCP], provided that such soils:

(a) are not disposed or reused at locations where the concentrations of oil or hazardous materials in the soil would be in excess of a release notification threshold applicable at the receiving site, as delineated in 310 CMR 40.0300 and 40.1600; and

(b) are not disposed or reused at locations where existing concentrations of oil and/or hazardous material at the receiving site are significantly lower than the levels of those oil and/or hazardous materials present in the soil being disposed or reused.

R. 310 CMR 40.0006 contains the following definitions:

**Contaminated soil** means soil containing oil and/or hazardous material at concentrations equal to or greater than a release notification threshold established by 310 CMR 40.0300 and 40.1600.

**Hazardous Material** means material, including, but not limited to, any material in whatever form which, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare or to the environment, when improperly stored, treated, transported, disposed of, used, or otherwise managed. The term shall also include, but is not limited to, material regulated as hazardous waste or recyclable material under 310 CMR 30.000.

**No Significant Risk** means a level of control of each identified substance of concern at a site or in the surrounding environment such that no such substance of concern shall present a significant risk of harm to health, safety, public welfare or the environment during any foreseeable period of time.
Oil means insoluble or partially soluble oils of any kind or origin or in any form, including, without limitation, crude or fuel oils, lube oil or sludge, asphalt, insoluble or partially insoluble derivatives of mineral, animal or vegetable oils and white oil. The term shall not include waste oil, and shall not include those substances which are included in 42 U.S.C. §9601(14).

Reportable Concentration and RC each means the concentration of oil or hazardous material in soil or groundwater which requires notification to the Department under MGL c. 21E, §7 and/or 310 CMR 40.0360 through 310 CMR 40.0362.

S. On October 2, 2013, MassDEP issued the “Similar Soils Provision Guidance” (WSC#-13-500 or “Similar Soils Policy”) and this policy was revised on September 4, 2014. The Similar Soils Policy addresses the specific requirements of 310 CMR 40.0032(3) and the criteria by which a Licensed Site Professional (“LSP”) may determine that soil may be moved without prior notice to, or approval from, the Department. The Similar Soils Policy is not applicable to the excavation and movement of soil from locations other than Disposal Sites as defined in M.G.L. c. 21E § 2, nor to the management of soils considered Remediation Waste as defined in the MCP at 310 CMR 40.0006. Moreover, nothing in the Similar Soils Policy eliminates, supersedes or otherwise modifies any local, state or federal requirements that may also apply to the movement or management of soil, for the proposed activities at the Site or other similar projects, including any local, state or federal permit or approvals that must be obtained before placing soil at a receiving location.

T. On August 28, 2015, MassDEP issued the “Interim Policy on the Re-Use of Soil for Large Reclamation Projects” (COMM-15-01 or “Reclamation Soil Policy”) pursuant to Section 277 of Chapter 165 of the Acts of 2014. The Reclamation Soil Policy describes MassDEP’s intent to issue site-specific approvals, in the form of an Administrative Consent Order, to ensure that the reuse of large volumes of soil for the reclamation of sand pits, gravel pits and quarries poses no significant risk of harm to health, safety, public welfare or the environment and would not create new releases or threats of releases of oil or hazardous materials.

U. On November 16, 2015, the Respondent submitted to MassDEP a Draft Fill Management Plan (“FMP”), entitled, “Fill Management Plan Former Route 44 Sand & Gravel Property Carver, Massachusetts” prepared by Langdon Environmental LLC (“the Consultant”). The FMP has been periodically revised to address comments raised by MassDEP during the review process. The FMP was finalized on June 23, 2016 and is attached to this Consent Order (Attachment A) and is incorporated herein by reference. The FMP establishes the criteria for the acceptance of soil and other fill materials at the Property. The FMP also describes the protocol for monitoring and recording environmental conditions before, during and after Site activities. All modifications of the FMP must be approved in writing by the Department.

V. The entire Property encompasses approximately 127 acres as shown on lot 2 of Map number 20 of the Town of Carver’s Assessor’s Map. Approximately 80 acres of the Site are proposed to be used for placement of soils that meet Acceptance Criteria established in the FMP.

W. The development components of the Project are required to file an Environmental Notification Form (ENF) under the requirements of the Massachusetts Environmental Policy Act (MEPA, 301CMR 11.00) and is categorically required to file an Environmental Impact Report (EIR) under the MEPA Regulations.

X. In order to conduct Reclamation Activities at the Site, the Town of Carver Planning Board (the “Town”) is requiring the Respondent to submit a Special Permit Application for review and approval for each Phase (Phase I and II).

Y. Through issuance of an approval dated September 29, 2015, the Town of Carver Planning Board through the Office of Planning & Community Development unanimously approved the Special Permit for Phase I activities. The Special Permit was approved by the Planning Board on September
22, 2015 and provides for the allowable hours of operation, soil deliveries, ABC processing and designated truck routes. A copy of the September 29, 2015 letter is included in Appendix A of the FMP. A Phase II Special Permit Application for continuing Site Reclamation Activities will be submitted to the Town of Carver Planning Board for review and approval.

Z. The Reclamation Soil Policy requires project proponents to submit a Fill Management Plan ("FMP") that includes a detailed plan of how materials will be managed to prevent nuisance conditions such as noise, litter, odor and dust; a detailed storm-water management plan to prevent impacts to sensitive receptors; a detailed wetland impact provisions approved by the local Conservation Commission; communication plan for the public; process for inspections and oversight by a Qualified Environmental Professional; and acknowledgement of the intention to comply with all applicable laws and regulations; and stipulated penalties for noncompliance. This Administrative Consent Order and referenced documents outlines the requirements for the Reclamation Activities at the Site.

AA. This Administrative Consent Order addresses activities proposed to be conducted under Phase I and Phase II of the Site Reclamation Activities as described in the FMP.

BB. As of May 1, 2016, the Respondent has completed the site preparation activities including initial access roadways, consolidation and handling of debris piles, installation of a truck-weighing scale and office trailer, and installation of stormwater controls and erosion controls as described in the FMP for the Phase I portion of the site reclamation work.

