

PURCHASE AND SALE AGREEMENT

This Agreement is entered into on October 16, 2012 by and between the **Town of South Berwick**, a Maine municipality with a mailing address of 180 Main Street, South Berwick, Maine (hereafter the Seller) and **Avesta Housing Development Corporation** a Maine nonprofit corporation with a place of business and mailing address of 307 Cumberland Avenue, Portland, Maine (hereafter the Buyer).

The parties recite the following:

- A. The Seller owns a parcel of real estate with the buildings and improvements thereon located at 27 Young Street in the Town of South Berwick (Lot 25 on municipal tax map 28) described in the deed of the Roman Catholic Bishop of Portland to the Town of South Berwick dated May 5, 2008 and recorded at the York County Registry of Deeds in Book 15412, Page 380 (hereafter the “Town’s Real Estate”).
- B. The Buyer wishes to construct 28 one and two-bedroom units of congregate housing on a portion of the Town’s real estate to be constructed in accordance with a construction coordination agreement to be entered into between the Buyer and the Seller (hereafter the “Construction Coordination Agreement”).
- C. In this contract, “congregate housing” has the same definition as provided in the South Berwick Zoning Ordinance, §140-9, attached as **Exhibit A** to this contract.
- D. The Seller wishes to sell a portion of the Town’s real estate to the Buyer for the purpose of allowing Buyer to construct the congregate housing and the Buyer wishes to purchase said real estate.
- E. The Buyer and Seller wish to enter into a separate 99-year lease for 28 parking spaces on a portion of the Town’s real estate being retained by the Town but adjacent to the premises being sold to the Buyer, hereafter the Parking Lease.

For Valuable Consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Premises:** Seller agrees to sell and Buyer agrees to buy a portion of the Town's Real estate consisting of approximately .62 acres and being shown on the sketch attached to this Agreement as **Exhibit B**. The portion of the Town's Real Estate being sold shall hereafter be referred to as the Premises.

2. **Access and Utility Easements:** The Premises shall be conveyed together with an appurtenant easement to be used, in common with others, to gain access to and exit from Young Street, on foot or with vehicles. Said easement shall also include the installation, maintenance, repair and replacement of above or below ground utilities required to service the congregate housing. Said easement language being shown on **Exhibit B**.

3. **Survey:** Buyer at its sole expense shall obtain a survey by a licensed professional surveyor, which shall be the basis for the metes and bounds description in the conveyance of the Premises, the appurtenant easements and the land area subject to the Parking Lease. This survey shall be completed on or before ninety (90) days before the closing. In the event the survey is not completed on or before ninety (90) days before the closing this Agreement shall, at the option of the Seller, be extinguished and Buyer shall forfeit all payments made on this contract, and such payments shall, without notice or demand of any kind, be retained by Seller.

4. **Property Use:** Buyer agrees the Premises shall be used to develop and rent one and two-bedroom units of congregate housing. The deed from the Seller to the Buyer shall contain a restrictive covenant limiting the use of the Premises for congregate housing.

5. **Construction Coordination Contract:** At the time of Closing, the parties shall enter into a Construction Coordination Contract shown as attached **Exhibit C**.

6. **MSAD #35 Drainage Agreement:** Prior to Closing, the Buyer shall enter into a written agreement with MSAD #35 relating to the construction and maintenance of a storm water drainage swale to be located on the Town's Real Estate, partially on the Premises and on adjoining real estate owned by MSAD #35.

7. **Parking Lease:** At the time of Closing, the parties shall enter into a parking lease for a term of 99 years, shown as **Exhibit D**.

8. **Purchase Price:** Subject to any adjustments and pro-rations hereinafter described, Buyer agrees to pay for the Premises the sum of \$286,000.00, payable as follows:

a. \$5,000.00 as a deposit (“Deposit”) at the time of execution of this Agreement, which shall be kept in a non interest-bearing account and shall be credited toward the purchase price at the closing. Notwithstanding anything to the contrary in this Agreement, (1) \$1,000.00 of the Deposit shall be nonrefundable and (2) the entire Deposit shall become nonrefundable on February 1, 2014, except in the event of a default by Seller under this Agreement.

b. The balance of the purchase price, \$281,000.00, shall be paid by wired funds, certified check or bank cashier’s check at the time of the Closing.

