

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT (this "Agreement"), dated July __, 2014, is by and between LNR South Shore, LLC, a Delaware limited liability company having a principal place of business at 26 Memorial Grove Avenue, South Weymouth, MA 02190 ("Master Developer"), and the Town of Rockland, Massachusetts, a body corporate and politic, with an address of 242 Union Street, Rockland, Massachusetts 02370, acting by and through its Board of Selectmen ("Rockland") (collectively, the "Parties").

RECITALS

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WHEREAS, Master Developer is the master developer of the former South Weymouth Naval Air Station ("NAS South Weymouth") pursuant to that certain Disposition and Development Agreement entered into between it and the South Shore Tri-Town Development Corporation (the "Corporation") as of May 5, 2004 and as most recently amended by the Tenth Amendment thereto, dated December 28, 2010, and in that capacity is responsible for the master-planned redevelopment of NAS South Weymouth (the "Project");

WHEREAS, the Corporation is a body corporate and politic originally created pursuant to Chapter 301 of the Acts of 1998, which was amended and restated in Section 37 of Chapter 303 of the acts of 2008 (the "Existing Enabling Act");

WHEREAS, of the 2,855 units of residential housing contemplated to be constructed as part of the Project, only approximately 326 have been constructed to date, and of the upwards of 2 million gross square feet of commercial space contemplated to be constructed as part of the Project, only approximately 15,000 square feet have been constructed to date;

WHEREAS, one of the impediments to the more successful and rapid development of the Project has been an absence of adequate water supply and wastewater treatment capacity to serve the contemplated residential and commercial program;

WHEREAS, the Parties agree that Master Developer's ability to continue to develop the Project, and the ability of Rockland and the region generally to realize the economic and other benefits of the redevelopment process, require that the Existing Enabling Act be replaced with new legislation (the "New Act");

WHEREAS, Master Developer and Rockland agree that it would be desirable for the New Act to be enacted into law in substantially the form attached to this Agreement as Exhibit A, which form would, among other things, conditionally obligate Master Developer to assume primary responsibility for procuring and financing the water supply and wastewater treatment capacity required for the Project;

WHEREAS, Rockland desires to have an opportunity to provide water and wastewater services to the portion of the Project to be constructed and operated within Rockland (the "Rockland Portion of the Project");

WHEREAS, the New Act would also, among other things, eliminate existing requirements with respect to the phased development of the commercial program at the Project

and replace those requirements with a system of incentives for the development of at least the Commercial Minimum (as defined in the New Act) when market conditions are favorable;

WHEREAS, the market-responsive, incentive-based approach to developing the commercial components of the Project may, absent this Agreement, have the effect of delaying to Rockland certain of the host community fee payments ("Host Community Fees") that it might have received over time pursuant to that certain Memorandum of Agreement dated May 21, 2007 and that First Amendment to Memorandum of Agreement dated December 1, 2010 collectively the Rockland Host Community Agreement (the "RHC Agreement"); and

WHEREAS, Rockland has agreed to support the passage of the New Act provided that it receives assurances that doing so will not deprive it of an opportunity, if conditions allow, to provide water and wastewater services to the Rockland Portion of the Project, and will not deprive it of Host Community Fees.

AGREEMENT

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NOW THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties mutually covenant and agree as follows:

1. Effective Date. The obligations of the Parties under this Agreement shall take effect upon the date on which the New Act becomes fully effective (the "Effective Date").
2. Right of Offer for Water and Sewer Services to Rockland Portion.
 - a. Within six (6) months of the Effective Date, Master Developer agrees to submit to Rockland a request for Rockland to submit a proposal for the provision, by Rockland, of (i) potable water sufficient, in Master Developer's reasonable estimate, to service the Rockland Portion of the Project and (ii) sanitary sewer collection, conveyance and treatment capacity sufficient, in Master Developer's estimate, to service the Rockland Portion of the Project (such request, the "Service RFP"). The Service RFP shall contain reasonable detail about the volume, location and timing of water and sewer services requested, so as to enable Rockland to prepare a detailed response.
 - b. Within ninety (90) days of receiving the Service RFP, Rockland shall submit to Master Developer a proposal for the provision of the water and sewer services described in the Service RFP (the "Rockland Service Proposal"). The Rockland Service Proposal shall contain evidence, reasonably satisfactory to Master Developer, that Rockland has obtained or may expeditiously obtain all permits and approvals necessary for Rockland to provide the services identified in the proposal; provided, however, that if any authorization for the provision of such services is required from the Rockland town meeting, such authorization shall be obtained prior to the submittal of the Rockland Service Proposal. If Rockland fails to submit the Rockland Service Proposal by the deadline established in this

Section 1.b (or fails to submit a proposal that is reasonably responsive to the Service RFP in Master Developer's judgment), then Rockland shall be deemed to have waived its right to offer water and sewer services to the Rockland Portion of the Project and Master Developer shall be under no further obligation to afford Rockland any opportunity to provide such services.

- c. Master Developer shall have right, in its reasonable discretion, to either accept or reject the Rockland Service Proposal, in whole or in part. Such decision shall be communicated in writing to Rockland within ninety (90) days of Master Developer's receipt of the Rockland Service Proposal (the "Service Response"). It shall not be unreasonable for Master Developer to reject the Rockland Service Proposal if, among other things, Master Developer has identified alternative means of providing water or sewer services to the Rockland Portion of the Project that, in Master Developer's reasonable estimation, will prove more timely, economical or reliable than the services that Rockland proposes to provide. Master Developer's reasons for rejecting any portion of the Rockland Service Proposal shall be explained in reasonable detail in the Service Response.
- d. If, in the Service Response, Master Developer accepts the Rockland Service Proposal in its entirety, the Parties shall thereafter work expeditiously and in good faith to negotiate and enter definitive water and sewer service contracts and any ancillary agreements required to implement the arrangement. If Master Developer accepts only a portion of the Rockland Service Proposal (e.g., only the water supply portion), then Rockland may elect to provide the accepted services (in which case the Parties shall proceed expeditiously and in good faith to negotiate and enter required agreements), or to not provide such services (in which case Master Developer shall be under no further obligation to afford Rockland the opportunity to provide such services).

3. Payment or Land Transfer in Lieu of Host Community Fees. Except as otherwise provided herein, Master Developer shall continue to be obligated to pay Host Community Fees in accordance with the RHC Agreement, such fees to reach (and be capped at) \$882,000.00 for development of commercial space in accordance with the RHC Agreement if 2 million gross square feet of commercial space are developed as part of the Project. Master Developer hereby agrees that if, by the fifteenth (15th) anniversary of this Agreement (the "HCF Settlement Date"), less than 2 million gross square feet of commercial development has been completed at the Project, and, as a result, less than \$882,000 in Host Community Fees have been paid to Rockland pursuant to the RHC Agreement, then Master Developer, at its sole election, shall either (i) make a payment to Rockland equal to the difference between \$882,000 and the amount of Host Community Fees that have been paid as of the HCF Settlement Date not to exceed \$485,100, or (ii) convey to Rockland a fee simple interest in a parcel of contiguous, developable land area with an equivalent fair market value at the time of transfer as determined by two independent assessors but no more than two acres (87,120 s.f.) located within the Rockland Portion of the Project. The Parties acknowledge and agree that (x) Master Developer shall have no obligation to make the payment or conveyance contemplated in the preceding sentence if, by the HCF Settlement Date, at least 100,000 gross square feet of commercial space has been developed within the Rockland Portion of the Project, and (y) Master Developer's obligation to pay Host

Community Fees pursuant to the RHC Agreement shall be deemed fully satisfied upon Master Developer's making of such payment or conveyance, regardless of whether Master Developer proceeds to develop additional commercial space as part of the Project following the HCF Settlement Date. Except as affected by this Agreement, the RHC Agreement shall remain in full force and effect.