III. DISPOSITION AND ORDER

For the reasons set forth above, MassDEP hereby issues, and Respondent hereby consents to, this Order:

7. The parties have agreed to enter into this Consent Order because they agree that it is in their own interests, and in the public interest, to proceed promptly with the actions called for herein rather than to expend additional time and resources litigating the matters set forth above. Respondent enters into this Consent Order without admitting or denying the facts set forth herein. However, Respondent agrees not to contest such facts and allegations for purposes of the issuance or enforcement of this Consent Order.

8. MassDEP's authority to issue this Consent Order is conferred by the statutes and regulations cited in Part II of this Consent Order.

9. The Respondent shall perform the following actions:

A. Upon the effective date of this Consent Order, Respondent shall perform any and all activities related to the Site Reclamation Activities in compliance with M.G.L. c. 111, §§ 150A and 150A1/2, the Solid Waste Regulations at 310 CMR 19.000, and the Site Assignment Regulations for Solid Waste Facilities at 310 CMR 16.00; M.G. L. c.21E, the MCP, the Similar Soils Policy, the Reclamation Soil Policy, and all other applicable local, state and federal laws and regulations.

B. Upon the effective date of this Consent Order, Respondent shall perform any and all activities described herein in compliance with the FMP, as amended from time to time with the written consent of all parties.

C. The Respondent may process (crush) the existing ABC materials on Site and imported ABC materials provided that the Respondent:

1. Only process ABC that is not mixed with or contaminated by painted or treated materials or other solid waste;

2. Process ABC so that the maximum length of the largest dimension of any piece of rubble is less than six inches;
3. Remove all rebar from the ABC and transport offsite for proper recycling. In accordance with the Solid Waste Management Regulations at 310 CMR 19.017 metals shall not be disposed of at a landfill or transfer station facility; and

4. Use best management practices to prevent the unpermitted discharge of pollutants to air, water or other natural resources of the commonwealth; and the processing causes no public nuisance and no significant risk to public health, safety and the environment (refer to Department’s Guidance on ABC re-use entitled, Using or Processing Asphalt Pavement, Brick, and Concrete Rubble).

D. **Within three hundred sixty-five (365) days** of the effective date of this Consent Order, the Respondent shall complete processing of the approximately 2,500 cubic yards of stockpiled ABC material that exists at the Site.

E. **Within five hundred forty-eight (548) days** of the effective date of this Consent Order the Respondent shall submit a Corrective Actions Design (CAD) Permit Application for the closure of the Woodwaste Landfill at the Site to MassDEP for review and approval.

F. **Within three hundred sixty-five (365) days** of receiving a CAD Permit approval from MassDEP, the Respondent shall complete the corrective actions of the Woodwaste Landfill as approved by MassDEP.

1. Complete the excavation and processing or removal of all 5,000 cy of stockpiled wood from the site; and
2. Complete the excavation and processing or removal of the 1,000 cy of miscellaneous debris and solid waste from the Site.

G. **Within ninety (90) days** of completing the required closure work under the CAD Permit Approval, the Respondent shall submit a BWP SW-43 “Closure Certification Report” for MassDEP review and approval as documentation that the corrective actions for the Woodwaste Landfill have been completed.

H. Respondent shall ensure that Site Reclamation Activities do not result in a Condition of Air Pollution with respect to dust, noise and odors pursuant to 310 CMR 7.01.

I. Respondent shall ensure that the Site Reclamation Activities do not result in the alteration of any Areas Subject to Protection under M.G.L. c 131, § 40 unless approved by the Town of Carver Conservation Commission.

J. Respondent shall implement a groundwater monitoring program at the Site to monitor groundwater quality and assess potential changes to environmental conditions at the Site during and after Site Reclamation Activities. The Respondent shall implement the monitoring program outlined in the FMP.

K. Respondent shall accept only soil and fill materials that have been adequately characterized pursuant to the FMP prior to transport to the Site. Soil and fill materials shall be subject to a suite of required field screening methods and laboratory analyses to demonstrate that chemical constituents in the soil are within the site-specific Soil Acceptance Criteria identified in the FMP. Chemical characterization shall be completed by collection of soil samples and analysis by a Massachusetts state-certified laboratory. Averaging of soil concentrations shall not be allowed. The analytical suite with appropriate laboratory methods required for soil acceptance, and frequency of sampling requirements, are specified in the FMP.

L. All soil utilized by the Respondent in the Site Reclamation Activities shall meet the soil acceptance criteria specified in the FMP and future modifications of the FMP as amended and approved in writing by MassDEP.
M. The implementation of Site Reclamation Activities under the FMP shall be conducted in two phases. Phase I shall be conducted in accordance with the Special Permit Application approved by the Town of Carver Planning Board dated September 29, 2015 allowing for up to 82,000 cy of soils and up to 61,500 cy of ABC being imported onto the Site.

N. Prior to initiating Phase II, the Respondent shall:
   
   i. Submit to the Town of Carver and copy MassDEP a Special Permit Application for Phase II activities as referenced in Section II, Paragraph 6Y;
   
   ii. Submit to MassDEP a copy of the approved Special Permit issued by the Town of Carver Planning Board for Phase II;
   
   iii. Submit to MassDEP a revised FMP for review pursuant to Section III, and
   
   iv. Notify MassDEP whether the proposed Phase II activities will require and, if required, submit to MassDEP suggested amendments to this Consent Order. Upon the effective date of this Consent Order, the Respondent shall ensure that any and all activities it undertakes related to the proposal discussed above are performed in compliance with the Stormwater Pollution Prevention Plan ("SWPPP") outlined in the FMP.

O. Respondent shall ensure that soils and fill materials imported to the Site during the Site Reclamation Activities, with the exception of loads quarantined or rejected in accordance with the quality control measures in the FMP shall not be removed from the Site either during or at any time after completion of the Site Reclamation Activities.