9. **Title:** Seller shall convey the Premises to the Buyer at the closing in fee simple with good and marketable title in accordance with Maine Title Standards subject to any drainage agreement entered into with MSAD #35 and together with the appurtenant utility and right of way easement. In the event Buyer determines that Seller is unable to convey clear and marketable title as aforesaid, upon written notice from Buyer to be delivered to Seller no later than 180 days prior to the closing, Seller shall use reasonable efforts to remedy all such title defects. In the event that said defects are not remedied within 60 days from the date of such notice, the Deposit shall be returned to Buyer, and this Agreement, and Seller’s and Buyer’s obligations hereunder, will terminate. Buyer may, at Buyer’s option, elect to close notwithstanding such defects as may exist. In the event Buyer does not notify Seller of any title defects fewer than 180 days prior to the Closing, Buyer shall be deemed to have voluntarily waived the specific title condition and remain obligated to purchase the Premises subject to any such title defects.

10. **Deed:** At Closing, the Premises shall be conveyed from the Seller to the Buyer by Quitclaim Deed with Covenant (“Deed”) (Maine Statutory Short Form) in a format similar to the attached **Exhibit C**.

11. **Closing:** The closing of this transaction shall take place on or before August 31, 2014 (“Closing Date”) at the office of the Buyer’s Maine counsel. At the closing, Seller shall execute and deliver to Buyer, against payment of the balance of the purchase price, the following documents:

a. the Deed conveying the Premises and Right of Way and utility easement;

b. Such affidavits, certificates, and other instruments as Buyer may reasonably request and which are normal and customary in commercial real estate transactions in Maine.

In addition to the above, on the closing date Buyer and Seller shall execute and deliver the following documents:

- a The Construction Coordination Agreement in a form similar to attached Exhibit C.
- b The Parking Lease in a form similar to attached Exhibit D.

12. Risk of Loss, Damage, Destruction and Insurance: Prior to the closing, the Premises shall be the sole responsibility of Seller and Seller shall bear the risk of any loss to the Premises whether by fire or otherwise.

13. Inspection: Buyer shall have the right to enter the Premises and perform such inspections as buyer deems necessary, provided Buyer can do so without causing irreparable harm to the Premises. Buyer agrees to return the Premises as nearly as possible to its original condition after all of such tests and inspections. Said inspections to be completed on or before 180 days prior to closing.

If the results of any inspection done are unsatisfactory to Buyer, Buyer shall have the right to terminate this Agreement by written notice to Seller, delivered within 10 days of the receipt of an inspection report and receive back the Deposit subject to conditions in Section 5(a). Seller shall turn over to Buyer all inspection reports, surveys or studies relating to the Premises that are in Seller's custody or control. In the event Buyer does not close on the Premises for any reason, Buyer agrees to return all such reports, surveys, and studies to Seller. In the event Buyer does not notify Seller of any unsatisfactory inspection issues within 10 days of the receipt of such inspection report Buyer shall be deemed to have voluntarily waived this inspection condition regarding that specific unsatisfactory report or reports and remain obligated to purchase the Premises.

14. Appraisal: The Buyer shall, at its own expense, procure an appraisal of the fair market value of the fee interest in the Premises, the Right of Way, and the Parking Lease. The appraisal shall be prepared in accordance with the Uniform Standards of Professional Appraisal Practice. This appraisal shall be completed on or before June 2014. In the event the appraisal is not completed on or before June 2014 this Agreement shall, at the option of the Seller, be extinguished and Buyer shall forfeit all payments made on this contract, and such payments shall, without notice or demand of any kind, be retained by Seller.

15. Seller's Representations and Warranties: Seller makes the following representations and warranties:

- a. The Premises shall be served by existing quasi-public water and sewer systems and the Seller's drainage system, and such systems have adequate

capacity to serve Buyer's intended development of the Premises as 28 units of affordable rental housing (the "Project").

b. There are no boundary disputes, encroachments, or litigation pending or, to Seller's knowledge, threatened with respect to the Premises or Seller's ownership thereof as of the date of this Agreement.

c. Seller has received no notices from any state or federal agency with respect to any alleged violation of environmental laws.