4. Mitigation Payments. Master Developer will pay to Rockland the amount of One Million Dollars (\$1,000,000) in accordance with the payment schedule set forth below. The Year 1 payment will be made thirty (30) days after the date upon which the Town of Rockland accepts responsibility for assessing, taxing and municipal services pursuant to Section 19 of the New Act. The Year 2 through Year 9 payments will be made annually on the anniversary of the date upon which the Year 1 Payment is made:

- Year 1 – Payment of \$200,000
- Year 2 – Payment of \$0
- Year 3 – Payment of \$0
- Year 4 – Payment of \$0
- Year 5 – Payment of \$200,000
- Year 6 – Payment of \$150,000
- Year 7 – Payment of \$150,000
- Year 8 – Payment of \$150,000
- Year 9 – Payment of \$150,000

Total Payments - \$1,000,000

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5. Land for Civic or Public Safety Facility. Master Developer will provide certain land to Rockland, on which Rockland may construct a facility for civic or public safety (i.e. fire or police) (the "Land"). The Land shall be located in Rockland, in the area that is zoned, as of the date of this Agreement, for Open Space (Golf Course). The Land shall not exceed 2 acres, and the facility shall be designed, permitted and constructed by Rockland and thereafter shall be used solely for public safety. The Land shall be reasonably acceptable to Rockland, and large enough to accommodate reasonable off-street parking needs.

6. Legal Fees. Master Developer shall reimburse Rockland for reasonable costs and expenses incurred by Rockland for the provision of legal services rendered in connection with the New Act; provided, however that the Master Developer shall not be obligated to reimburse Rockland for costs and expenses incurred in excess of Twenty-Five Thousand Dollars (\$25,000).

7. Amenity Plan. Rockland shall be entitled to utilize recreational areas and shall pay discounted user fees sufficient to cover operations, capital reserve and maintenance costs for such amenities in proportion to Rockland's use thereof.

8. Reporting. Master Developer shall, upon the invitation of the Board of Selectmen, attend one meeting of the Board of Selectmen each fiscal quarter for the purpose of reporting on the status of the Project

9. Payments in lieu of taxes. Master Developer shall provide reasonable assistance to Rockland in negotiating PILOTs from any tax-exempt institution to be located in the portion of

the Project located within Rockland. The terms of the PILOT shall be reasonably acceptable to the Board of Selectmen.

10. Assignment. The Master Developer shall not assign this Agreement to an unrelated party without the prior written approval of the Board of Selectmen, such approval not to be unreasonably withheld.

11. Representations and Warranties of Rockland. Rockland hereby represents and warrants to Master Developer that the person signing this Agreement on behalf of Rockland has all requisite power and authority under applicable law to execute and deliver this Agreement, and that this Agreement constitutes a valid, binding, and enforceable agreement of the Town of Rockland.

12. Representations and Warranties of Master Developer. Master Developer hereby represents and warrants to Rockland that the person signing this Agreement on behalf of Master Developer has all requisite power and authority under applicable law to execute and deliver this Agreement, and that this Agreement constitutes a valid, binding, and enforceable agreement of Master Developer.

13. Notices. Notices given or other documents delivered pursuant to this Agreement shall be sent by hand or recognized overnight carrier to the Parties at their addresses indicated above.

14. Interpretation; Governing Law. Nothing in this Agreement shall be interpreted as derogating from or modifying the Parties' respective rights and obligations pursuant to the New Act. This Agreement and the rights and obligations of the parties hereunder shall be governed by and interpreted, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

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TOWN OF ROCKLAND, MASSACHUSETTS

By: _____
Name:
Title:

LNR SOUTH SHORE, LLC

By: _____
Name:
Title:

Draft 7/11/14

Exhibit A

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