P. Respondent shall cease accepting soil from a sending site when any load from such site is rejected as a result of field screening; visual or olfactory Quality Assurance/Quality Control ("QA/QC") inspection by Respondent; or the QA/QC testing conducted by the Independent Third Party Inspector, as specified in paragraph 9.X below, until Respondent receives a written explanation and assurance from the sending site that no additional similar loads will be transported to the Site.

Q. Respondent shall ensure that soil and fill materials quarantined for QA/QC testing by the Third Party Inspector are either accepted and reused, or rejected and removed from the Property, within thirty (30) days of deposition for proper management. Loads of soil or fill materials that are rejected as a result of field screening, or visual or olfactory QA/QC inspection by Respondent, shall be removed from the Property within 7 days of deposition. For each rejected load, Respondent shall report the following information to MassDEP in the next Construction Status Report, as specified in paragraph 9.W. below:
   
   i. the reasons the load was rejected;
   
   ii. the name and address of the hauler;
   
   iii. the license plate number of the truck/tractor;
   
   iv. the name and address of the generator; and
   
   v. the corrective actions taken by Respondent.

R. The activities agreed to in this Consent Order shall be conducted under the overall supervision of a Licensed Site Professional ("LSP") or Qualified Environmental Professional ("QEP") to provide oversight of the work described in the FMP and to (i) review soil packages as that term is used in the FMP and (ii) conduct monthly inspections, sampling, and analysis pursuant to the FMP. LSP means a hazardous waste site cleanup professional, as defined in M. G. L. 21A, § 19, holding a valid license issued by the Board of Registration of Hazardous Waste Site Cleanup Professionals pursuant to M. G. L. 21A, §§ 19 through 19J. QEP means an individual who is knowledgeable about the procedures and methods for characterizing wastes and contaminated media; is familiar with Massachusetts and
Federal regulations applicable to the management of such materials; performs or oversees the management of Contaminated Soil as an integral part of his or her professional duties; and is professionally licensed or certified in a discipline related to environmental assessment (i.e., engineering, geology, soil science or environmental science) by a state or recognized professional organization. The QEP/LSP shall, at a minimum:

i. Observe the work for compliance with the FMP and provide recommendations for corrective actions to Respondent;

ii. Review all Soil Profile Packages, as that term is used in the FMP, and provide written recommendations for acceptance or denial to Respondent;

iii. Conduct the on-site quality control procedures pursuant to the FMP; and

iv. Perform the periodic collection and analysis of groundwater samples pursuant to the FMP. Any contractual relationship between Respondent and the Project LSP/QEP for work required hereunder shall require the Project LSP/QEP, as a condition of the contract, to implement work consistent with the provisions of this Consent Order.

S. Respondent shall comply with the following restrictions:

i. Soil and fill materials approved for use at the Site shall contain no more than 5% ABC material. Any such ABC material must measure less than 6 inches in any dimension.

ii. Fill soils shall not contain solid waste: No wood, metal, wire, plastic, ceramic, ash, tires, pipe, potential asbestos containing material, or other debris shall be accepted.

iii. The acceptance of Remediation Waste, as defined at 310 CMR 40.0006, is prohibited.

T. Respondent shall have an authorized representative on-site on a full time basis to observe off-loading of trucks and perform visual inspections of the soil and fill materials to ensure compliance with visual, olfactory and screening criteria in the FMP.

U. Respondent shall obtain all applicable local, state and federal permits or approvals that may be required by the Site Reclamation Activities.

V. Respondent shall submit to MassDEP and Town of Carver the initial Construction Status Report within thirty (30) days of the issuance of this Consent Order but not later than seven days before the date Respondent starts the receipt of imported soils at the Property. The initial Construction Status Report shall include, without limitation:

i. The projected schedule for the Site Reclamation Activities, including, but not limited to:
   a) Commencement of construction,
   b) Major construction milestones, and
   c) Completion of construction;

ii. The name and contact information for an on-call Site contact; and

iii. The results of the pre-construction groundwater monitoring, including boring and well construction logs for all of the monitoring wells, well elevations, groundwater gauging measurements, tabulated analytical results and laboratory analysis reports with chains of custody.
W. After submittal of the initial Construction Status Report, the Respondent shall submit quarterly Construction Status Reports to MassDEP and the Town of Carver Planning Board by the 15th of the following month. Each Construction Status Report shall include the following items:

i. A summary of the filling activities conducted at the Property during the prior 3-month reporting period, including a tabulated list of source locations, tons of material from each source location since the last report, cumulative tons of material from each source;

ii. Identification of the major activities anticipated to be performed during the next thirty (30) days;

iii. Identify any changes to the design of the Site Reclamation Activities, the schedule, and the Site contact information;

iv. Actions Respondent have taken or a schedule for actions Respondent intends to take in response to recommendations for corrective actions made by the Independent Third Party Inspector, if any;

v. Actions taken in response to the QA/QC results reported by the Independent Third Party Inspector, if any;

vi. A summary of the loads rejected as a result of visual or olfactory QA/QC inspection by Respondent, or the QA/QC testing conducted by the Independent Third Party Inspector, including but not limited to: the reasons the load was rejected, the name and address of the hauler, the license plate number of the truck/tractor, the name and address of the generator, and the corrective actions taken by Respondent; and

vii. The analytical results of the groundwater sample(s) collected during the inspections in a tabular format with the laboratory analytical reports and chain-of-custody documents as attachments, provided that analytical results for a given inspection may be submitted to MassDEP separately no later than forty-five (45) days after the date of such inspection, if not available for submittal with the inspection report.

viii. The Construction Status Report shall be signed by the Project LSP/QEP and shall include the following certification signed by Respondent:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties both civil and criminal for submitting false information.