16. Buyer's Representations and Warranties: Buyer makes the following representations and warranties:

a. Buyer is an existing Maine non-profit corporation in good standing with the State of Maine;

b. Buyer has corporate authority to enter into and perform its obligations under this Agreement;

c. Buyer has all requisite corporate power and authority to execute and deliver this Agreement and to consummate the transaction contemplated by this Agreement; and

d. This Agreement has been duly executed and delivered by Buyer and, assuming the due authorization, execution and delivery by each of the other parties hereto, constitutes a legal, valid and binding obligation of the Buyer, enforceable against the Buyer in accordance with its terms.

17. Possession: At closing, Seller shall deliver possession of the Premises to the Buyer free and clear of all leases, tenancies, and occupancies by any person.

18. Closing Costs: Buyer shall be responsible for its share of the Maine real estate transfer tax. The recording fee for the deed and any expenses relating to Buyer's financing shall be paid for by Buyer. Each party shall bear its own legal fees.

19. Buyer's Conditions Precedent: Buyer's obligation to close hereunder is subject to satisfaction of the following conditions at or before closing:

a. As of the Closing Date, all of Seller's representations and warranties shall be true and correct in all material aspects.

b. No less than 180 days prior to the Closing Date, Buyer shall have received and delivered to Seller such written commitments for financing, which in Buyer's

sole discretion are in the aggregate sufficient in amount and as to terms to cover in full all costs relating to Buyer's acquisition of the Premises. In the event Buyer does not notify and deliver to Seller such written commitments for financing, which in Buyer's sole discretion are in the aggregate sufficient in amount and as to terms to cover in full all costs relating to Buyer's acquisition of the Premises Seller shall have the right to declare this contract null and void and retain all monies paid by Buyer and be entitled to receive all reports, inspections, surveys and plans relating to the Project that are in Buyer's possession or to which Buyer is entitled. Buyer agrees to use diligent efforts to seek and obtain all such financing.

c. No less than 60 days before the Closing Date, Buyer shall have received all necessary federal, state, and local permits and approvals for the Project, which shall include without limitation site and subdivision approval, and zoning approval. All such approvals shall be final and non-appealable. Buyer shall use diligence to obtain such approvals. If Buyer has not received all such approvals by 60 days prior to closing Seller shall have the right to declare this contract null and void and retain all monies paid by Buyer and be entitled to receive all reports, inspections, surveys and plans relating to the construction of the Congregate Housing that are in Buyer's possession or to which Buyer is entitled.

d. There shall be no material adverse change in the condition of the Premises between the date hereof and the Closing date, excluding only normal wear and tear. If this condition is not satisfied on the Closing date, Buyer may elect to receive back its deposit, whereupon this Agreement shall terminate and neither party will be under any further obligation hereunder.

20. Other Agreements of the Parties: Neither party shall be obligated to close unless the following conditions have been satisfied or provided for as of the Closing date:

a. The parties agree to a Parking Lease and Construction Coordination agreement with terms substantially similar to Exhibits ____.

b. Buyer enters into an agreement with MSAD #35 relating to the construction and maintenance of a storm water drainage swale.

c. Seller and Buyer enter into an agreement that real property taxes shall be assessed using Fair Market Rent Documentation System published by HUD for income and expenses to be determined by local market data and actual numbers presented by the Buyer's property management company.

21. Default and Remedies: In the event that Buyer fails to close for a reason other than the default of the Seller, Seller shall retain the Deposit as full and complete

liquidated damages in lieu of any other legal or equitable remedy, whereupon this Agreement will terminate and neither party will be under any further obligation hereunder. In the event of Seller's default hereunder, Buyer shall have available all remedies at law and in equity, including without limitation the right of specific performance.

22. **Notices:** Each party giving any notice or making any request, demand, or other communication under this agreement shall do so in a writing delivered by hand-delivery, certified mail, or nationally recognized overnight courier to the addresses specified above. Notices are effective upon receipt as indicated on the date of a signed receipt. Either party shall notify the other of any change to its address.

23. **Counterparts:** This Agreement may be simultaneously executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all of which together shall constitute one and the same instrument.

24. **Governing Law:** This Agreement shall be governed by and construed under the laws of the State of Maine, without regard to its choice of law provisions. The State of Maine shall be the forum for any lawsuits or claims arising under this Agreement or incident hereto.