X. Independent Third Party Inspections: Respondent shall engage the services of a qualified, independent individual (the “Independent Third Party Inspector”) to perform monthly inspections of the Property for compliance with the requirements of this Consent Order including, but not limited to, the FMP, SWPPP and Grading Plan. The Independent Third Party Inspector must be approved, in writing, by MassDEP and hold certification as a Massachusetts Registered Professional Engineer or as an LSP. The Independent Third Party Inspector may be the same individual as the Project LSP/QEP. Respondent shall be responsible for the timely performance of the activities required of the Independent Third Party in this Consent Order:
i. The Independent Third Party inspections shall be unannounced and randomly timed during normal operating hours.

ii. During each inspection, the Independent Third Party Inspector shall, at a minimum:
   
a) Observe the practices involved in the receipt and/or placement of soil and fill materials at the Site, to the extent that such activities are occurring;

b) Inspect the soil and fill materials that are being unloaded and/or placed during the inspection, if any, and inspect all areas of the Site where soil and fill materials have been placed since the previous inspection;

c) Collect grab soil samples from a minimum of one load of soil being delivered to the Property (if any arrive during the inspection) and submit the collected samples to a Massachusetts certified laboratory for the soil profile analyses specified in the FMP for QA/QC purposes. Respondent shall stockpile this load in a designated quarantine area pending the results of the analyses and provide the Independent Third Party Inspector a copy of the Material Shipping Record or Bill of Lading for the load. If no loads arrive during the inspection, the sampling may be omitted for that month, or postponed to another date that month. A minimum of two samples shall be collected per calendar quarter during the active operation of the Site Reclamation Activities;

d) Collect a minimum of six spot elevation measurements within each of the two filled areas of the Site with respect to established benchmarks; and,

e) Inspect all erosion control measures including but not limited to, silt fence, hay bales, temporary basins and swales.

iii. The Independent Third Party Inspector shall have the authority to immediately stop work and notify MassDEP and the Conservation Commission upon observing any violation of the Wetlands Protection Act.

iv. The Independent Third Party Inspector shall prepare an inspection report documenting the findings for each inspection and shall submit such report to Respondent and MassDEP on or before the 15th of each month. Each inspection report shall include, but not be limited to:
   
a) Observations of practices that are not compliant with the FMP and/or Consent Order;

b) Observations of solid or hazardous waste, stained soils, odors and sheens;

c) A tabular summary of quantities of soil, other fill materials, and ABC received and placed at the property and the number of truck loads and quantity of materials rejected at the Site, since the last inspection;

d) The results of the QA/QC testing of the soil samples collected during the inspection, including, but not limited to the following, providing that the QA/QC
results for a given inspection may be submitted in the next monthly report if not available for submittal with the inspection report:

1. A copy of the Material Shipping Record or Bill of Lading for the load of soil that was sampled during the inspection, if any;

2. The analytical results in a tabular format comparing the results to the applicable RCS-1 Reportable Concentrations and Acceptance Criteria identified in the FMP;

3. A clear statement regarding whether any of the analytical results equal or exceed any applicable Reportable Concentration or Acceptance Criteria; and

4. The laboratory analytical reports and chain of custody documents;

e) Observations of airborne dust and dust control measures employed;

f) A plan showing spot elevation measurements and locations using the Grading Plan as a base plan, and a statement regarding whether the measured elevations comply with the Grading Plan;

g) Specific recommendations for repairs, replacement or changes to erosion control measures at the Site;

h) Status updates of the actions taken by Respondent to implement the recommendations made in prior inspection reports, if any;

i) Actions the Respondent has taken or intends to take to correct such deviations with a schedule for completing such actions; and

j) A tabular summary of quantities of soil, other fill materials, and ABC received and placed at the property and the number of truck loads and quantity of materials rejected at the Site, since the last inspection.

v. The Inspection Report shall be signed by the Project LSP/QEP and shall include the following certification signed by Respondent:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties both civil and criminal for submitting false information.

Y. Respondent shall not exceed the maximum elevations shown in the FMP.

Z. The final stabilization of the top of the fill and all slopes shall be stabilized as described in the FMP.
AA. Respondent shall notify MassDEP, in writing, if Respondent intends to terminate the Site Reclamation Activities before achieving the maximum finish grading shown in the FMP. Respondent’s failure to perform FMP-related filling activities for any contiguous 6-month period shall be deemed by MassDEP to be Respondent’s termination of the Site Reclamation Activities.

BB. Respondent shall perform the following closure activities upon achieving the proposed fill sub-grade elevations, or upon Respondent’s termination of the Site Reclamation Activities before achieving the proposed fill sub-grade elevations:

i. Within 60 days of achieving the proposed fill sub-grade elevations or terminating the Site Reclamation Activities, Respondent shall address all outstanding recommendations made by the Project LSP/QEP and/or Independent Third Party Inspector;

ii. Within 90 days of achieving the approved fill subgrade elevations or terminating the Site Reclamation Activities, Respondent shall stabilize all slopes by applying suitable materials and establishing a vegetative cover or other cover specified in the FMP;

iii. Within 180 days of achieving the approved fill subgrade elevations or terminating the Site Reclamation Activities, Respondent shall submit to MassDEP an As-Built Plan prepared and stamped by a Massachusetts Registered Land Surveyor or Professional Engineer. The As-Built Plan shall show the final elevations at the Property and any permanent stormwater management features; and

iv. Respondent shall continue monitoring the groundwater in accordance with the FMP.

CC. Respondent shall maintain records of all soil accepted at the Site, including but not limited to Generator Applications, Soil Submittal Packages, soil profiles, Project LSP/QEP Recommendations and Acceptance/Approval documents, for a minimum of seven years after the completion of the work. Any and all records, including records in electronic and paper form, shall be made available to MassDEP for inspection and reproduction upon request.

10. MassDEP reserves the right to require Respondent to take any and all actions necessary to ensure that activities conducted at the Property do not cause any nuisance conditions including, but not limited to, dust, noise, odor or wetland impacts.