25. **Dispute Resolution:** In the event of a dispute between the parties regarding a provision of this contract that the parties are unable to resolve among themselves, they agree to submit said dispute to nonbinding mediation. The parties agree to engage the services of a neutral third-party mediator who is a member of the Maine State Bar and has at least five years of experience serving as a court-designated neutral.

26. **Severability:** If any provision of this Agreement is determined to be invalid or unenforceable, it shall not affect the validity or enforcement of the remaining provisions hereof.

27. **Assignment:** This contract is not assignable without the prior written consent of both parties. Said consent may be withheld by either party.

Witness our hands and seals this ____ day of October, 2012.

Avesta Housing Development Corporation

Witness to Dana Totman

By: _____
Dana Totman, its President
Duly Authorized

Town of South Berwick

By: _____
Jerry MacPherson
Council Member, duly authorized

By: _____
Jean Demetracopoulos
Council Member, duly authorized

By: _____
David Webster
Council Member, duly authorized

By: _____
Jack Kareckas
Council Member, duly authorized

CONSTRUCTION COORDINATION AGREEMENT

This Agreement is entered into on October 16, 2012 by and between the between the **Town of South Berwick**, a Maine municipality with a mailing address of 180 Main Street, South Berwick, Maine (hereafter the Town) and **Avesta Housing Development Corporation** a Maine nonprofit corporation with a place of business and mailing address of 307 Cumberland Avenue, Portland, Maine (hereafter Avesta).

The parties recite the following:

A. The parties have this date entered into a Purchase and Sale Agreement (the "P & S Agreement") concerning the sale and the lease by the Town to Avesta of certain real estate off Young Street in South Berwick, Maine, as more particularly described in the P&S Agreement (the "Property"); and

B. Avesta plans to construct 28 one and two-bedroom units of congregate housing and 10,002 square feet of parking area on and in the vicinity of the Property (the housing units and parking area to be collectively the "Project") for the benefit of the public.

For Valuable Consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Avesta shall construct improvements described in Exhibit A to this Agreement (the "Improvements") concurrently with the construction of the Project.

2. Avesta shall construct the Project and Improvements in accordance with plans and specifications submitted to and approved by the Town, which approval shall not be unreasonably withheld, delayed, or conditioned. Avesta shall provide all plans and specifications to the Town for review.

3. The Town shall pay all costs of constructing the Improvements based on invoices supplied by Avesta or its contractor up to a maximum amount of \$200,000. Avesta shall reimburse the Town \$50,000.00 toward completion of those Improvements that are associated with the development and operation of the Project, such reimbursement to be made no later than 30 days after the completion of the Improvements, provided the Town has paid at least that amount construction costs.

4. Avesta shall pay for the cost of the Improvements representing the cost of building 10,002 square feet of parking area that represents the 28 parking spaces to be leased by the Town to Avesta.

5. Avesta shall pay all costs related to installation of utilities directly tied to the Project, including and not limited to sewer, water and storm water and shall prepare

disturbed areas of the site to a driveable surface if within the South Berwick Public Library driveway or Town parking area.

6. Avesta shall obtain unit pricing for site improvements included in the Improvements.

7. Avesta shall bid out the construction of the Project and of all remaining site improvements on the Young Street parcels as described in Exhibit A. Avesta shall request that bidders for the provide a separate breakdown of the costs and improvements outside the Project, the Right of Way and the improvements to the land described in the Parking Lease. Those construction costs not directly related to construction of the Project and its parking, access, and utilities shall be paid by the town.

8. The Town shall have the right to review and approve plans and specifications related to the Improvements prior to the bid process.

9. Each party giving any notice or making any request, demand, or other communication under this agreement shall do so in a writing delivered by hand-delivery, certified mail, or nationally recognized overnight courier to the addresses specified above. Notices are effective upon receipt as indicated on the date of a signed receipt. Either party shall provide the other of any change to its address.

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

11. This Agreement shall be governed by and construed under the laws of the State of Maine, without regard to its choice of law provisions. The State of Maine shall be the forum for any lawsuits or claims arising under this Agreement or incident hereto.