11. Unless submitted via eDEP or except as otherwise provided, all notices, submittals and other communications required by this Consent Order shall be directed to:

Millie Garcia-Serrano
Regional Director
MassDEP-Southeast Regional Office
20 Riverside Drive
Lakeville, MA 02346

Such notices, submittals and other communications shall be considered delivered by Respondent upon receipt by MassDEP.
12. Force Majeure

A. MassDEP agrees to extend the time for performance of any requirement of this Consent Order if MassDEP determines that such failure to perform is caused by a Force Majeure event. The failure to perform a requirement of this Consent Order shall be considered to have been caused by a Force Majeure event if the following criteria are met: (1) an event delays performance of a requirement of this Consent Order beyond the deadline established herein; (2) such event is beyond the control and without the fault of Respondent and Respondent’s employees, agents, consultants, and contractors; and (3) such delay could not have been prevented, avoided or minimized by the exercise of due care by Respondent or Respondent’s employees, agents, consultants, and contractors.

B. Financial inability and unanticipated or increased costs and expenses associated with the performance of any requirement of this Consent Order shall not be considered a Force Majeure Event.

C. If any event occurs that delays or may delay the performance of any requirement of this Consent Order, Respondent shall immediately, but in no event later than 5 days after obtaining knowledge of such event, notify MassDEP in writing of such event. The notice shall describe in detail: (i) the reason for and the anticipated length of the delay or potential delay; (ii) the measures taken and to be taken to prevent, avoid, or minimize the delay or potential delay; and (iii) the timetable for taking such measures. If Respondent intends to attribute such delay or potential delay to a Force Majeure event, such notice shall also include the rationale for attributing such delay or potential delay to a Force Majeure event and shall include all available documentation supporting a claim of Force Majeure for the event. Failure to comply with the notice requirements set forth herein shall constitute a waiver of Respondent’s right to request an extension based on the event.

D. If MassDEP determines that Respondent’s failure to perform a requirement of this Consent Order is caused by a Force Majeure event, and Respondent otherwise complies with the notice provisions set forth in paragraph C above, MassDEP agrees to extend in writing the time for performance of such requirement. The duration of this extension shall be equal to the period of time the failure to perform is caused by the Force Majeure event. No extension shall be provided for any period of time that Respondent’s failure to perform could have been prevented, avoided or minimized by the exercise of due care. No penalties shall become due for Respondent’s failure to perform a requirement of this Consent Order during the extension of the time for performance resulting from a Force Majeure event.

E. A delay in the performance of a requirement of this Consent Order caused by a Force Majeure event shall not, of itself, extend the time for performance of any other requirement of this Consent Order.

13. Actions required by this Consent Order shall be taken in accordance with all applicable federal, state, and local laws, regulations and approvals. This Consent Order shall not be construed as, nor operate as, relieving Respondent or any other person of the necessity of complying with all applicable federal, state, and local laws, regulations and approvals.

14. Respondent understands, and hereby waives, its right to an adjudicatory hearing before MassDEP on, and judicial review of, the issuance and terms of this Consent Order and to notice of any such rights of review. This waiver does not extend to any other order issued by the MassDEP.

15. This Consent Order may be modified only by written agreement of the parties hereto.

16. MassDEP hereby determines, and Respondent hereby agrees, that any deadlines set forth in this Consent Order constitute reasonable periods of time for Respondent to take the actions described.
17. The provisions of this Consent Order are severable, and if any provision of this Consent Order or the application thereof is held invalid, such invalidity shall not affect the validity of other provisions of this Consent Order, or the application of such other provisions, which can be given effect without the invalid provision or application, provided however, that MassDEP shall have the discretion to void this Consent Order in the event of any such invalidity.

18. Nothing in this Consent Order shall be construed or operate as barring, diminishing, adjudicating or in any way affecting (i) any legal or equitable right of MassDEP to issue any additional order or to seek any other relief with respect to the subject matter covered by this Consent Order, or (ii) any legal or equitable right of MassDEP to pursue any other claim, action, suit, cause of action, or demand which MassDEP may have with respect to the subject matter covered by this Consent Order, including, without limitation, any action to: (a) enforce this Consent Order in an administrative or judicial proceeding; (b) recover costs incurred by MassDEP in connection with response actions conducted at the Site; and (c) recover damages for injury to and for destruction or loss of natural resources pursuant to M.G.L. c. 21E, § 5 or 42 U.S.C. 9601, et seq.

Nothing in this Consent Order shall be construed or operate as barring, diminishing, adjudicating or in any way affecting MassDEP's authority to: (a) perform response actions at the Site or (b) require Respondent to conduct response actions at the Site or take other actions beyond those required by this Consent Order in order to comply with all applicable laws and regulations including, without limitation, M.G.L. c. 21E and the MCP.

19. This Consent Order shall not be construed or operate as barring, diminishing, adjudicating, or in any way affecting, any legal or equitable right of MassDEP or Respondent with respect to any subject matter not covered by this Consent Order.

20. This Consent Order shall be binding upon Respondent and upon Respondent’s successors and assigns. Respondent shall not violate this Consent Order and shall not allow or suffer Respondent’s members, managers, employees, agents, contractors or consultants to violate this Consent Order. Until Respondent has fully complied with this Consent Order, Respondent shall provide a copy of this Consent Order to each successor or assignee at such time that any succession or assignment occurs.

21. Respondent shall pay stipulated civil administrative penalties to the Commonwealth in accordance with the following schedule if Respondent violates any provision of Section III of this Consent Order:

For each day, or portion thereof, of each violation, Respondent shall pay stipulated civil administrative penalties in the following amounts:

<table>
<thead>
<tr>
<th>Period of Violation</th>
<th>Penalty per day</th>
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<tbody>
<tr>
<td>1st through 15th days</td>
<td>$250 per day</td>
</tr>
<tr>
<td>16th through 30th days</td>
<td>$500 per day</td>
</tr>
<tr>
<td>31st day and thereafter</td>
<td>$1000 per day</td>
</tr>
</tbody>
</table>

Stipulated civil administrative penalties shall begin to accrue on the day a violation occurs and shall continue to accrue until the day Respondent corrects the violation or completes performance, whichever is applicable. Stipulated civil administrative penalties shall accrue regardless of whether MassDEP has notified Respondent of a violation or act of noncompliance. All stipulated civil administrative penalties accruing under this Consent Order shall be paid within thirty (30) days of the date MassDEP issues Respondent a written demand for payment. If simultaneous violations occur, separate penalties shall accrue for separate violations of this Consent Order. The payment of stipulated civil administrative penalties shall not alter in any way Respondent’s obligation to complete performance as required by this Consent Order. MassDEP reserves its right to elect to pursue alternative remedies and alternative civil
and criminal penalties which may be available by reason of Respondent’s failure to comply with the requirements of this Consent Order. In the event MassDEP collects alternative civil administrative penalties, Respondent shall not be required to pay stipulated civil administrative penalties pursuant to this Consent Order for the same violations.

Respondent reserves whatever rights it may have to contest MassDEP’s determination that Respondent failed to comply with the Consent Order and/or to contest the accuracy of MassDEP’s calculation of the amount of the stipulated civil administrative penalty. Upon exhaustion of such rights, if any, Respondent agrees to assent to the entry of a court judgment if such court judgment is necessary to execute a claim for stipulated penalties under this Consent Order.

22. Failure on the part of MassDEP to complain of any action or inaction on the part of Respondent shall not constitute a waiver by MassDEP of any of its rights under this Consent Order. Further, no waiver by MassDEP of any provision of this Consent Order shall be construed as a waiver of any other provision of this Consent Order.

23. To the extent authorized by the current owner, Respondent agrees to provide MassDEP, and MassDEP employees, representatives and contractors, access at all reasonable times to the Property for purposes of conducting any activity related to its oversight of this Consent Order. Notwithstanding any provision of this Consent Order, MassDEP retains all of its access authorities and rights under applicable state and federal law.

24. This Consent Order may be executed in one or more counterpart originals, all of which when executed shall constitute a single Consent Order.

25. The undersigned certify that they are full authorized to enter into the terms and conditions of this Consent Order and to legally bind the party on whose behalf they are signing this Consent Order.

26. This Consent Order shall become effective on the date that it is executed by MassDEP.

[The remainder of this page is intentionally blank.]
In the matter of: Route 44 Development LLC
ACO No. ACO-SE-16-4002
Page 18

Consented To By:
Route 44 Development, LLC

Robert L. Delhomme
Robert L. Delhome, Manager
500 Harrison Avenue, Suite 4R
Boston, MA 02118

Federal Employer Identification No.: 46-2634018

Date: June 27, 2016

Issued By:
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Millie Garcia-Serrano
Regional Director
MassDEP – Southeast Regional Office
20 Riverside Drive
Lakeville, MA 02347

June 27, 2016
Appendix D
Stormwater Pollution Prevention Plan
(Bound Separately)
Appendix E
Summary of Amendments to Fill Management Plan
### Summary of Amendments to Fill Management Plan

**Former Route 44 Sand & Gravel Property Reclamation Project**  
Carver, Massachusetts

<table>
<thead>
<tr>
<th>Amendment Number</th>
<th>Date</th>
<th>Description</th>
</tr>
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<tr>
<td>Original</td>
<td>June 23, 2016</td>
<td>Original version incorporated into Administrative Consent Order</td>
</tr>
<tr>
<td>1</td>
<td>January 23, 2017</td>
<td>Minor revisions for submittal to Planning Board with Phase II Special Permit</td>
</tr>
<tr>
<td>2</td>
<td>October 24, 2017</td>
<td>Revisions to incorporate conditions from Planning Board Phase II Special Permit approval</td>
</tr>
<tr>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td></td>
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</tr>
</tbody>
</table>
January 21, 2016

Robert Delhome
Route 44 Development, LLC
560 Harrison Avenue
Boston, MA 02118

RE: Order of Resource Area Delineation – DEP# SE126-527
3-4 Park Avenue

Dear Mr. Delhome:

Enclosed please find a copy of the Order of Resource Area Delineation (ORAD) for the address listed above. Please see Section B. 1. (a) and (b) for the resource areas confirmed on the site. The original ORAD will be kept on file in our office. Please keep this copy for your records.

If you have any questions or concerns, please do not hesitate to contact me.

Yours truly,

Brooke Monroe, Environmental Scientist
Agent, Carver Conservation Commission

Enc.

CC: DEP
Laura Simkins, VHB
A. General Information

<table>
<thead>
<tr>
<th>From:</th>
<th>Carver</th>
</tr>
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<tbody>
<tr>
<td>1. Conservation Commission</td>
<td></td>
</tr>
</tbody>
</table>

2. This Issuance is for (check one):
   a. [ ] Order of Resource Area Delineation
   b. [ ] Amended Order of Resource Area Delineation

3. Applicant:
   a. First Name: Robert
   b. Last Name: Delhome
   c. Organization: Route 44 Development LLC
   d. Mailing Address: 560 Harrison Avenue
   e. City/Town: Boston
   f. State: MA
   g. Zip Code: 02118

4. Property Owner (if different from applicant):
   a. First Name
   b. Last Name
   c. Organization
   d. Mailing Address
   e. City/Town
   f. State
   g. Zip Code

5. Project Location:
   a. Street Address: 3-4 Park Avenue
   b. City/Town: Carver
   c. Zip Code: 02330
   d. Assessor's Map/Plat Number: Lot 2
   e. Parcel/Lot Number
   f. Latitude
   g. Longitude

6. Dates:
   a. Date ANRAD filed: December 2015
   b. Date Public Hearing Closed: 1/13/16
   c. Date of Issuance

7. Title and Date (or Revised Date if applicable) of Final Plans and Other Documents:
   "Existing Conditions, ANRAD Plan, Stone Cranberry, Carver, MA" 12/8/15
   a. Title
   b. Date
   c. Date
B. Order of Delineation

1. The Conservation Commission has determined the following (check whichever is applicable):

   a. **Accurate**: The boundaries described on the referenced plan(s) above and in the Abbreviated Notice of Resource Area Delineation are accurately drawn for the following resource area(s):

      1. □ Bordering Vegetated Wetlands
      2. □ Other resource area(s), specifically:

         a. Wetland series #3 and #13 are defined as resource area bordering vegetated wetland; series #1, #2, #10, #11, #15 are isolated (By-law only). See b. below.