12. In the event of a dispute between the parties regarding a provision of this contract that the parties are unable to resolve among themselves, they agree to submit said dispute to nonbinding mediation. The parties agree to engage the services of a neutral third-party mediator who is a member of the Maine State Bar and has at least five years of experience serving as a court-designated neutral.

13. If any provision of this Agreement is determined to be invalid or unenforceable, it shall not affect the validity or enforcement of the remaining provisions hereof.

14. This contract is not assignable without the prior written consent of both parties. Said consent may be withheld by either party.

Witness our hands and seals this ___ day of October, 2012.

Avesta Housing Development Corporation

Witness to Dana Totman

By: _____
Dana Totman, its President
Duly Authorized

Town of South Berwick

By: _____
Jerry MacPherson
Council Member, duly authorized

By: _____
Jean Demetracopoulos
Council Member, duly authorized

By: _____
David Webster
Council Member, duly authorized

By: _____
Jack Kareckas
Council Member, duly authorized

Return to:

DRAFT

QUITCLAIM DEED WITH COVENANT
Maine Statutory Short Form

The Town of South Berwick, a duly organized Maine municipality with a mailing address of 180 Main Street, South Berwick, Maine for consideration paid, grant to **Avesta Housing Development Corporation** a Maine nonprofit corporation with a place of business and mailing address of 307 Cumberland Avenue, Portland, Maine with **Quitclaim Covenant**, as Joint Tenants, the real estate located in South Berwick, County of York, and State of Maine, described as follows:

A parcel of land with any improvements thereon located on the southeasterly side of Young Street, but not adjacent thereto, in the Town of South Berwick, County of York and State of Maine and being more specifically bounded and described as shown on the attached Schedule A which schedule is incorporated by reference into this deed.

Meaning to describe and conveying a portion of the premises described in the deed of the Roman Catholic Bishop of Portland to the Town of South Berwick dated May 5, 2008 and recorded at the York County Registry of Deeds in Book 15412, Page 380.

The above described premises are conveyed for the purpose of Avesta Housing Development Corporation, its successors or assigns constructing 28 one and two-bedroom units of Congregate Housing as that term is defined in the 2012 South Berwick Zoning Ordinance, § 140-9, on said premises. This deed is granted subject to the restriction that the premises described on the attached Schedule A will be used for the sole purpose of constructing, maintaining and renting 28 units of Congregate Housing. This restriction shall operate as a covenant attached to and running with the land for the benefit of the Inhabitants of the Town of South Berwick. This covenant may be enforced at law or in equity by the municipality of the South Berwick against any person or entity violating or

threatening to violate such restriction, and to recover any damages suffered by the town for any violation thereof and to recover reasonable legal fees as may be awarded by a court.

The above described premises are further conveyed subject to the terms and conditions of a drainage swale easement as entered into between the Town of South Berwick and MSAD #35 of even or near date and to be recorded herewith.

The premises described on Schedule A are conveyed together with an appurtenant easement, to be used in common with others, to gain access to and exit from the above described premises and the southeasterly sideline of Young Street. Said easement may be used on foot or with vehicles. Said easement shall also be used to gain access to and exit from the premises described on Schedule A and a 28 space parking lot that is more specifically described in a lease between the Town of South Berwick and Avesta Housing Development Corp. of even or near date and an abstract of which is to be recorded herewith. Said parking lot easement may be used on foot or with vehicles.

The specific location and boundaries of the access easement are more specifically described on the attached Schedule B which schedule is incorporated by reference into this deed.

The access easement is to be shared with the South Berwick Public Library driveway.

The access easement and entrance onto the southeasterly sideline of Young Street shall be improved by the Town of South Berwick in coordination with the construction by Avesta Housing Development Corp. of 28 one and two-bedroom units of congregate housing to be built on the premises described on the attached Schedule A.

The Town of South Berwick shall be responsible, at the town's cost for plowing, maintaining and repairing the access easement to the premises described on the attached Schedule B.

The following are conditions of the granting of this easement, which conditions shall be considered as covenants running with the easement which may be enforced at law or in equity:

- a) Said easement shall only be used to gain access to and exit from the areas described on the attached Schedule A and B.
- b) No vehicles shall be permitted to parked within said easement area.
- c) Avesta Housing Development Corp, its successors or assigns shall make no improvements or changes to said easement area without the

express written consent of the Town of South Berwick, or its successors or assigns which consent may be withheld.

d) The town of South Berwick retains the right, at its own expense, to relocate the location of said access easement provided any relocation does not adversely effect the ability of Avesta Housing Development, Corp., its employees, tenants, guests and invites to gain access to either the parking area or the congregate housing project.