   b. **Modified**: The boundaries described on the plan(s) referenced above, as modified by the Conservation Commission from the plans contained in the Abbreviated Notice of Resource Area Delineation, are accurately drawn from the following resource area(s):

      1. □ Bordering Vegetated Wetlands
      2. □ Other resource area(s), specifically:

         a. Based on the conditions observed in the field (i.e. vegetation, hydrology, soils) wetland series #1, #2, #10, #11, #15 as shown on the Plan do not qualify as wetland resource areas under the By-law; and, therefore are non-jurisdictional. Wetland series #3 and #13 are wetland resource areas (BVW); and therefore, are jurisdictional (See "Attachment A").

   c. □ Inaccurate: The boundaries described on the referenced plan(s) and in the Abbreviated Notice of Resource Area Delineation were found to be inaccurate and cannot be confirmed for the following resource area(s):

      1. □ Bordering Vegetated Wetlands
      2. □ Other resource area(s), specifically:

      3. □ The boundaries were determined to be inaccurate because:
ATTACHMENT “A”
Special Conditions for Order of Resource Area Delineation
Route 4 Development LLC
3-4 Park Avenue, Carver, Map 20, Lot 2

1. This ORAD confirms the presence of wetland resource area bordering vegetated wetland (BVW) shown as Wetland Series # 3 and #13 on the approved Plan. Any work/activities proposed within 100 feet of this resource area shall require a permit from the Carver Conservation Commission (see Section B (b) relative to the modifications made to the other resource area boundaries shown on the Plan).

2. This ORAD is valid for 3 years from the date of issuance and does not relieve the Applicant from complying with all other local regulations.
C. Findings

This Order of Resource Area Delineation determines that the boundaries of those resource areas noted above, have been delineated and approved by the Commission and are binding as to all decisions rendered pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c.131, § 40) and its regulations (310 CMR 10.00). This Order does not, however, determine the boundaries of any resource area or Buffer Zone to any resource area not specifically noted above, regardless of whether such boundaries are contained on the plans attached to this Order or to the Abbreviated Notice of Resource Area Delineation.

This Order must be signed by a majority of the Conservation Commission. The Order must be sent by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate DEP Regional Office (see http://www.mass.gov/eea/agencies/massdep/about/contacts/find-the-massdep-regional-office-for-your-city-or-town.html).

D. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate DEP Regional Office to issue a Superseding Order of Resource Area Delineation. When requested to issue a Superseding Order of Resource Area Delineation, the Department's review is limited to the objections to the resource area delineation(s) stated in the appeal request. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order of Resource Area Delineation will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order or Determination, or providing written information to the Department prior to issuance of a Superseding Order or Determination.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act, (M.G.L. c. 131, § 40) and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal bylaw or ordinance, and not on the Massachusetts Wetlands Protection Act or regulations, the Department of Environmental Protection has no appellate jurisdiction.
Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 4B – Order of Resource Area Delineation

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

E. Signatures

Please indicate the number of members who will sign this form.

1. Number of Signers

Signature of Conservation Commission Member

This Order is valid for three years from the date of issuance.

If this Order constitutes an Amended Order of Resource Area Delineation, this Order does not extend the issuance date of the original Final Order, which expires unless extended in writing by the issuing authority.

This Order is issued to the applicant and the property owner (if different) as follows:

2. ☐ By hand delivery on

   a. Date

3. ☐ By certified mail, return receipt requested on

   a. Date
Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
Request for Departmental Action Fee Transmittal Form
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

A. Request Information

1. Person or party making request (if appropriate, name the citizen group's representative):

Name
Mailing Address
City/Town State Zip Code
Phone Number Fax Number (if applicable)
Project Location
Mailing Address
City/Town State Zip Code

2. Applicant (as shown on Notice of Intent (Form 3), Abbreviated Notice of Resource Area Delineation (Form 4A); or Request for Determination of Applicability (Form 1)):

Name
Mailing Address
City/Town State Zip Code
Phone Number Fax Number (if applicable)

3. DEP File Number:

B. Instructions

1. When the Departmental action request is for (check one):

☐ Superseding Order of Conditions
☐ Superseding Determination of Applicability
☐ Superseding Order of Resource Area Delineation

Send this form and check or money order for $120.00 (single family house projects) or $245.00 (all other projects), payable to the Commonwealth of Massachusetts to:

Department of Environmental Protection
Box 4062
Boston, MA 02211
B. Instructions (cont.)

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.

3. Send a copy of this form and a copy of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see http://www.mass.gov/eea/agencies/massdep/about/contacts/find-the-massdep-regional-office-for-your-city-or-town.html).

4. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.
Cranberry Land USA

Carver Conservation Commission

Town Hall, 108 Main Street
Carver, MA 02330

Telephone: 508-866-3482
Fax: 508-866-3430

August 23, 2017

ROUTE 44 DEVELOPMENT LLC
500 Harrison Avenue
Boston, MA 02118

RE: Order of Conditions – DEP# SE126-547
3-4 Park Avenue, Carver, MA

Dear Sirs:

Enclosed please find a copy of the Order of Conditions for the project (placement of fill for site preparation) at the address listed above. We will file the original at the Plymouth County Registry of Deeds, 50 Obery Street, Plymouth MA 02360.

When these documents have been recorded, a copy of the filing information will be forwarded to you for your records.

When you have completed this project, please contact this office to request a Certificate of Compliance (COC). Until the COC is issued, approved and filed, the Order of Conditions will remain in place as a Lien against your property.

If you have any questions or concerns, please do not hesitate to contact me.

Yours truly,

Brooke Monroe, Environmental Scientist
Agent, Carver Conservation Commission

Enc.