In Witness Whereof the Town of South Berwick has caused this deed to be signed and sealed on its behalf by the members of the South Berwick Town Council this ___ day of October 2012.

Town of South Berwick

Witness to All

By: _____

Council Member, duly authorized

STATE OF MAINE
COUNTY OF YORK, ss.

October ____ 2012

Then personally appeared the above-named _____, in his/her said capacity and acknowledged the foregoing instrument to be his/her free act and deed, and the free act and deed of said town, before me.

Notary Public
Attorney at Law

Lease of Parking Lot

This Lease is made between the **Town of South Berwick**, a Maine municipality with a mailing address of 180 Main Street, South Berwick, Maine (hereafter the Lessor) and **Avesta Housing Development Corporation** a Maine nonprofit corporation with a place of business and mailing address of 307 Cumberland Avenue, Portland, Maine (hereafter the Lessee).

For valuable consideration received the parties agree as follows:

Section One Description of Property

Lessor leases to Lessee a parcel of property located southeasterly from Young Street, but not adjacent thereto, in the Town of South Berwick, County of York and State of Maine described on the attached Exhibit A and to be used as a parking lot.

Section Two Use of Parking Lot

Lessee shall use the parking lot as space for 28 parking spots for the occupants' of Lessee's adjacent congregate housing complex and for no other use. All vehicles using the parking lot shall be in running condition and properly registered with the town of South Berwick. No abandoned vehicles shall be permitted on the parking area. No motor homes shall be permitted on the parking area.

Section Three Rent

Lessee shall pay as rental to Lessor the sum of \$5,600 per year for the first year. Every five years, the rent will be increased by five (5) percent or a percentage equal to the trailing five-year average of the Consumer Price Index for the Northeast Region, whichever figure is lower. Rent shall be payable annually in advance on the 3rd day of January.

Section Four Duration: Quiet Enjoyment

The term of this lease shall be for a period of 99 years beginning on _____, unless sooner terminated by written notice from either party in accordance with the terms and conditions of this Lease. Lessor covenants to keep Lessee in quiet possession and enjoyment of the premises during the terms of this lease.

Section Five
Sublease or Assignment and Occupation

The premises shall not be sublet in whole or in part, or this lease assigned or transferred, without the prior written consent of lessor, which consent may be withheld. Lessee shall not allow any persons, other than the occupants of Lessee's congregate housing, to occupy or use the leased premises or any part thereof, without Lessor's written consent which consent may be withheld.

Section Six
Demand for Rent

Demand for rent shall not need to be made at any time, on the premises or elsewhere and Lessee shall pay the same without demand being made therefore.

Section Seven
Indemnity

Lessee shall assume all risks incident to the use of the premises as a parking lot and shall indemnify Lessor against any loss, damage, or expense resulting from personal injury to, damage to, or loss of property caused in any manner by Lessee, its guests, employees or invitees and against any loss, damage, or expense resulting from injury to Lessee, its agents, guests or employees.

Section Eight
Liability Insurance

Lessee agrees to procure and maintain force during the term of this lease, at its expense, public liability insurance acceptable to Lessor adequate to protect Lessor against liability for damage claims through public use or arising out of accidents occurring in or around the leased premises and a minimum amount of \$_____ for any one accident and \$___ dollars for property damage. Lessee agrees that if such insurance policies are not kept in force during the entire term of this lease Lessor may procure the necessary insurance, pay the premium therefore and that such premium will be repaid to Lessor as additional rent for the month following the date on which such premiums are paid.

Section Nine
Lessor's Attorney's Fees

If Lessor files an action to enforce any covenant of this lease, or for breach of any covenant herein, Lessee agrees to pay Lessor reasonable attorney's fees for the services of its attorney in the action, such fees to be fixed by the court.

**Section Ten
Construction of Leased Premises**

Lessee shall be responsible, at its own expense, to construct the parking area. The construction of the parking area shall be done in accordance with a separate Construction Coordination Agreement being entered into with the Town of South Berwick and Avesta Housing Development Corporation.

**Section Eleven
Snow Removal and Maintenance**

The Lessor shall be responsible for making reasonable efforts to keep the parking area free from snow. Lessor shall also be responsible for making reasonable efforts to maintain the parking area in such condition as is suitable for the parking of vehicles.

**Section Twelve
Destruction and Damage of Premises (eminent domain?)**

Partial destruction of the premises shall not render the lease void or voidable, or terminate it except as herein provided. If the premises are partially destroyed during the term of this lease, Lessor shall repair them, when such repairs can be made in conformity with applicable laws and regulations within 90 days of such destruction. If the repairs cannot be made within the time limited, Lessor has the option to make them within a reasonable time and continue this lease in effect. If the repairs cannot be so made in 90 days and if Lessor is unable to make them within a reasonable time, Lessor shall make every reasonable effort to provide alternate parking to the Lessee and shall adjust the annual rent downward to reflect any inconvenience caused by the alternate parking arrangements.

**Section Thirteen
Termination**

The lease is made and accepted by Lessee on the express condition that if Lessee fails to comply with the terms and conditions of this Lease Lessor shall notify Lessee, in writing, of said non-compliance. Lessee shall have 30 days from receipt of said notification to remedy its non-compliance. In the event Lessee fails to comply within 30 days of receipt of the notice this Lease shall be terminated and Lessee shall be subject to the process of forcible entry and detainer.

**Section Fourteen
Taxes**

Lessor shall pay all property taxes on the leased premises, except that Lessee shall pay all taxes on any improvements placed thereon belonging to Lessee.

**Section Fifteen
Mortgage**

This Lease shall be subject and subordinate at all times to any mortgages that may hereafter encumber the demised premises and to any renewal, modification, consolidation, replacement and extension of any such mortgage. Lessee shall execute any instrument subordinating the interest of lessee under this lease to the lien of such mortgage that that Lessor or mortgagee may at any time desire and lessee shall duly comply with all of the provisions of any mortgage to which this lease is subordinate.

Editorial Comment: The Lessee may want to insert a provision allowing the lessee to mortgage its leasehold interest. I don't know if the town would ever take out a mortgage, but did not want to concede that point without first pointing it out. It may be that the Lessee's bank may require a mortgage on the leasehold parking area.

**Section Sixteen
Recording of Lease Abstract**

The parties agree the lessee may record an abstract of this Lease at the York County Registry of Deeds.

Witness our hands and seals this ___ day of October 2012.

Avesta Housing Development Corporation

By: _____
Dana Totman, its President
Duly Authorized

Town of South Berwick

By: _____
Perry Ellsworth, Town Manager
Duly authorized

Witness to Dana Totman

Witness to Perry Ellsworth

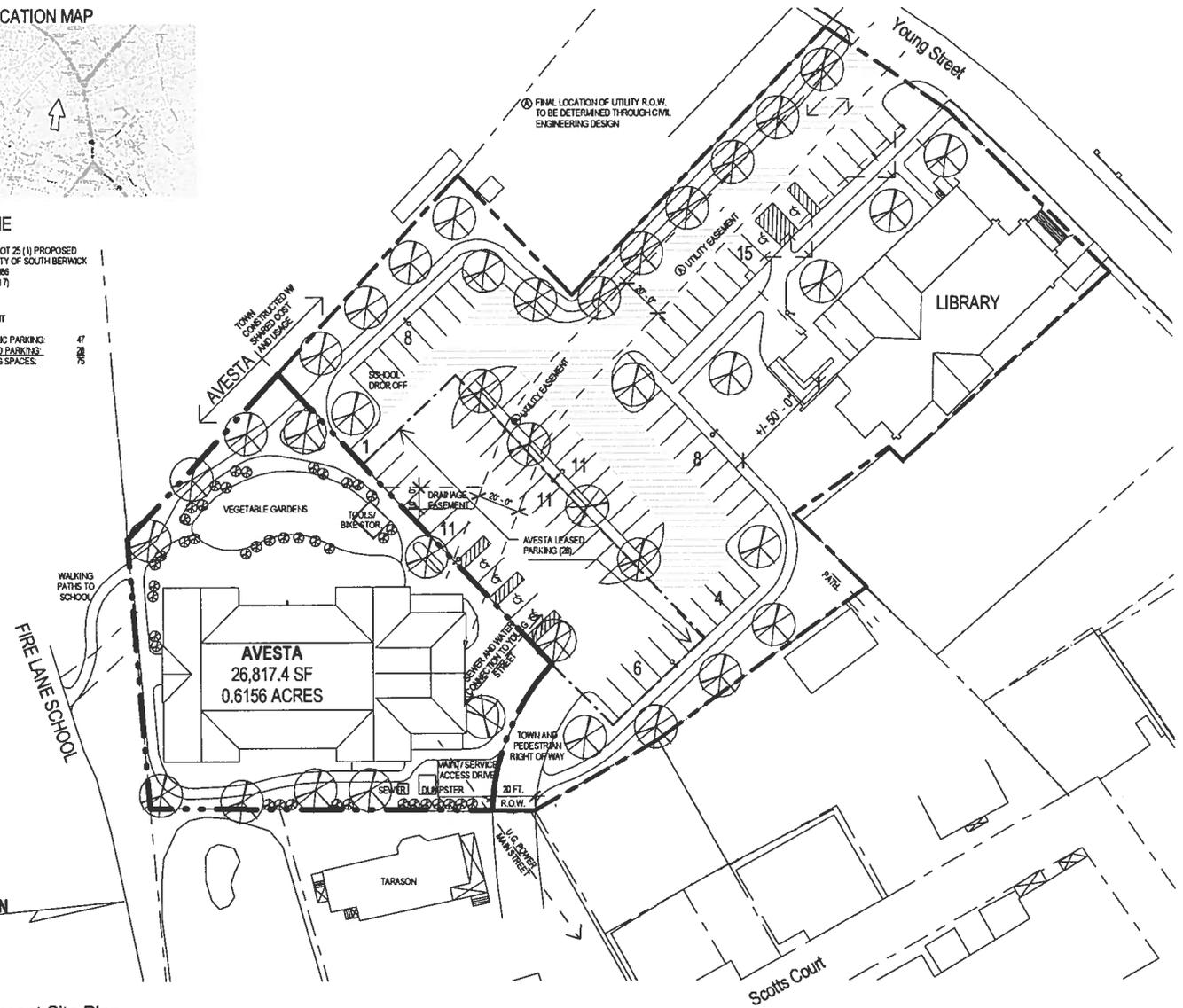
SITE LOCATION MAP



B-1 ZONE

TAX MAP 28 LOT 25 (1) PROPOSED
 MF MUNICIPALITY OF SOUTH BERWICK
 Y.C.R.D. 15412086
 (SEE REF. PLAN 7)

PARKING COUNT
 LIBRARY / PUBLIC PARKING 47
 AVESTA LEASED PARKING 28
 TOTAL PARKING SPACES 75



① Concept Site Plan
 1" = 50'-0"

SD 1	
SCHEMATIC SITE PLAN	SCALE: 1" = 50'-0" DATE: 07/17/12
Avesta Elderly Housing in Downtown South Berwick 27 YOUNG STREET SOUTH BERWICK ME	
OWNER	Avesta Housing 307 Cumberland Ave. Portland, ME 04101 207.533.7780
ARCHITECTS	LASSEL ARCHITECTS, PA P.O. BOX 370 270 MAIN STREET SOUTH BERWICK, ME 04086 T 207.384.8200 F 207.384.4880

EXHIBIT A CONSTRUCTION

(List of Improvements)

- 1) The Town shall be responsible for all entrance and parking lot upgrades not associated with 28 parking spots (approximately 15,945 square feet). Avesta will be responsible for all improvements, including pavement, of the square footage associated with 28 parking spaces (approximately 10,002 square feet).
- 2) The Town will be responsible for approximately 2,685 square feet of sidewalk paths connecting to paths or sidewalks on Young Street to Avesta Project.
- 3) Town will be responsible for lighting associated with entrance area and paths or sidewalks on Town property.
- 4) Avesta will be responsible for work associated with the storm water improvement to the east of the parking lot.
- 5) Avesta will be responsible for constructing the storm water infrastructure on MSAD #35's property.
- 6) Improvements in addition to the above list shall be mutually agreed upon by the Town and Avesta.