CC: DEP
Bruce Haskell, Langdon Environmental LLC
**A. General Information**

1. From: Carver Conservation Commission

2. This issuance is for
   (check one):  
   a. ☒ Order of Conditions  
   b. ☐ Amended Order of Conditions

3. To: Applicant:
   a. First Name
   b. Last Name
   Route 44 Development LLC
   c. Organization
   500 Harrison Avenue
   d. Mailing Address
   Boston
   e. City/Town
   MA 02118
   f. State  
   g. Zip Code

4. Property Owner (if different from applicant):
   Same as Applicant.
   a. First Name
   b. Last Name
   c. Organization
   d. Mailing Address
   e. City/Town
   f. State  
   g. Zip Code

5. Project Location:
   3-4 Park Avenue
   Carver
   a. Street Address
   b. City/Town  
   Map 20
   Lot 2
   c. Assessors Map/Plat Number  
   d. Parcel/Lot Number
Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Latitude and Longitude, if known:

41Dd55m35s 70Dd49m13s
d. Latitude e. Longitude

A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
   Plymouth
   a. County
   b. Certificate Number (if registered land)
   Book 43733
   c. Book
   Page 3
   d. Page

7. Dates:
   a. Date Notice of Intent Filed: June 22, 2017
   b. Date Public Hearing Closed: August 16, 2017
   c. Date of Issuance

8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):
   a. Plan Title
   b. Prepared By
   c. Signed and Stamped by
   As Noted per Sheet
   d. Final Revision Date
   e. Scale
   f. Additional Plan or Document Title
   g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:
   Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:
   d. ☐ Private Water Supply  e. ☐ Fisheries  f. ☐ Protection of Wildlife Habitat
   g. ☒ Groundwater Supply  h. ☐ Storm Damage Prevention  i. ☐ Flood Control

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

a. ☒ the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.
B. Findings (cont.)

Denied because:

b. ☐ the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**

c. ☐ the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**

3. ☒ Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) +20' a. linear feet

**Inland Resource Area Impacts:** Check all that apply below. (For Approvals Only)

<table>
<thead>
<tr>
<th>Resource Area</th>
<th>Proposed Alteration</th>
<th>Permitted Alteration</th>
<th>Proposed Replacement</th>
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<td>4. ☐ Bank</td>
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<td>5. ☐ Bordering Vegetated Wetland</td>
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<td>6. ☐ Land Under Waterbodies and Waterways</td>
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<td>8. ☐ Isolated Land Subject to Flooding</td>
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<td>9. ☐ Riverfront Area</td>
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<td>Sq ft within 100 ft</td>
<td>a. total sq. feet</td>
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**Coastal Resource Area Impacts**: Check all that apply below. (For Approvals Only)

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B. Findings (cont.)

22. □ Restoration/Enhancement *:
   a. square feet of BVW
   b. square feet of salt marsh

23. □ Stream Crossing(s):
   a. number of new stream crossings
   b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
   a. the work is a maintenance dredging project as provided for in the Act; or
   b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lattice, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry’s Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.

10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]

"File Number SE 126-547"

11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.

12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.

13. The work shall conform to the plans and special conditions referenced in this order.

14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.

15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.

16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation
C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. The work associated with this Order (the “Project”) is not subject to the Massachusetts Stormwater Standards. If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:
   
a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.

   b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
      i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
      ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
      iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;
      iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
      v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.
C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

  c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following: i) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and ii) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

  d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

  e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

  f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.
C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

g) The responsible party shall:
   1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
   2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
   3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.

h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.

i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.

j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.

k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.

l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

See "Attachment A" Special Conditions
D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? ☒ Yes ☐ No

2. The ________________ Conservation Commission hereby finds (check one that applies):

   a. ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

   1. Municipal Ordinance or Bylaw
   2. Citation

   Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

   b. ☒ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

   Carver Wetlands Protection By-law
   1. Municipal Ordinance or Bylaw
   2. Citation

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

   The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

   See "Attachment A"
E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance. Please indicate the number of members who will sign this form. This Order must be signed by a majority of the Conservation Commission.

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signatures:

☐ by hand delivery on

☐ by certified mail, return receipt requested on

Date

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request of Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department’s Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in
ATTACHMENT “A”
Special Conditions for Order of Conditions SE 126-547
Route 44 Development LLC
3-4 Park Avenue, Carver, Map 20, Lot 2

1. This Order of Conditions is for work related to the preparation of the site (i.e. placement of soils to level the site) for future development. If this project changes and/or additional work is required, the Carver Conservation Commission (Commission) shall be notified as to whether said changes/work requires another permit. No structures and/or buildings are proposed under this filing. All structures/buildings proposed in the future that are within 100 feet of the resource areas will require a permit from the Commission.

2. All stormwater management measures (temporary for this phase of the project) shall be in accordance with Section 6.0 of Appendix A in the Notice of Intent. The erosion and sedimentation controls (i.e. staked/trenched straw bales and silt fence) as shown on the approved Plans shall be installed and maintained throughout the project. The Conservation Agent shall be notified after the installation of the controls and prior to any work. The Project Contractor is responsible for the removal/cleanup of any silt and sediment and for the removal of silt/sediment from all storm drainage structures and for the stabilization of all disturbed areas following the proposed work.

3. Any servicing of the equipment (including but not limited to, fueling, adding and/or applying lubricants or hydraulic fluids) shall be done outside the 100-foot buffer. If a spill/release occurs, the Applicant shall notify the Carver Fire Department.

4. Following completion of the project, the Applicant shall submit a Request for a Certificate of Compliance; within 3 years from the date of the issuance of the Order
of Conditions; with a letter and/or Plan certifying that the work has been completed in accordance with the Order.

5. This order of Conditions does not relieve the applicant from any other Local, State and/or Federal permitting requirements for said site preparation activities.
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.

G. Recording Information

Prior to commencement of work, this Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry’s Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

Carver Conservation Commission
Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:
Carver Conservation Commission
Conservation Commission

Please be advised that the Order of Conditions for the Project at:
3-4 park Avenue
Project Location
SE 126-547
MassDEP File Number

Has been recorded at the Registry of Deeds of:
Plymouth
County
43733
Book
3
Page

for:
Route 44 Development LLC
Property Owner

and has been noted in the chain of title of the affected property in:

Book
Page

In accordance with the Order of Conditions issued on:

Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is: