

## MASTER DEVELOPER AGREEMENT

This Master Developer Agreement (hereinafter called the "Agreement" or "MDA"), dated as of the ~~10~~<sup>19</sup> day of August, 2025, by and among the TOWN OF RIVERHEAD, a municipality organized and existing under the laws of the State of New York, having its principal office at 4 West 2nd Street, Riverhead, New York 11901 (the "Town") and TOWN OF RIVERHEAD COMMUNITY DEVELOPMENT AGENCY, an agency created pursuant to Title 116 of the General Municipal Law § 680-c and established for any and all purposes set forth in Articles 15 and 15A of the General Municipal Law, with offices located at 4 West 2nd Street, Riverhead, New York 11901 ("CDA") (hereinafter the Town and CDA collectively referred to as simply "Town"), and J. Petrocelli Riverhead Town Square, LLC, a Limited Liability Corporation existing under the Laws of the State of New York ("Petrocelli" or the "Master Developer") with offices at 100 Comac Street, Ronkonkoma, New York 11779. The Town and Master Developer are sometimes hereinafter individually referred to as a "Party" or collectively as the "Parties".

### RECITALS

WHEREAS, the Town has heretofore acquired the properties located and centered on the southside of East Main Street, to wit: 117 East Main Street SCTM# 0600-129-1-12, ("Lot 12"), 121 East Main Street SCTM# 0600-129-1-13, ("Lot 13"), 127 East Main Street SCTM# 0600-129-1-14 ("Lot 14") in furtherance of the goal to create a public gathering space with pedestrian connectivity and open vistas from Main Street to the Peconic River, together with the design and construction of commercial, residential and retail uses compatible therewith as identified in the myriad of studies related to the East Main Street revitalization goals and East Main Street Urban Renewal Plan now commonly referred to as the "Town Square project". The Town Square project also includes a portion of State Route 25 (Main Street), SCTM# 0600-128-6-p/o 86.1 ("Lot 86.1"), SCTM# 0600-129-1-23, SCTM# 0600-129-1-15 and SCTM# 0600-129-1-16.

WHEREAS, beginning in April of 2021 and continuing through to 2022, the Town and the Town's consultant, Urban Design Associates (UDA), held several meetings seeking input from the public regarding design, amenity space, phases for development and presented a myriad of illustrations; and

WHEREAS, at a Town Board work session on April 14, 2022, Joe Petrocelli on behalf of J. Petrocelli Development Associates, now J. Petrocelli Riverhead Town Square, LLC, presented a development plan with renderings which included a four-story, 76-room hotel on the east side of the square with retail shops, a restaurant and museum space on the ground floor; a two-story building on the west side of the square abutting the Long Island Science Center and proposed a small firehouse museum on the ground floor with offices above; a four-story condominium building on the waterfront located on the western end of the municipal parking lot, together with the Town's desired improvements, to wit: a plaza area; communal green space and recreation space; an amphitheater; and finally, a boat house on the river; and

WHEREAS, on April 19, 2022, by Resolution 2022-325, the Town accepted the recommendation of CDA together with the recommendations and guidance provided by

Urban Design Associates, Ltd. ("UDA") and the National Development Council ("NDC") that the Town designate the Petrocelli as the Master Developer of the Town Square Project; and

WHEREAS, by Resolution 2022-235, the Town authorized the CDA with the assistance of UDA and NDC to commence and participate in negotiations of this Agreement with Master Developer for final approval by the Town prior to publication with the Town Clerk; and

WHEREAS, since April 19, 2022, the Town, UDA and J. Petrocelli Riverhead Town Square, LLC have continued to work together and work with Town staff, including employees in Community Development Agency, Office of Town Attorney, Planning, Fire Marshal, Water and Sewer Districts regarding Town Square development and in early 2024, the Town retained LVF Landscape Architects, PLLC (LVF) and Skolnick Architecture (Skolnick), to assist in the planning and design for the Main Street crosswalk, public gathering space in the upper Town Square (proximate to Main Street), lower Town Square playground area and amphitheater; and

WHEREAS, as recited above, the Town, UDA, J. Petrocelli Riverhead Town Square, LLC, LVF and Skolnick have continued to work with staff, produce concepts and designs related to development and redevelopment within the Town Square encompassing East Main Street (in front of former 117 and 121 East Main Street), 117 East Main Street SSTM# 0600-129-1-12, ("Lot 12"), 121 East Main Street SSTM# 0600-129-1-13, ("Lot 13"), 127 East Main Street SSTM# 0600-129-1-14 ("Lot 14"), SSTM# 0600-128-6-p/o 86.1 ("Lot 86.1"), SSTM# 0600-129-1-15, SSTM# 0600-129-16 and SSTM#0600-129-1-23 .

WHEREAS, based upon all of the above, the Master Developer J. Petrocelli Riverhead Town Square, LLC proposes to construct a mixed use five-story building consisting of up to 76 hotel rooms and 12 condominium units, with restaurant space and retail space (retail wet use approx. 976 sq. ft; dry retail approx. 2,339 sq. ft.; and restaurant approx. 133 seats) and underground parking (12 stalls) on a portion of Lot 14, Lot 13, Lot 15, small portion of Lot 86.1. and easement over portions of Lot 14 to be retained by the Town and easement over a portion of small portion of Lot 23 collectively known as the "Town Square Hotel Project" (the "Project"); and

WHEREAS, in connection with the Project, it is anticipated that Master Developer will make formal application to IDA for a payment in lieu of taxes ("PILOT") agreement (the "PILOT Agreement") necessary to secure economic benefits related to the Project, which PILOT Agreement shall have a PILOT payment, escalation and term acceptable to Master Developer in its sole, but reasonable, discretion (the "PILOT Terms") and the Parties acknowledge and agree that obtaining such PILOT Agreement is a material requirement of this Agreement and failure to obtain such PILOT Agreement pursuant to PILOT Terms shall have a material adverse impact on the economics of the transactions contemplated in this Agreement; and

WHEREAS, in furtherance of the Project, the development of the five story retail, hotel and condominium building with underground parking will require Master Developer's

acquisition of a portion of Lot 14 measuring approximately 60' x 220', a portion of Lot 13 measuring 14' x 200', a portion of Lot 15 measuring approximately 10' x 220' and a portion of Lot 86.1 measuring 14' x 20' (collectively hereafter referred to as the "Hotel Property") from the Town and the Town has the authority to convey the Hotel Property to Master Developer in furtherance of the goals of the Town Square Project; and

WHEREAS, as lot lines will be modified to create a single lot for the Hotel Project described above, the Master Developer, at Master Developer's sole cost and expense, will provide metes and bounds and a survey necessary and related to modification of lot lines and such other metes and bounds necessary for the easements described below and counsel for the Planning Board, with the assistance of Planning Staff shall make requisite application to Planning Board related to same; and

WHEREAS, Lot 12 and the remaining portions of Lot 13, Lot 14, Lot 15, and Lot 86.1 will remain the property of the Town and shall be developed as the Riverhead Town Square (the "Town Square"), subject to grant of easements necessary for underground utilities and infrastructure to serve the Hotel Project under Lots 13 and 14; easement necessary for vehicular and delivery access to the Hotel Project from Heidi Behr Way across p/o Lot 14, p/o Lot 15, p/o Lot 23; and, subject to a construction staging area agreement on a portion of Lot 12 and 13 during the initial stages of the Hotel Project and a staging area agreement in and along the easement area of p/o Lot 14 and p/o Lot 23 described above. In addition, the remainder of Lot 23 shall remain the property of the Riverhead Public Parking District No. 1; and

WHEREAS, in addition to the properties identified above for purchase, easement area for access, easement for underground utilities and staging areas, upon completion of the Hotel Project, the Town (by and through Parking District No. 1) shall enter into an Parking Lot Lease Agreement with the Hotel Project for a portion of SCTM#0600-128-6-66.4 and included in said terms the Parking Lot Lease Agreement shall expire upon completion of the Parking Garage and the full execution and effectiveness of an agreement between the Town and the Hotel Project owner providing for the Hotel's use of a portion of the Parking Garage with pay to reserve and pay to park per parking stall within the Parking Garage; and

WHEREAS, it is anticipated that several phases of the Hotel Project and Town Square Project will begin at or near the same time and management of the different phases of development is critical to the success of each component/phase of the Town Square Project; and

WHEREAS, the Master Developer shall act as "Construction Manager" and enter into agreements with the Town for each of the phases of construction, to wit: Town Square (upper deck/public gathering space), Town Square (lower deck/playground), elevation of Lots 15 and 16 and amphitheater; and

WHEREAS, in addition to the above, the Master Developer shall maintain the Town Square (the upper deck and the walkways and stairways connecting portions of the lower deck to the upper deck) pursuant to an agreement between the Town and Master Developer; and

WHEREAS, the Parties wish to enter into this Agreement which addresses, among other things, the Master Developer's acquisition and development of the Hotel Property and development within a reasonable period of time of the Hotel Project and construction management of the Town Square Project, together with operation and maintenance of the public gathering space described as upper and portion of lower Town Square Project consistent with any conditions made part of the transfer of the Hotel Property and such other applicable conditions and/or restrictions; and

WHEREAS, subject to satisfactory completion of any environmental review and procedures required by SEQR and the SEQR implementing regulations at 6 NYCRR Part 617 (the "SEQR Procedures"), the Town and Master Developer shall participate, cooperate and fund any such necessary study and analysis such that the development and redevelopment of the Project may take place in a timely manner including the appropriate planning, be it site plan, special permit and including application for lot line modifications, feasibility and other studies and adoption of any zoning modifications that may be required for such development and redevelopment; and

WHEREAS, the Parties recognize and agree that the environmental impacts of the development contemplated herein, will be subject to the satisfactory completion by the Town of further SEQR review and findings required therefor. The Parties also agree that any future actions in furtherance of the Hotel Project shall be undertaken and approved in compliance with applicable SEQR Procedures.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the Parties agree as follows:

## **ARTICLE I DEFINITIONS; RULES OF CONSTRUCTION**

**Section 1.01 Definitions.** Capitalized terms used in this Agreement have the meanings defined below. Terms defined elsewhere in this Agreement shall have the meanings given to them in such definition, provided that, with respect to any term that is defined both in the Recitals to this Agreement and in this Article I or elsewhere in this Agreement, the meaning provided in this Article I or elsewhere (other than Recitals) shall control.

**"Affiliate"** means any entity that the Master Developer or the Master Developer Members directly or indirectly own and control, or is under common control by any of them. For purposes of this Agreement, a person or entity shall be deemed to "control" another entity if that person or entity (A) owns at least 51% or more of the outstanding voting shares and/or equity interests in the other entity and (B) directs or causes the strategic direction and the management and operations of such entity, whether through the ownership of voting securities or by contract.

**"Approved Development Plan"** means the plans referred to in Articles II and IV, as the same may be amended from time to time and until finally approved by the Town Board.

“Business Day” means day is any day except Saturdays, Sundays and legal holidays observed by the Town.

“Certificate of Completion” or “Final Completion” means a certificate of completion issued by the Zoning Official or Senior Building Inspector certifying completion of a Development Phase and/or Hotel Project in accordance with the Approved Development Plan and all related Development Approvals, as contemplated by the Master Developer Agreement.

“Certificate of Occupancy” means as such term is used in the Town Code of the Town of Riverhead, issued by the Zoning Official which permits legal occupancy or use of a building or the affected part thereof for the intended purpose. The Certificate of Occupancy, together with improvements set forth and made part of the Approved Development Plan, completion of all requirements of site plan shall be deemed “Final Completion” of the Hotel Project Property.

“Town” means The Town Board for the Town of Riverhead and Community Development Agency collectively, organized and existing under the constitution and laws of the State of New York, respectively.

“Town Utilities and Infrastructure” means utilities and infrastructure to be dedicated to the Town upon completion in accordance with the provisions of Section 3.02 of the Master Developer Agreement.

“Claim” or “claim” means any action or other claim for liability, loss, expense, or other cost, including fees, costs, and expenses of attorneys, consultants, contractors, and experts.

“Closing” means the legal transfer of ownership of the Hotel Project Property by the Town to the Master Developer in accordance with Article III of the Master Developer Agreement.

“Commercial Use” means non-Residential Use of the Hotel Project Property permitted or approved by the Planning Board or Town Board and any other applicable government agency, provided that such Commercial Use is permitted under the Master Developer Agreement, the Zoning Code of the Town of Riverhead and any such Declaration of Covenants and the Development Covenants as provided for in the Approved Development Plan, and is not a prohibited use-see definition of “Permitted Use”.

“Comprehensive Plan” means the Town of Riverhead Comprehensive Plan adopted by the Town Board on September 4, 2024 by Resolution # 2024-760, which includes and or recites the 2022 Downtown Riverhead Activation Plan and the Town Square Waterfront 2020 Concept Plan set forth in greater detail in Chapter 3 of the Comprehensive Plan, as the same may be amended, modified, supplemented or replaced from time to time. The Comprehensive Plan is incorporated by reference in this Agreement as though set forth in full herein. A copy of the Comprehensive Plan, if not available on the Town’s website, may be obtained from the Town Clerk.

“Concept Development Plan” means the plan attached hereto as Exhibit A (Concept Development Plan presented at Qualified & Eligible Hearing) and from which the Master Developer shall start the process outlined in Article V, which process is intended to result in the Development Plan submitted to the Planning Board or Town Board as the case may be.

“Condemnation” means any temporary or permanent taking of title, use, or any other property interest under the exercise of the power of eminent domain by any governmental authority or by any person acting under governmental authority.

“Construction Activities” means commencement of site work, including installation of utilities.

“County” means County of Suffolk, and any successor political subdivision encompassing the Town of Riverhead.

“Deed” means the bargain and sale deed or deeds by which the Hotel Property is to be conveyed to the Master Developer in accordance with Article III.

“Default” means any default by any of the parties as specified in Article VIII.

“Deposit” means an amount equal to 5% of the Purchase Price which shall be held by the Escrow Agent pursuant to the terms of this Agreement.

“Developer Utilities and Infrastructure” means all Utilities and Infrastructure other than Town Utilities and Infrastructure.

“Development Approvals” means, with respect to the Hotel Project and each Development Phase of the Hotel Project (i.e. demolition, foundation, installation of utilities...), all approvals of, and licenses, permits or other permissions from, any governmental authority, including all approved final site plans, lot line alterations, subdivision plans, engineering plans, site grading plans, site development plans and building permits, approved without conditions or with conditions acceptable to the Master Developer in its sole discretion, that are necessary for the Master Developer to undertake any construction activity and any such Development Phase of the Hotel Project in accordance with the Approved Development Plan and this Agreement.

“Development Covenants” means those covenants setting forth the specific Permitted Uses and restrictions on the Hotel Project Property as may be required by and through site plan or building permit process.

“Development Plan” means the plan submitted by the Master Developer to the Town Board for consideration under Town Code Chapter 301.

“Encumbrance” means any matter recorded among the land records, which is a lien, restriction, easement, right-of-way, roadway (public and private), condominium regime, cooperative housing regime, covenant, Lease, or any other matter, which affects the title to the Property.

“Environmental Requirement” means any current or future Law or other restriction, whether public or private, that in any way pertains to human health, safety or welfare, Hazardous Materials, Hazardous Materials Contamination or the environment (including any Law or restriction dealing with ground, air, surface water, ground water, or noise pollution or contamination, and underground or above ground tanks).

“Expenses” means all reasonable costs and expenses incurred by a non-Defaulting Party (whether before or after a Default) in connection with, or in exercising or enforcing any rights, powers and remedies provided in, this Agreement.

“Force Majeure” means any of the following that are not due to the fault or negligence of the Party affected, which could not have been avoided by reasonable diligence and use of reasonable efforts, and which directly affected the critical path of the approved Project schedule: strikes, actions of labor unions, lockouts, civil riots, war, mob violence, blockade, invasion, fire or other casualty, acts of God, volcano, earthquake, hurricane, blizzard, flood, other extreme weather conditions, release of nuclear radiation, release of biotoxic or of biochemical agents, unavailability of labor, equipment or materials, court order, litigation, or governmentally imposed moratoria; provided, however, that Force Majeure shall not include any inability to perform with respect to the payment of any monetary obligations.

“Governmental Authority” or “Governmental Authorities” means the governments of the United States of America, the State, the County, the Town or any of their respective political subdivisions, agencies, instrumentalities or commissions, including the Suffolk County Planning Commission, and any other federal, State or local authority having jurisdiction over any aspect or portion of the Project, the Property, or an Approved Transferee.

“Guiding Principles” means: (1) the redevelopment of the Hotel Property should be consistent with the Town’s Market Study for Downtown Revitalization and Comprehensive Plan (and specifically the Vision Plan for Town Square) and focus on mixed use development, without so-called “big box” retail uses, and designed in an urban, walkable fashion; (2) Qualified & Eligible presentation and plan for development and (3) the redevelopment of the Hotel Project Property should build upon its strategic riverfront/waterfront setting and serve as a critical component of the development of the surrounding area, including but not limited to the Town Square; (4) the redevelopment of the Hotel Property should connect to the existing Main Street to the entire waterfront area (Ammerman Park).

“Hazardous Materials” means any hazardous or toxic substances, wastes or materials (as those terms are defined and regulated by any applicable federal, state or local environmental law or regulation), including, but not limited to, any substance that contains asbestos, radon, lead-based paint, polychlorinated biphenyls, urea formaldehyde, explosives, radioactive materials, or petroleum products and that, because of their existence, quantity, concentration, or physical, chemical, or infectious characteristics, may pose a present or potential hazard or nuisance to human health, safety or welfare or to the environment, or require removal, special handling or storage, Remediation or notification of their existence.

“Hazardous Materials Contamination” means the present or future contamination beyond legally permissible levels of (a) any part of the Hotel Property, including soil, surface water, ground water, and air, by Hazardous Materials, or (b) any part of any other property (including soil, surface water, ground water, and air) or improvement as a result of Hazardous Materials emanating from the Hotel Property.

“Laws” or “Law” means any current or future federal, state and local laws, statutes, rules, ordinances, regulations, codes, decisions, interpretations, orders, or decrees of any court or other governmental authority having jurisdiction.

“Lease” means any lease, sublease, use, concession, management, operating or similar agreement or memorandum of understanding to which the Town is a party with respect to any portion of the Hotel Project Property, as the same may be amended, modified, supplemented or replaced from time to time. Note, the Town shall at the request of the Master Developer enter into a lease and pre-possession agreement to permit construction activities on the Hotel Project Property to commence, subject to the fee provisions to meet the costs and schedule for payment of principal and interest related to the bond indebtedness related to purchase and demolition of properties known as 117, 121 and 127 East Main Street.

“Master Developer” means the individual/entity designated by the Town Board to develop the Hotel Project Property.

“Master Developer Agent” means any agent, representative, consultant, architect, engineer, contractor, subcontractor, or other person or entity retained or hired by, or on behalf of, the Master Developer to undertake any activity, whether on or off the Hotel Project Property, connected with the Master Developer’s rights, obligations, or activities under this Agreement.

“Parties” or “Party” means, individually or collectively, the Town and the Master Developer.

“Permitted Use” means Commercial Uses, Residential Uses and Public Uses, as applicable for each Development Phase, together with utilities and infrastructure, but excluding all prohibited uses set forth in the Town Code for the Town of Riverhead (i.e. Town Code Chapter 301-141 (D) and Town Code Chapter 301-221.3) unless otherwise approved pursuant to applicable requirements of approvals of the Town Board.

“Project” means the development of the Hotel Project Property by the Master Developer into a mixed-use development consisting of areas for commercial use, residential use in accordance with the provisions of the Approved Development Plan and this Agreement.

“Property” shall have the meaning specified in the Recitals and is identified on Exhibit B attached hereto. The Property includes the Hotel Project Property and the Easement Property, each as identified on Exhibit B attached hereto.

“Purchase Price” means \$2,625,000.00, together with all costs related to real property transfer tax, which amount was determined by the Town in accordance with the

requirements of this Agreement, subject to such credits and/or debits related to the portion of Lot 14 measuring approximately 60' x 220', a portion of Lot 13 measuring 14' x 200', a portion of Lot 15 measuring approximately 10' x 220' and a portion of Lot 86.1 measuring 14' x 20' (collectively hereafter referred to as the "Hotel Property") with remaining portions of said lots to be retained by Town of Riverhead, with credits to Master Developer for payments due pursuant to other agreements made in accordance with and identified in this Master Developer Agreement.

"Residential Use" means condominiums.

"State" means the State of New York.

"Substantial Completion" means, with respect to each Development Phase or the Hotel Project in its entirety, the time at which the construction of all aspects has progressed in accordance with the Approved Development Plan and all related Development Approvals to the point where it can be utilized for the purposes for which it is intended and for which all necessary Certificates of Occupancy have been issued.

"Survey" shall have the meaning given to such term in Section 3.03(e).

"Title Company" means a title company specified by the Master Developer that is licensed to conduct business in the State which shall also act as the Escrow Agent.

"Title Update" shall have the meaning given to such term in Article IV.

"Utilities and Infrastructure" means any of the following: potable water, storm water systems, sanitary sewer systems, electricity, gas, telecommunications, cable television, internet, other communications systems, roadways, pathways, parking areas, curbs, medians, landscaping, lighting, sidewalks, and any other service which is required or desirable to be provided to the Project by the Master Developer, including all related or necessary facilities, pipes, wires, poles, structures, fittings, cables, installations, and fixtures, whether above or below ground, and other improvements for general use necessary or desirable to develop the Project.

"Zoning Official" means the administrative zoning officer or an authorized representative designated by the Town to carry out duties as specified in the Master Developer Agreement.

## **ARTICLE II PURPOSE OF AGREEMENT; PROPERTY SUBJECT TO AGREEMENT; TERM.**

Section 2.01. Purpose of Agreement Generally. The purpose of this Agreement is to convey the Hotel Project Property to the Master Developer and to cause the Hotel Project Property to be developed into a mixed-use project consisting of up to 76 hotel rooms, 12 condominium units, restaurant space and retail space (retail wet use approx. 976 sq ft; dry retail approx. 2,339 sq. ft.; and restaurant approx. 133 seats) and underground parking areas in a planned and orderly manner. Acquisition and

development of the Hotel Project Property will occur in accordance with the Approved Development Plan and this Agreement.

Section 2.02. Property Subject to this Agreement. The real property subject to this Agreement is as follows: a portion of SCTM# 0600-129-1-Lots 13, 14, Lot 15, a small portion of SCTM# 0600-128-6-86.1 and Lot 23 collectively known as the "Town Square Hotel Project or "Hotel Project Property", unless other real property is specifically subject, or made subject, to this Agreement by written agreement of the Parties. See Exhibit "B" depicting property to be conveyed annexed hereto and made a part hereof or subject to an easement. It is the intention of the Parties that: (i) the Town will retain ownership of a portion of SCTM# 0600-129-1-Lots 13, 14 and Lot 15 and SCTM# 0600-128-6-86.1 not made part of the Hotel Project Property (ii) the Hotel Project Property will be transferred to the Master Developer, subject to, and in accordance with, the terms and conditions of this Agreement, the Transfer Agreement, any Declaration of Covenants and the Development Covenants that may be required by the Town Board, as governing body for site plan review within Urban Renewal Areas of the Town; and (iii) a portion of Lot 23 shall be incorporated into the Town Square/Amphitheater Project; (iv) and an even smaller portion shall be made part of an easement for ingress and egress to the Hotel Project Property.

Section 2.03. Permitted Use Only. The development of the Hotel Project Property will be developed solely for the permitted uses established for that parcel (to be one lot after approval of lot line alteration) in the Approved Development Plan. No portion of the Hotel Project Property shall be used for a prohibited use or in contravention of the Approved Development Plan. The development shall proceed in a manner set forth in the Recommended Action Plan.

Section 2.04. Term. The Term of this Agreement and the rights and responsibilities of the Parties shall begin on the date of this Agreement and shall continue until the earliest to occur of either: (a) the date this Agreement is terminated in accordance with its terms inclusive of Articles IV and VIII of this Agreement; or (b) the date on which Final Completion is achieved.

### **ARTICLE III ACQUISITION AND PURCHASE OF THE PROPERTY; TERMS OF TRANSFER**

#### **ACQUISITION AND PURCHASE PRICE**

3.01. The Hotel Project Property to be Conveyed. The Town agrees to convey to the Master Developer, and the Master Developer agrees to accept from the Town, subject to the other and further terms and conditions of this Agreement, the Hotel Project Property (acquisition of a portion of Lot 14 measuring approximately 60' x 220', a portion of Lot 13 measuring 14' x 200', a portion of Lot 15 measuring approximately 10' x 220' (requiring relocation of structures owned by the Town and commonly referred to as East End Arts and/or East End Arts structures) and a portion of Lot 86.1 measuring 14' x 20' (collectively hereafter referred to as the "Hotel Project Property" and/or "the Hotel Property Conveyance"). Note, at Master Developer's sole cost and expense, Master Developer will provide metes and bounds and a survey necessary and related to

modification of lot lines necessary to create a single lot "Hotel Project Property" and counsel for the Planning Board, with the assistance of Planning Staff shall make requisite application to Planning Board for such lot line alterations and creation of a single lot.

3.02. The Hotel Property Conveyance shall include all right, title and interest in and to all easements, tenements, hereditaments, privileges and appurtenances in any way belonging to the Town in connection with the Hotel Project Property; and to the extent transferable or assignable, all right, title and interest in and to all licenses, permits and approvals issued by any municipal authority relating to the use, occupancy, maintenance or operation of the Hotel Project Property; provided however, in no event shall the transfer include public streets, public rights of way or such other rights which would interfere with the public use and access for adjacent parcels unless such transfer shall be necessary to achieve the goals enumerated in the RAP, such as all necessary utility, sewer, water and drainage access and easements for the operation of the Hotel Project Property in which event same shall be transferred to said Town and/or Special Districts as deemed appropriate, but only upon consent of the Town Project Team.

3.03. The Master Developer and Town agree that closing of title shall not proceed until (i) the Town is able to convey title to Lot 14 free of all leases and rights of tenants with all buildings thereon intended to be demolished by and at the sole expense of Master Developer; (ii) after relocation of structures located on that portion of Lot 15 described above; and (iii) application for Lot Line Alteration is approved by the Planning Board. After all of items (i) – (iii) have occurred, the Master Developer shall have the right to proceed to closing on the acquisition of the Hotel Property by sending a Closing Notice (as said term is defined in Section 6.01 of this Agreement) pursuant to the procedures set forth in said Section 6.01.

#### **Purchase Price**

3.04.(a) Subject to all the terms, covenants, and conditions of this Agreement, the Town will sell to the Master Developer the Hotel Property at a purchase price in the amount of \$2,625,000.00 ("Purchase Price") plus all costs related to real property transfer tax, subject to adjustment and credits as set forth in this MDA. The Purchase Price reflects a credit to Master Developer for the portion of Lot 14 to be retained by the Town and includes the cost to purchase portions of Lot 13 and Lot 15. The Purchase Price includes funding commitments made by Master Developer as a part of grant applications for the Hotel Project and Town Square Project, to wit: \$360,000.00, \$150,000.00 and \$150,000.00 and to the extent the funding commitments have been paid to the Town, either in whole or part, such sums shall be applied as a credit against the balance of the Purchase Price due at Closing. In addition, the Town reserves the right at its option to give Master Developer a credit against the balance of the Purchase Price due at Closing for amounts which may be then due or to become due to Master Developer under any of the three Construction Management Agreements, to wit: Town Square (upper deck), Town Square (lower deck) and East End Arts relocation of structures and/or amphitheater. The Downpayment shall be 5% of the purchase price and shall be deposited with the Escrow Agent on or before expiration of the due

diligence period unless this Agreement is terminated in accordance with its terms prior to such date.

3.04. (b) If at the time of Closing the Town has substantially completed (open to the public) the Town Square, the Purchase Price shall be reduced by \$150,000.00 (year one of ten year license agreement) reflecting costs related to annual operation and maintenance of the Town Square as set forth in the License Agreement by and between Town and Master Developer.

### **Terms of Transfer of the Hotel Project Property**

Section 3.05.(a) Terms of Transfer of the Hotel Project Property. The transfer of the Hotel Project Property by the Town to the Master Developer under this Article III will be subject to the following terms:

The Hotel Project Property will be transferred in "AS IS, WHERE IS" condition and "WITH ALL FAULTS" as of the date of the Contract of Sale/Master Developer Agreement, and no representations or warranties have been made or will be deemed to have been made, except as otherwise expressly set forth in this Agreement.

No responsibility has been or is assumed by the Town or any person or entity acting on behalf of the Town as to the condition, repair, value, expense of operation or development, or income potential of the Hotel Project Property or as to any other fact or condition which has or might affect the Hotel Project Property or its condition, repair, value, expense of operation or development, or income potential, except as otherwise expressly set forth in this Agreement.

The Town makes no representations or warranties as to whether there are any Hazardous Materials or Hazardous Material Contamination on, in, under or about any portion of the Property, including the Hotel Project Property.

It is a condition to the Master Developer's obligation to purchase the Hotel Project Property that the Title Company shall issue a standard American Land Title Association title policy to the Master Developer at market rates in the amount of the Purchase Price, ensuring that the Master Developer has good, marketable and indefeasible fee simple title to the Hotel Project Property, subject only to the Permitted Title Exceptions as defined in this Agreement.

The deed transferring the Hotel Project Property will be a bargain and sale deed with covenants against grantor's acts in form and content reasonably acceptable to the Town and to the Master Developer.

Except as set forth and fully detailed in Staging Agreements, Easements, or such other documents made part of this Master Developer Agreement inclusive of any pre-closing possession agreement, if any, possession of the Hotel Project Property will be given to the Master Developer at the Closing and until the Closing, the risk of loss or damage to the Hotel Project Property is retained by the Town.

The Parties shall execute a Temporary License Agreement for Construction Staging (materials and equipment) Area over Lot 12 and Lot 13 (A copy of the Temporary Non-Exclusive License Agreement for Construction Staging Area Lots 12 and 13 and Construction Parking is annexed hereto as Exhibit "C" and shall be executed in substantially the same form as annexed hereto); Temporary Exclusive License Agreement for Staging (material and equipment) for a portion of Lot 14 to be retained by the Town (A copy of the Temporary Exclusive License Agreement for Construction Staging Area p/o Lot 14 is annexed hereto as Exhibit "D" and shall be executed in substantially the same form as annexed hereto); Easement for Utilities and Drainage over p/o Lot 13 (A copy of the Easement for Utilities and Drainage over p/o Lot 13 is annexed hereto as Exhibit "E" and shall be executed in substantially the same form as annexed hereto); Easement Agreement for Driveway Access over p/o Lot 14 to be retained by the Town and over a small portion of Lot 23 for purposes of ingress and egress to the Hotel Project Property (A copy of Easement Agreement for Driveway Access to the Hotel Project Property is annexed hereto as Exhibit "F" and shall be executed in substantially the same form as annexed hereto); and to the extent improvements are required to that portion of Lot 15 prior to conveyance of title to Lot 15, the Town and Master Developer shall enter into an Easement for installation of grease traps in a form to be approved by the Office of the Town Attorney, finally, three Construction Management Agreements related to the Town Square upper deck; Town Square lower deck and Town East End Arts/Amphitheatre Project (A copy of the Construction Management Agreements are annexed hereto as Exhibits "G", "H", and "I" and shall be executed in substantially the same form as annexed hereto). The above agreements shall be executed simultaneously with execution of the Master Developer Agreement.

In addition, at or prior to the Closing, the Parties, shall complete negotiation of all terms, with the exception of annual fee set at \$150,000.00 per year for 10 year term for Town Square Operation & Management Agreement (\*see list of responsibilities for operation/maintenance attached hereto as Exhibit "J" which shall be incorporated and made part of Town Square Operation & Management Agreement), together with Hotel Project Parking Agreement and in time to be supplemented by a Parking Garage Pay to Park Agreement for the Hotel Project upon completion of the Parking Garage located on the northside of Main Street. Note, the Town acknowledges that despite the subject property location within the parking district, the use, to wit: hotel, designated parking for hotel guests is integral and necessary for such use. Consistent with and in furtherance of the preceding sentence, the terms of the Town Square Parking Agreement and Parking Garage Pay to Park Agreement shall be negotiated and prepared by the Office of the Town Attorney with requisite approval by Resolution of the Town Board and incorporated into site plan approval.

Section 3.05.(b). In the event the Town for a reason other than the willful failure of the Master Developer to comply with the provisions of this Agreement shall be unable to convey title to the Hotel Project Property on the date originally scheduled for the Closing in accordance with the provisions of this Article III, the Town shall have the right, at its option, to remedy any title defect or the circumstance that is otherwise preventing the Town from conveying title to the Hotel Project Property, and for such purpose the Town shall be entitled to an adjournment of the scheduled date of the Closing for a period not

exceeding sixty (60) days from the date scheduled for the Closing, provided that the Town provides written notice of such election to the Master Developer within ten (10) days prior to the date originally scheduled for the Closing. During any such adjournment period, the Master Developer's obligations under this Agreement shall remain in full force and effect, but any time periods for the performance of any act or other deadline imposed upon the Master Developer shall be extended for a time period equal to the number of days of such adjournment. If the Town, despite its diligent efforts, is not able to cure such title defect or other circumstance within such sixty (60) day period, the Master Developer, at its election, may either (i) accept such title as the Town is able to convey without abatement or reduction of the Purchase Price, or (ii) terminate the Agreement upon not more than five (5) Business Days written notice to the Town. If the Master Developer elects to terminate this Agreement in accordance with the preceding sentence, the Master Developer shall be entitled to the immediate return of the Deposit and all investment earnings thereon. Upon any such termination and return of the Deposit, neither party shall have any liability or obligation to the other party for any damages or other costs that the other party may have sustained by reason of the Town's inability to convey title in accordance with the provisions of this Article III. Notwithstanding anything to the contrary contained herein, the Town shall not be required to bring any action or proceeding or take any other steps to remove defects in, or objections to, title or to expend any money therefor, except as expressly provided in Articles IV and VI of this Agreement.

#### **ARTICLE IV** **STUDY PERIOD; RIGHT OF MASTER DEVELOPER TO TERMINATE DURING THE STUDY PERIOD**

Section 4.01. Study Period. Except as otherwise provided elsewhere in this Agreement, it is understood that the Hotel Project Property shall be conveyed in its present "AS IS" condition as of the date of the Contract of Sale, without any representation or warranty by the Town regarding the Hotel Project Property, its condition, title or any aspect of the Hotel Project Property. Therefore, the Master Developer shall have the period commencing on the date of this Agreement and ending at 5 p.m. Eastern time on the date that is one hundred twenty (180) days after the date of this Agreement (the "Study Period") to determine whether or not the Hotel Project Property, its physical condition, any existing leases, title to the Hotel Project Property, the existing utility systems or required utility systems to support the Project, and any and all other aspects of the Hotel Project Property are satisfactory to the Master Developer in its sole and absolute discretion. Notwithstanding the above, the Town agrees to deliver the portion of Lot 14 which is included in the sale to Master Developer free and clear of all leases and tenancies and as stated above, the Town has retained special counsel regarding same.

Section 4.02. To the extent that Town requires additional time to deliver the Hotel Project Property, specifically SCTM# 0600-129-1-14 ("Lot 14") with legal right to transfer the property free and clear of all leases and rights to tenancy within the building, Master Developer's time to determine whether or not the Hotel Project Property, its physical condition, any existing lease(s) or tenancy(s), title to the Hotel Project Property, etc. are satisfactory to the Master Developer in its sole and absolute discretion shall be extended by a period of time equal to the Town's extension of time.

Section 4.03. Within one hundred eighty days (180) days of the date of this Agreement, if not before or otherwise extended by 4.02 above, the Town shall deliver to the Master Developer copies of any documents evidencing the Town's ability to legally transfer the property free and clear of all rights of tenancy on the Hotel Project Property or within any improvements located thereon. In addition, the Town shall have an ongoing obligation to provide to the Master Developer during the Study Period any status updates and legal documents that are related to any matter that could materially affect the terms of this Agreement and/or any of the other agreements to be made pursuant hereto. The Master Developer shall hold in strict confidence all such updates and legal status related to lease(s) and tenancy(s) delivered by the Town to the Master Developer and shall use such information for the purpose of ascertaining how the same may impact the economic status and feasibility of developing the Hotel Project Property and may reveal same to its professional advisors or others as may be compelled by applicable law, court order or subpoena.

Section 4.04. During the Study Period and at all times prior to Closing, the Town shall promptly deliver to the Master Developer copies of any notice received by the Town of any actual or alleged Hazardous Materials Contamination affecting or impacting the Hotel Project Property. It should be noted that the Town has provided and the Master Developer acknowledges receipt of Phase I environmental surveys and Hazardous Materials Survey for 121 and 127 East Main Street referenced as Lots 13 and 14, together with subsurface soil investigation report for Lot 11 and Lot 13. As set forth in the provisions below, to the extent Master Developer seeks additional studies, be it soil investigation, Phase I, or hazardous material survey for any portion of Lots 12, 13, 14, and 86.1 or Phase II on any such Lots, Master Developer may at his own cost and expense and within the study period undertake such studies.

Section 4.05. During the Study Period, the Master Developer may undertake due diligence and investigation of the Hotel Site within 180 days from the date of this agreement.

Section 4.06. During the Study Period, the Town hereby grants to the Master Developer and any Master Developer Agents the right to access the Hotel Project Property as necessary for the purposes provided in 4.01 above. During the Study Period, the Town shall cooperate with the Master Developer in the performance of its due diligence with respect to the Project and, upon either reasonable prior written notice or reasonable prior telephonic notice followed by e-mail notice from the Master Developer, shall provide the Master Developer or the Master Developer Agents at all reasonable times with full access to the Hotel Project Property in order to conduct, at the Master Developer's sole cost and expense, due diligence with respect to the Project and the Hotel Project Property, subject to the rights of Tenants; provided, however, that the Master Developer (i) shall indemnify, defend and hold the Town harmless from and against all costs, expenses, losses, claims, damages and/or liabilities arising from the Master Developer's and the Master Developer Agents' negligence or intentional acts in connection with the due diligence activities on or about the Hotel Project Property; (ii) shall provide the Town with evidence of liability and casualty insurance applicable to activities on the Hotel Project Property in an aggregate amount of not less than One

Million Dollars (\$1,000,000); (iii) if requested by the Town, shall promptly repair, at the Master Developer's sole cost and expense, any material damage resulting from any such activities and restore the Hotel Project Property and any related damage to the Hotel Project Property to its condition prior to such activities; (iv) shall fully comply with all applicable Laws; (v) shall interview Tenants only during regular business hours and shall give the Town either reasonable prior written notice or reasonable prior telephonic notice (including voicemail) followed by e-mail notice of same in order to permit a representative of the Town to accompany the Master Developer on any such interviews with Tenants; (vi) shall not permit any inspections, investigations or other due diligence activities to result in any liens, judgments or other encumbrances being filed against the Hotel Project Property or the Hotel Project Property and shall, at its sole cost and expense, promptly discharge of record any such liens or encumbrances that are so filed or recorded; and (vii) shall not permit any inspections, investigations or other due diligence activities to result in any unreasonable interference with the use and occupancy of any Tenant or other occupant of the Hotel Project Property or with the Town's activities on the Hotel Project Property. The Master Developer shall provide the Town with at least five (5) Business Days (i) prior written notice or (ii) prior telephonic notice (including voicemail) followed by e-mail notice of any intended drilling or soil removal for testing on the Hotel Project Property, and will reschedule any such tests at the Town's request if the Town specifies that the selected date will interfere with scheduled activities. The Master Developer will promptly provide the Town with copies of the results from any such testing, at no cost to the Town. Nothing in this subsection shall be construed to permit the Master Developer or a Master Developer Agent to conduct any invasive tests on the Hotel Project Property that would undermine the integrity of the structure and improvements located on Lot 14. The Master Developer's liabilities under this subsection shall survive the Closing or earlier termination of this Agreement.

4.07. Title and Termination for Failure to Cure. Within one hundred eighty (180) days of the date of this Agreement, if not before, the Master Developer shall, at the Master Developer's sole cost and expense, order a title insurance commitment for the Hotel Project Property (the "Title Commitment") to be issued by the Title Company and an ALTA survey of the Hotel Project Property (the "Survey"). The Master Developer, at its sole cost and expense, may also order an update or endorsement to the Title Commitment (the "Study Period Title Update") after issuance of the Title Commitment, subject to the remaining provisions of this subsection. No later than one hundred eighty days (180) days following the date of this Agreement, the Master Developer shall deliver to the Town the Title Commitment, any Study Period Title Update, the Survey and delivery of such Title Commitment or Title Update, shall be deemed as written notice to the Town of any objections, if any, contained therein that the Master Developer has to title to the Hotel Project Property or to the Survey (the "Study Period Objections"). No later than two hundred ten (210) days following the date of this Agreement, the Town shall notify the Master Developer in writing of the Study Period Objections the Town agrees to satisfy on or before the Closing, at the Town's sole cost and expense, if any, and of the Study Period Objections that the Town cannot or will not satisfy, if any. Notwithstanding the foregoing sentence, the Town shall in any event be obligated to cure any Study Period Objections (i) that are monetary liens or security interests against the Hotel Project Property and (ii) that are encumbrances that have been voluntarily

placed against the Hotel Project Property by the Town that materially and adversely affect the use and/or value of the Hotel Project Property after the date of execution of this Agreement. If the Town chooses not to satisfy all or any of the Study Period Objections that the Town is not obligated to satisfy in accordance with this subsection, the Master Developer may terminate this Agreement. If the Master Developer does not so terminate this Agreement in accordance with the preceding sentence, the Master Developer shall be deemed to have waived the Study Period Objections that the Town has elected not to cure or is not obligated to cure, and such Study Period Objections, together with all title matters and exceptions set forth in the Title Commitment and any Study Period Update and the state of facts shown on the Survey, shall become Permitted Title Exceptions, without reduction in the Purchase Price or claim for damages.

4.08. Termination During Study Period. (a) The Master Developer may terminate this Agreement, for any reason whatsoever, including for no reason, in its sole and absolute discretion, at any time during the Study Period by giving written notice of such election to the Town and the Title Company prior to expiration of the Study Period, in which event the Deposit and all investment earnings thereon shall be promptly returned to the Master Developer by the Title Company and all obligations, liabilities and rights of the Parties under this Agreement shall terminate, except those obligations that expressly survive termination of this Agreement. If this Agreement is terminated by the Master Developer during the Study Period, the Master Developer shall, at no cost to the Town, provide the Town with copies of all studies, reports and other testing results, without lien, obtained by the Master Developer in connection with the Master Developer's due diligence activities on the Hotel Project Property, which obligation shall survive any such termination of this Agreement.

(b) If this Agreement is not terminated during the Study Period, then within thirty (30) days after the last day of the Study Period, the Master Developer shall deposit with the Title Company as Escrow Agent the sum of \$131,250.00 as the Deposit which will be applied toward the Purchase Price at Closing or paid pursuant to the terms of this Agreement. For the purposes of this Section 4.08(b), the Escrow Agent shall sign this Agreement below agreeing to hold the Deposit in accordance herewith. The Deposit shall be held in escrow by the Escrow Agent in a non-interest bearing account and shall be disposed of only in accordance with this Agreement. If either party shall make a demand upon Escrow Agent for the Deposit, Escrow Agent shall promptly give written notice thereof to the other party in which event such party shall have the right to object to the delivery of the Deposit by giving written notice of such objection to Escrow Agent within ten (10) days after its receipt of such notice, but not thereafter, provided however, if the Master Developer cancels this Agreement pursuant to this Article 4, the Deposit shall be immediately refunded to Master Developer without such ten (10) day notice and the Town has no right to object to the refund of the Deposit. Such notice shall set forth the basis for objecting to the delivery of the Deposit. Upon receipt of such objecting notice, Escrow Agent shall promptly give written notice and a copy thereof to the party who made the written demand. In the event the Escrow Agent shall have received the notice of objection provided for above, and within the time prescribed, the Escrow Agent shall continue to hold the Deposit until such time as (i) the Escrow Agent receives written notice duly executed by both parties or a final non-appealable order of a court

directing distribution of the Deposit, in which case the Escrow Agent shall then disburse the Deposit in accordance with said direction, or (ii) in the event of litigation between the parties Escrow Agent may deposit the Deposit with the Clerk of the Court in which said litigation is pending; or (iii) the Escrow Agent takes such affirmative steps as the Escrow Agent may, at its' option, elect in order to terminate the Escrow Agent's duties as Escrow Agent, including but not limited to deposit in Court and an action for interpleader.

4.09. Matters Affecting Title after Expiration of the Study Period. In the event the Master Developer does not elect to terminate this Agreement prior to the expiration of the Study Period in accordance with the provisions of this Article between the date of expiration of the Study Period and the date of Closing, the Master Developer, from time to time, at its sole cost and expense, may order an update or endorsement to the Title Commitment or the Study Period Title Update, as applicable (each, a "Title Update"). If any additional Title Update delivered to the Master Developer discloses a title matter that was not disclosed in the Title Commitment, the Study Period Title Update, or a subsequent Title Update, as applicable, the Master Developer shall deliver to the Town, a copy of such Title Update which shall constitute notice of any objections set forth therein, if any (each, any "Objections"), to such title matter first disclosed in such Title Update. No later than twenty (20) Business Days after receipt of any Objections, the Town shall notify the Master Developer in writing of the Objections the Town agrees to satisfy on or before the Closing, at the Town's sole cost and expense, if any, and of the Objections that the Town cannot or will not satisfy, if any (in each such case, the "Town's Title Response Notice"). Notwithstanding the foregoing sentence, the Town shall in any event be obligated to cure any Objections (i) that are monetary liens or security interests against the Town which encumber the Hotel Project Property; and (ii) that are encumbrances that have been voluntarily placed against the Hotel Project Property by the Town after the date of this Agreement. If the Town chooses not to satisfy all or any of the Objections that the Town is not obligated to satisfy in accordance with this Article the Master Developer may terminate this Agreement by written notice delivered to the Town and the Title Company in which event the Deposit and all investment earnings thereon shall be promptly returned to the Master Developer by the Title Company and all obligations, liabilities and rights of the Parties under this Agreement shall terminate, except those obligations that expressly survive termination of this Agreement. If the Master Developer does not terminate this Agreement in accordance with the preceding sentence the Master Developer shall be deemed to waive the Objections that the Town has elected not to cure or is not obligated to cure, and such Objections shall become Permitted Title Exceptions, without reduction in the Purchase Price or claim for damages.

4.10. Date by Which Closing to Occur. The Closing shall occur on or about the date which is 60 days after the date that all of the following have occurred: (i) the Town, by its special counsel, has notified the Town and the Master Developer that the Town may convey title to Lot 14 free of all leases and rights of tenants with the building thereon fully demolished; (ii) the date of the relocation of structures located on that portion of Lot 15 described above; and (iii) the date that the application for Lot Line Alteration is approved by the Planning Board; (iv) the date that the Town Board approves the Approved Development Plan and (v) the date that a building permit is issued to the

Master Developer for construction of the Hotel Project. Notwithstanding the foregoing, Closing shall occur not later than one year from the date of this Agreement.

#### ARTICLE IV RECOMMENDED ACTION PLAN

5.01. Recommended Action Plan Creation. The Town and the Master Developer shall work together, in consultation with UDA, LVF and Skolnick and Planning staff, Engineering, Water District and Sewer District to produce concepts, designs and construction schedule related to development and redevelopment of the Hotel Project and portions of the Town Square Project to be known as the Recommended Action Plan ("RAP"). The RAP shall, to the extent necessary, include recommendations for necessary zoning code amendments, including such zoning code amendments to allow for the Project to be legally conforming in all aspects.

5.02. As a function of their work on the RAP, Master Developer shall identify its project team ("Master Developer Project Team"). The Master Developer Project Team shall work collaboratively with the Town and its designated internal project team ("Town Project Team") and Master Developer and the Town shall identify a contact person within each of their respective teams. It is anticipated that project team meetings between the Master Developer Project Team and the Town Project Team shall take place monthly. Master Developer hereby designates Joseph Petrocelli as its contact person, and the Town hereby designates Dawn Thomas as its contact person and the individual who can commit the Town Project Team. Any change in said contact persons shall be communicated in writing to the other Party.

5.03. In order to maintain an open line of communication and move the Project forward as efficiently as possible, Master Developer's and the Town's respective project teams, in addition to the anticipated monthly meetings as outlined above, will make themselves available for special meetings and/or teleconferences (together with the biweekly meetings, collectively, "Coordination Meetings"), to occur on an as needed basis.

5.04. As a preliminary step in their work to develop and create the RAP, the Master Developer Project Team and the Town Project Team shall, within 30 days after the date of execution of this Agreement by the Parties, in good faith, mutually establish a list of milestone accomplishments (the "Milestones") and target dates by which said Milestones are anticipated to be satisfied and completed. It is anticipated that some of the RAP and initial phases of the Hotel Project will commence prior to transfer of title and pursuant to the above-described Staging Agreements and Easement Agreements, and if deemed appropriate a Construction Lease/Pre-possession Agreement (see definition: Lease) with annual fee terms in an amount not less than the cost of annual payment due for repayment of bond principal and interest related to purchase and/or demolition of 117, 121, and 127; requisite insurance related to demolition and construction activities; and, such other terms and conditions to be negotiated and more fully described in the Lease/Pre-possession Agreement with requirement for formal approval of the Town Board. Notwithstanding the above, the Milestone Outline shall require that Master Developer commence site plan application within 60 days after the last day of the Study Period.

5.05. As to any other Milestones and dates, same shall be memorialized into a Milestone outline (the "Milestone Outline") which, upon approval by the Master Developer Project Team and the Town Project Team, shall be deemed incorporated by reference into this Agreement and the RAP. Any material changes to the Milestone Outline must be agreed upon in writing by both the Master Developer Project Team and the Town Project Team. After each Coordination Meeting referred to above, the Master Developer Project Team shall, if necessary, update the Milestone Outline (as applicable) and furnish a copy of the same to the Town Project Team for confirmation.

Development Strategies for the Proposed Project. The Town and the Master Developer shall work together to create a development strategy (the "Development Strategy") which will be reflected in the RAP. It is expected that the Development Strategy shall address development and redevelopment of the Hotel Project and Town Square Project identified in the preamble and provisions recited below, along with the following guiding principles which may be modified, by written agreement between the Town Project Team and the Master Developer, from time to time:

Develop site specific design concepts for landscaping, walkways, recreation space, lighting, seating and amenities connecting Main Street and the riverfront that will integrate the Main Street Improvements; Town Square Upper Deck; Town Square Lower Deck and the Hotel Project property in furtherance of Downtown Revitalization Initiative ("DRI");

Develop an attractive retail/hotel/condominium building on the Hotel Property with up to 76 hotel rooms and 12 condominium units with ground level retail facing the Town Square and underground parking for the condominium units in furtherance of the DRI; and

The Master Developer to provide for the operation and maintenance of the Town Square by the Master Developer and/or its affiliates for an initial period of ten (10) years at the rate of \$150,000.00 per year pursuant to a separate agreement (\*see list of responsibilities for operation/maintenance attached hereto as Exhibit "J") to be entered into between the Town and the Master Developer or its affiliate at the closing on the transfer of the Hotel Property to the Master Developer whereby the Master Developer shall provide for the maintenance and upkeep of the Town Square Upper Deck and the steps and ramps leading to the Lower Deck for a period of ten (10) years in accordance with a detailed maintenance schedule to be made part of said agreement; and

The construction by the Town of a public parking garage and walkways for ingress and egress to and from the Town Square on Town owned property along East Ave behind the Suffolk Theatre (the "Parking Garage"); and

The relocation of the buildings on Lot 15;

Cooperation to Obtain Funding & Assistance with Grant Project Compliance for Submissions and Reimbursements. The Parties shall work diligently to secure any public or other funding opportunities or grants for infrastructure improvements and other elements related to the Project that may ultimately be identified as necessary or

appropriate for the development thereof. Master Developer and the Town shall mutually consult with respect to any such potential funding opportunities or grants. In addition, the Town, as authorized by Resolution 2024-356 adopted on April 16, 2024 and acting as local sponsor for and on behalf of private investment, to wit: J. Petrocelli Development now J. Petrocelli Riverhead Town Square, LLC, for grant funding in the amount of \$1,000,000.00 awarded through New York State Empire Development Corporation (NYS ESDC Round 8 of the RESTORE New York Communities Initiative Grant program, shall work with Master Developer to meet RESTORE New York Communities Initiative Grant program. The Town, by and through its Director of Community Development, shall meet with Master Developer, separate, apart and in addition to the meetings related to the RAP set forth in 5.01 through and inclusive of 5.05, related to NYSESDC grant requirements, including procurement, project specific goals, etc. to ensure project compliance necessary for reimbursement; and

5.06. Submission of the RAP. The Master Developer Project Team and the Town Project Team shall jointly submit the co-created RAP to the Town Board within 4 months (120 days) from the date of this Agreement and thereafter make revisions as reasonably agreed to by the Master Developer Project Team and the Town Project Team such that a final RAP and related SEQR materials can be presented to Town Council as soon as reasonably possible, and the Master Developer Project Team and the Town Project Team timeline for accomplishing the above shall be reflected in the Milestone Outline. The RAP will include such reports, public input processes and analysis related to Town Square Project and Hotel Project which input is socially, environmentally and economically responsible, to assure a sustainable development outcome. Upon submission of the co-created RAP, the Town Board shall consider the environmental impacts pursuant to SEQR in a timely manner. The Town agrees and represents that the subject properties, inclusive of the Hotel Property, are currently zoned for all of the intended uses thereof as outlined in this Agreement and the RAP and that no zoning change will be required or necessary for completion of the Project and the use and operation thereof following completion.

5.07. Responsibility for Master Developer's Project Costs and Expenses. Except as otherwise provided to the contrary in this Agreement, all costs and expenses authorized and incurred by the Master Developer in connection with the preparation of the RAP or construction that may be undertaken by the Master Developer, shall be at the sole cost and risk of the Master Developer. Except as otherwise provided to the contrary in this Agreement, in no event shall the Town be required to pay, assume, reimburse, contribute to or finance any of Master Developer's costs or expenses referenced in this Section. Notwithstanding the above, the Town agrees that notwithstanding that the same may require renewal or extension, that the Master Developer shall only be required to pay a one-time permit fee for the application and issuance of a building permit for the Hotel Property Project and there shall be no additional permit fees in connection therewith. Further, Master Developer and Town agree to share equally the expenses related to preparation of the Map & Plans related to Sewer and Water Infrastructure, pay its proportionate costs of such infrastructure improvements and share equally in the costs related to the SEQR study related to and examining the following: Town Square, Hotel Project, and Town Garage all of which are necessary and related to this agreement and related to and necessary to remove obstructions related

to demolition and transfer of title. Note, to the extent additional SEQR review is required under the site plan phase, Master Developer shall be solely responsible for all such costs.

## ARTICLE VI CONVEYANCE OF PROPERTY

6.01 Closing(s). Upon all Closing Conditions being satisfied including but not limited to those recited in Section 3.03 of this Agreement, the Master Developer shall have the right to send a notice (a "Closing Notice") to the Town notifying it that, the Master Developer is desirous of proceeding to closing on the Hotel Property subject to the condition that the closing date set forth in the Closing Notice shall be no earlier than thirty (30) days and no later than one hundred twenty (120) days after the date of the Closing Notice. Notwithstanding the above, in order to accelerate the development of the Project, the Master Developer shall have the right from time to time to send a notice (each, an "Accelerated Closing Notice") to the Town notifying it that, despite the fact that one or more Closing Conditions shall not have been satisfied with respect to the Project, the Master Developer, at its sole risk, is nonetheless desirous of proceeding to Closing with respect to the Hotel Property, subject to the condition that the closing date set forth in the Accelerated Closing Notice shall be no earlier than thirty (30) days and no later than one hundred twenty (120) days after the date of the Accelerated Closing Notice. Any closing pursuant to an Accelerated Closing Notice shall be subject to all of the other and further provisions of this Agreement, except for any Closing Condition specifically waived by the Master Developer.

6.02. The conveyance of the Hotel Property shall be made at the principal office of the Town or the attorneys for the Town (or such other location as the Parties agree), either directly from the Town or through the CDA and the Master Developer shall accept such conveyance and pay (i) the Purchase Price to the Town at the closing (the "Closing").

6.03. Form of Deed. The Town shall be obligated to convey to the Master Developer marketable and insurable title to the Hotel Property to be conveyed to the Master Developer subject to "Permitted Encumbrances" and the terms herein, by standard form bargain and sale deed with covenants against grantor's acts (hereinafter called the "Deed").

6.04. Omitted.

6.05. Omitted.

6.06. Omitted.

6.07. Apportionment of Current Taxes. The portion of the current taxes, if any, on the land and improvements constituting or located on the Hotel Property which are a lien on the date of delivery of the Deed to the Master Developer shall be apportioned between the Town and the Master Developer based on the tax years then in effect. If the amount of the current taxes on the Hotel Property are not ascertainable on such date, the apportionment between the Town and the Master Developer shall be on the basis of the

amount of the most recently ascertainable taxes on the Hotel Property, but such apportionment shall be subject to final adjustment within thirty (30) days after the date the actual amount of such current taxes is ascertained and delivered to the Master Developer.

Recordation of Deed. The Master Developer shall promptly file the Deed for recordation in the Office of the Clerk of Suffolk County. The Master Developer shall pay all costs for so recording the Deed.

6.08. Title Insurance and Transfer Tax. The Master Developer shall pay the cost of its own title insurance and the Master Developer shall pay any transfer taxes that may be required, including, without limitation, the New York State transfer tax.

6.09. Condition of the Hotel Property at Time of Conveyance. Except as otherwise set forth in this Agreement, the Master Developer shall take title to and possession of the Hotel Property "as is" in its present physical condition as of the date of this Agreement reasonable wear and tear and damage and destruction not caused by the Town excepted and the Town shall have no obligation to perform any work to maintain or improve or prepare the Hotel Property for redevelopment in any way. Except as set forth in this Agreement, there are no warranties of any kind express or implied by the Town.

6.10. Restrictions on Use. The Master Developer agrees for itself and its successors and assigns, that the Deed or other recorded documents shall contain covenants on the part of the Master Developer for itself, and such successors and assigns, in form and substance reasonably satisfactory to the Parties, that the Master Developer, and such successors and assigns, shall:

- a. comply with all Federal, State, Town and local laws, in effect from time to time, prohibiting discrimination or segregation by reason or race, creed, color, national origin, age, gender, sexual orientation, marital status or disability in the sale, lease or rental or in the use or occupancy of the Hotel Property or of any improvements erected or to be erected thereon, or any part thereof;
- b. comply with the regulations issued by the Secretary of Housing and Urban Development set forth in 37 F.R. 22732-3 and all applicable rules and orders issued thereunder which prohibit the use of lead-based paint in residential structures undergoing federally assisted construction or rehabilitation and require the elimination of lead-based paint hazards; and
- c. not effect or execute any agreement, lease, conveyance or other instrument whereby the Hotel Property or any part thereof is restricted upon the basis of race, creed, color, national origin, age, gender, sexual orientation, marital status or disability in the sale, lease or occupancy thereof.

6.11. Town and United States Rights to Enforce. In amplification, and not in restriction of, the provisions of this Agreement, it is intended and agreed that the Town and its successors and assigns shall be deemed beneficiaries of the agreements and covenants provided herein, and the United States shall be deemed a beneficiary of the covenant provided herein, both for and in their or its own right and also for the purposes

of protecting the interests of the community and other Parties, public or private, in whose favor or for whose benefit such agreements and covenants have been provided. Such agreements and covenants shall run in favor of the Town and the United States, for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether the Town or the United States has at any time been, remains, or is an owner of any land or interest therein or to which such agreements and covenants relate. The Town shall have the right, in the event of any breach of any such agreement or covenant, and the United States shall have the right in the event of any breach of said covenant, to exercise all the rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breach of agreement or covenant, to which it or any other beneficiaries of such agreement or covenant may be entitled.

## **ARTICLE VII ASSIGNMENT BY THE DEVELOPER**

7.01. The Town acknowledges that the Master Developer may bring in other developer participants ("Developer Participant(s)") in connection with the development the Project. Master Developer represents and agrees for itself, its members, and any successor in interest of itself and its members, respectively, that it shall maintain operational control of the Project and shall not assign, transfer or convey its respective rights or interests in this Agreement which will result in the loss of operational control without the express prior written consent of the Town Project Team, which consent shall not be unreasonably withheld, delayed or conditioned and which consent shall be given if any such assignment, transfer or conveyance does not violate the provisions of this Section 7.01 and not be to a Prohibited Party (as said term in hereinafter defined). Master Developer shall not be required to disclose any business terms or agreements between them to the Town Project Team. In determining said reasonableness standards, the Town shall only consider the financial capabilities, reputation, experience and expertise of the Development Participant(s) including determining that said proposed Development Participant(s) is not a Prohibited Party ("Reasonableness Standards"). For purposes of this Agreement, a "Prohibited Party" shall mean any person or related entity that has been convicted in a criminal proceeding of a felony or any crime involving moral turpitude or that is an organized crime figure or has substantial business or other affiliations with an organized crime figure.

## **ARTICLE VIII TERMINATION AND REMEDIES**

8.01. In General. Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, or of any of its terms or conditions by any Party hereto, or by any successor to such Party, such Party (or successor) shall, upon written notice from the other, proceed promptly to commence to cure or remedy such default or breach. In case such action is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time (said time not to exceed thirty (30) days except if the default or breach in question is such that it cannot reasonably be cured within thirty (30) days), then, within a reasonable time period, (unless the defaulting or breaching Party shall have commenced to cure such default or

breach and shall be proceeding with diligence, dispatch and continuity to affect such cure), for any default, the non-defaulting or non-breaching Party may at the sole cost and expense of the defaulting or breaching Party, (a) institute such legal or other proceedings as may be necessary or desirable in the sole opinion of the non-defaulting Party, to cure and remedy such default or breach, the costs of which such legal or other proceedings shall, at the sole option of the Party not in default, be reimbursed by the Party in default to the Party not in default or be added to or subtracted from the Purchase Price; and/or (b) if the non-defaulting Party shall be the Town, then in such case, the non-defaulting party may commence proceedings to compel specific performance by the defaulting party; and/or (c) exercise any right it may have to terminate this Agreement.

8.02 Termination. In the event that any of the Approvals required herein are not obtained or any of the other Closing Conditions are not satisfied or fulfilled as provided for herein, despite the use of all Parties' commercially reasonable efforts and after all administrative and, at the option of the Master Developer, legal processes have been exhausted, the Master Developer shall have the option, but not the obligation, to terminate this agreement, or, due to the Master Developer's failure to pursue said Approvals and/or in the event the Master Developer shall otherwise fail to perform its obligations hereunder (after appropriate notice and opportunity to cure), the Town shall have the option, but not the obligation, to terminate this Agreement by written notice to the other party (the "Termination Notice"), except for those provisions which are specifically set forth in this Agreement to survive said termination. In the event this Agreement is so terminated, the Master Developer, the Town, respectively, shall have all of the rights and obligations provided in this Article VIII with respect thereto. Notwithstanding the foregoing, the Master Developer shall have the right to waive any Closing Condition except as set forth in this Agreement.

8.03. Termination Option by Master Developer Prior to Conveyances. In the event the Town does not actively take the appropriate steps necessary to diligently pursue review of, and if appropriate, implementation of the RAP in a timely manner, Master Developer, at any time thereafter, shall have the right (but not the obligation) to send a Termination Notice to the Town terminating this Agreement upon a date to be specified in the Termination Notice. Further in the event any of the Closing Conditions set forth in this Agreement are not satisfied; or a default by the Town, where notice has been given, under Section 8.01 continues beyond the expiration of any applicable cure period; or the Town does not tender conveyance of the Hotel Property, or possession thereof, in the manner and condition provided, and by the Closing Date established pursuant to the provisions of this Agreement and any such failure to convey shall not be cured within thirty (30) days after the date of written demand by the Master Developer, except if such failure is attributable solely to the fault of the Master Developer; then this Agreement may, at the option of the Master Developer, be terminated by written notice thereof to the Town.

8.04. Termination Option by Town Prior to Conveyance. a. In the event that prior to conveyance of the Hotel Property to the Master Developer: (i) Master Developer fails to pursue any Closing Conditions, to the extent not waived by Master Developer, set forth in this Agreement, through no fault of the Town; (ii) or a default by the Master Developer,

where notice has been given, under Section 8.01 occurs and continues beyond the expiration of any applicable cure periods; or the Master Developer does not pay the Purchase Price and take title to the Hotel Property upon tender of conveyance by the Town in compliance with the terms of this Agreement and such default or failure shall not be cured; (iii), or a commencement to cure has not taken place within thirty (30) days after the date of written demand by the Town, and provided in each such case, the Town is not then in default of any of its material obligations hereunder; then, in any of the events described in clauses (a)(i) through (a)(iii) above, provided that the Master Developer shall have received the appropriate notice from Town and shall not have cured or proceeded to cure such failure or default within the time periods set forth in Section 8.01 of this Agreement, any rights of the Master Developer, or of any assignee, transferee or affiliate thereof in and pursuant to this Agreement or arising therefrom with respect to the Town, shall, at the option (but not the obligation) of the Town, be terminated by the Town, in which event neither the Master Developer nor the Town shall have any further rights against or liability to the other under this Agreement, except for those provisions which are specifically set forth in this Agreement to survive the termination of same.

## **ARTICLE IX** **Master Developer Work Product**

9.01. Master Developer Work Product. Notwithstanding anything to the contrary contained in the Agreement, the Master Developer shall retain all rights to the work product created in connection with the RAP ("Work Product"), provided, however, that the Town shall have the irrevocable right at all times during the term of this Agreement (and after the termination hereof), at no cost or expense to the Town, to use copies of any and all such Work Product in Town's possession at such time, only for Town's direct development purposes, and not for any direct or indirect private sector development purposes (with or without Town's participation). The provisions of this Section 9.01 shall survive the termination of this Agreement.

## **ARTICLE X** **OTHER RIGHTS AND REMEDIES OF THE PARTIES; NO WAIVER BY DELAY.**

10.1. Other Rights and Remedies of the Parties; No Waiver by Delay. Except as otherwise provided in this Agreement, each Party shall have the right to institute such actions or proceedings as it may deem desirable for effectuating the purposes of this Article X, provided that any delay by any Party in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Article X shall not operate as a waiver of such rights or to deprive it of or limit such rights in any way, it being the intent of this provision that no Party should be constrained (so as to avoid the risk of being deprived of or limited in the exercise of the remedy provided in this Section because of concepts of waiver, laches, or otherwise) from exercising such remedy at a time when it may still hope otherwise to resolve the problems created by the default involved); nor shall any waiver in fact made by any Party with respect to any specific default by another Party under this Article be considered or treated as a waiver of the rights of the non-defaulting Party with respect to any other defaults by another Party

under this Article or with respect to the particular default except to the extent specifically waived in writing.

## **ARTICLE XI RIGHTS AND REMEDIES CUMULATIVE**

11.01. Rights and Remedies Cumulative. The rights and remedies of the Parties to this Agreement, whether provided by law or by this Agreement, shall be cumulative, and the exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or breach or of any of its remedies for any other default or breach by the other Party. No waiver made by either such Party with respect to the performance, or manner or time thereof, or any obligation of the other Party or any condition to its own obligations under this Agreement shall be considered a waiver of any rights of the Party making the waiver with respect to the particular obligation of the other Party or condition to its own obligations beyond those expressly waived in writing or a waiver in any respect of any other rights of the Party making the waiver of any other obligations of the other Party. Notwithstanding anything, express or implied, in this Agreement to the contrary, no Party shall be entitled to the award of any damages, whatsoever (compensatory, special, consequential or punitive (except Legal Costs as defined below)) in connection with any default or breach of this Agreement, provided, however, that nothing contained in this sentence shall be deemed to limit any Party's ability to seek specific performance from the other, pursuant to Section 8.01.

## **ARTICLE XII EQUAL EMPLOYMENT OPPORTUNITY**

12.01. Equal Employment Opportunity, The Master Developer, for itself and its successors and assigns, agrees that during the construction of the improvements on the Project provided for in this Agreement, the Master Developer will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, age, gender, sexual orientation, marital status or disability. The Master Developer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, national origin, age, gender, sexual orientation, marital status or disability. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

12.02. State Equal Opportunity in Construction Employment. During the performance of this Agreement as it relates to the Project, the Master Developer agrees that the Master Developer will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, age, gender, sexual orientation, marital status or disability, and will take affirmative action to ensure that they are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, age, gender, sexual orientation, marital status or disability. Such action shall be taken with reference, but not be limited to: recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, rates of pay or other

forms of compensation and selection for training or retraining, including apprenticeship and on-the job training.

## ARTICLE XIII ADDITIONAL COVENANTS

13.01. Covenant of Good Faith and Fair Dealing. The Parties recognize that the successful planning and execution of the Project Goals and their respective ability to perform their obligations under this Agreement will require extraordinary cooperation among themselves. Accordingly, this Agreement imposes an obligation of good faith and fair dealing on Master Developer and the Town in the performance and enforcement of their respective rights and obligations and in the achievement of the Milestones, Project Goals, co-creation of the RAP and the ultimate implementation of the Project. Master Developer and the Town, with a shared commitment to honesty and integrity in the performance and administration of this Agreement, agree to the following mutual duties: (i) each will be held to a standard of good faith and fair dealing in the performance of its duties and obligations under this Agreement, (ii) each will function within the laws and statutes applicable to its duties and responsibilities, (iii) as appropriate, each will reasonably cooperate with the other hereunder, (iv) each will avoid hindering the other's performance, (v) each will respond promptly and completely to the reasonable requests of the other, (vi) each will proceed to fulfill its obligations under this Agreement diligently and honestly, (vii) except as otherwise provided in this Agreement for the giving or the withholding of the Town's consent, approval or the like in its or their sole discretion, each agrees to use all commercially reasonable efforts to discharge their respective obligations under this Agreement and to assist each other in discharging their obligations under this Agreement which are dependent in any measure on another Party's performance, (viii) each will cooperate in the common endeavor of completing the performance and administration of this Agreement and the consummation of the transactions contemplated by this Agreement in a timely and efficient manner, and (ix) each will give written notice to the other of any intended meetings or communications (oral or written) with any governmental regulatory agencies having jurisdiction or input thereof, as relates to the RAP or any of the other contemplated Approvals herein, so as to give the opportunity for the other Party to attend or participate in such meetings or communications. Except as otherwise provided in this Agreement for a consent or approval to be given or withheld in the sole and arbitrary discretion of a Party, all other consents and approvals required or desired of any Party shall be promptly addressed and not unreasonably withheld, delayed or conditioned. Nothing contained in this Section 13.01, however, shall be to limit, qualify, condition, impair or affect the absolute discretion of the Town Board in exercising its legislative functions or impose any liability or obligation upon the Town with respect to the exercise (or failure with refusal to excuse) any such legislative function.

13.02. Agreed Tolling Events. Whenever a period of time is prescribed for action to be taken by any Party to this Agreement, no Party shall be liable or responsible for, and there shall be excluded from the computation of any such period of time the duration of any delays due to acts of God, war, insurrection, pandemic, riot and in the event of a major strike, work stoppage or suspension of government services or suspension of commerce by declaration of federal or state government (a "Force Majeure Event").

Notwithstanding anything to the contrary contained in this Agreement, whenever there is any action, proceeding, lawsuit and/or any other legal challenge or opposition brought against any of the Parties as relates to the contemplated development and/or redevelopment of the Project and/or this Agreement, and continued performance cannot be continued in a commercially reasonable manner, the time for completion of any performance requirement contained in this Agreement shall be extended for a period of time equal to the duration (from commencement through un-appealable resolution) of any such litigation or earlier date which Master Developer, in its reasonable judgment, deems commercially reasonable to continue performance ("Litigation Delay" and together with Force Majeure, the "Agreed Tolling Events").

13.03. Recordation of Agreement. Any of the Parties shall have the right to record this Agreement. All Parties to this Agreement shall sign all transfer tax forms required to record this Agreement in the appropriate offices of record. The Master Developer agrees that simultaneous with the recording of this Agreement, Master Developer shall execute a termination of agreement ("Termination of Agreement") to be held in escrow by an escrow agent designated by the Town, which may be released out of escrow only by the escrow agent either by (i) agreement by the Parties instructing escrow agent to release the Termination of Agreement, or (ii) upon termination of this Agreement pursuant to the terms hereof.

#### **ARTICLE XIV** **MISCELLANEOUS**

14.01. Modifications. This Agreement shall not be modified or supplemented, except by an instrument in writing signed by the Town and the Master Developer.

14.02. Recitals. The Recitals set forth above shall be incorporated into, and shall form a part of, this Agreement.

14.03. Governing Law. This Agreement and the rights of the Parties hereunder shall be construed and governed by the laws of the State of New York without regard to its principles of conflicts of laws.

14.04. Further Assurances. The Parties hereto agree to make, execute and deliver all further instruments and documents reasonably necessary or proper to fully effectuate the terms, covenants and provisions of this Agreement.

14.05. Entire Agreement. This Agreement (together with any schedules and exhibits hereto), sets forth the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersedes all prior agreements (written and oral), arrangements, negotiations or understandings among the Parties and shall inure to and bind the successors and assigns of the respective Parties hereto and shall not be modified or supplemented except by an instrument in writing signed by the Parties.

14.06. Partial Invalidity. If any term or provision of this Agreement or the application thereof to any persons or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or

unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

14.07. Binding Effect. This document shall not bind any Party unless and until each Party, in their respective sole and absolute discretion, elects to be bound hereby by executing and delivering to the other Parties an executed original counterpart hereof.

14.08. Purchaser's Remedies. Either party may, after giving all notices required by the terms of this Agreement and the expiration of all applicable cure periods, commence an action against the other party seeking specific performance to enforce any obligation contained in this Agreement or seeking an injunction to prevent the occurrence of a default under this Agreement.

14.09. Gender and Number. Whenever the context requires, the gender of all words used herein shall include the masculine, feminine and neuter, and the number of all words shall include the singular and plural thereof. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation."

14.10. Headings. The headings of the Paragraphs of this Agreement have been inserted for convenience of reference only and shall not constitute a part hereof.

14.11. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective legal representatives, and to the extent specifically permitted hereunder their respective designees, successors and assigns.

14.12. Waiver of Trial by Jury. The Town and the Master Developer hereby irrevocably and unconditionally waive any and all rights to trial by jury in any action, suit or counterclaim arising in connection with, out of or otherwise relating to this Agreement.

14.13. Jurisdiction. Each Party agrees to submit to personal jurisdiction in the State of New York, sitting in Suffolk County, in any action or proceeding arising out of this Agreement and, in furtherance of such agreement, each Party hereby agrees and consents that without limiting other methods of obtaining jurisdiction, personal jurisdiction over each Party in any such action or proceeding may be obtained within or without the jurisdiction of any court located in the State of New York, and that any process or notice of motion or other application to any such court in connection with any such action or proceeding may be served upon each Party as provided for in the New York State Civil Practice Laws and Rules.

14.14. Authority. The Parties represent that that they are duly authorized to enter into this Agreement and to execute any and all documentation necessary to effectuate the terms contained herein and have each taken all requisite action to obtain such authorization. All references to the Parties in this Agreement shall be deemed to also be references to such officers or employees or other designees of the Parties as may be appropriate to implement the terms of this Agreement.

14.15. Notices. All notices, consents, approvals and required agreements of the Parties under this Agreement ("Notices") shall be in writing and shall be delivered either

personally (receipt acknowledged), or, by certified mail or recognized overnight carrier, in either case, return receipt requested, shall be addressed to the respective Parties at the addresses first written above and shall be deemed served on the date of delivery or the date of refusal as shown on a return receipt, as the case may be. Notices provided by the respective attorneys shall be deemed sufficient within the meaning of this paragraph without the signature of the Parties themselves. Copies of Notices shall be simultaneously sent to:

Master Developer:

J. Petrocelli Riverhead Town Square, LLC  
100 Comac Street  
Ronkonkoma, New York 11779  
Attention: Joseph Petrocelli

With copies to:

Rosenberg Calica & Birney LLP  
400 Garden Town Plaza Ste 403  
Garden Town, New York 11530  
Attention: William J. Birney, Esq; and

VanBrunt, Juzwiak and Russo, PC  
140 Main St.  
Sayville, New York 11782  
Attention: Eric J. Russo, Esq.

Town:

Town of Riverhead  
4 West 2nd Street  
Riverhead, NY 11901  
Attention: Town Attorney

With copies to:

Town of Riverhead  
4 West 2nd Street,  
Riverhead, NY 11901  
Attention: Dawn Thomas, CDA Director

Each of the Parties hereto shall promptly notify each other of the change of their respective addresses.

**14.16. Conflict of Interests: Town Representatives Not Individually Liable.** No member, official, agent or employee of the Town shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, agent or employee participate in any decision relating to this Agreement which affects his personal interests

or the interests of any corporation, partnership, or association in which he is, directly or indirectly, interested.

14.17. Non-waiver. No failure or delay of any Party in the exercise of any right or remedy given to such Party hereunder, or the waiver by any Party of any condition hereunder for its benefit shall constitute a waiver of any other or further right or remedy nor shall any single or partial exercise of any right or remedy preclude other or further exercise thereof or any other right or remedy. No waiver by any Party of any other breach hereunder or failure or refusal by the other Party to comply with its obligations shall be deemed a waiver of any other or subsequent breach, failure or refusal to so comply.

14.18. Amendment and Renewal. Reference to this Agreement herein shall include any amendment or renewal hereof.

14.19. Effectiveness. This Agreement shall become effective as of the date hereof on the execution hereof by all of the Parties hereto.

14.20. Counterparts. This Agreement may be executed in counterparts, each of which shall constitute one and the same instrument.

14.21. Agents and Brokers. The Parties hereto represent to each other that neither has dealt with a real estate agent or a real estate broker (collectively, a "Broker") in connection with this transaction and that there is no Broker entitled to a commission of any kind as the result of this transfer. In the event either Party has caused or suffered anything to be done which give rise to a claim of a commission by a Broker, said Party so responsible shall indemnify and hold harmless the other Party from said claim, including reasonable attorneys' fees incurred by said other Party in defense of such claim. The provisions of this Section shall survive the closing of title or other termination of this Agreement.

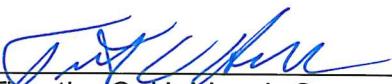
14.22. Legal Fees. The Parties shall be responsible for their own defense and legal fees in connection with any other action or proceeding involving this Agreement, including those incurred in defending the contemplated development and Project against any and all lawsuits or other legal challenges or opposition and, to preserve and enable the consummation thereof. If appropriate, the Parties will coordinate any such legal efforts in furtherance of the Project. Each Party shall be responsible for its respective costs in defense of any CPLR Article 78 litigation proceeding in which it is named a party. Each Party shall diligently defend any such action.

14.23. Limited Recourse. No order or decree of specific performance with respect to any of the obligations of the Town hereunder shall be sought or enforced against the Town unless the party seeking such order or decree shall first have requested the Town, in writing, to take the action sought in such order or decree of specific performance, and ten (10) days shall have elapsed from the date of receipt of such request, and the Town shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than ten (10) days, shall have failed to institute

and diligently pursue action to cause compliance with such request) or failed to respond within such notice period.

IN WITNESS WHEREOF, the Town and the Master Developer have caused this Agreement to be duly executed on or as of the date first above written.

TOWN:

  
\_\_\_\_\_  
Timothy C. Hubbard, Supervisor

MASTER DEVELOPER:

  
\_\_\_\_\_  
Joseph Petrocelli, Managing Member of  
J. Petrocelli Riverhead Town Square, LLC

STATE OF NEW YORK      }  
                                    }ss.:  
COUNTY OF SUFFOLK      }

On the 19<sup>th</sup> day of August, 2025, before me the undersigned personally appeared TIMOTHY C. HUBBARD, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity or Town capacity and that by his signatures on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

Karen Occhiogrosso  
Notary Public, State of New York  
Reg. No. 01OC6435479  
Qualified in Suffolk County  
Commission Expires June 27, 2024

STATE OF NEW YORK      }  
                                    }ss.:  
COUNTY OF SUFFOLK      }

On the 19<sup>th</sup> day of August, 2025, before me the undersigned personally appeared JOSEPH PETROCELLI, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity or Town capacity and that by his signatures on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

Karen Occhiogrosso  
Notary Public, State of New York  
Reg. No. 01OC6435479  
Qualified in Suffolk County  
Commission Expires June 27, 2024

# MASTER DEVELOPER AGREEMENT

## EXHIBIT "A"

### Concept Development Plan



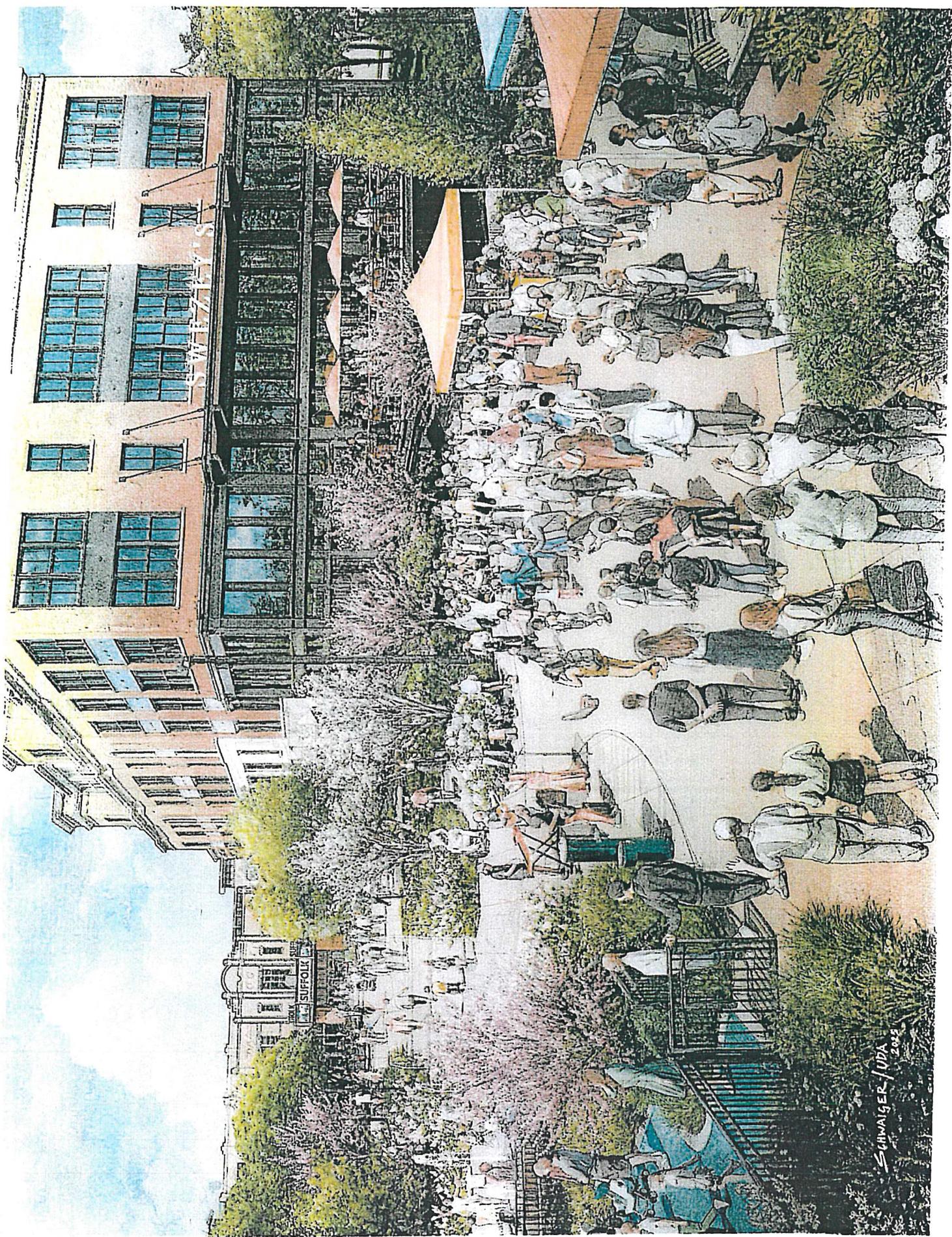
SCHWÄGER JUN 2025



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SCHWÄGER / UDA  
2015



SCHWAIGER / UDA  
2022

# MASTER DEVELOPER AGREEMENT

## EXHIBIT "B"

Survey/Sketch Plan Identifying p/o Parcels to be  
Conveyed, others subject to Easement etc.



# MASTER DEVELOPER AGREEMENT

## EXHIBIT "C"

Temporary Non-Exclusive License Agreement for  
Construction Staging and Construction Parking

TEMPORARY NON-EXCLUSIVE LICENSE AGREEMENT FOR CONSTRUCTION  
STAGING AREA (First Construction Staging Area Agreement) AND CONSTRUCTION  
PARKING AREA

This Agreement made this 18 day of August, 2025, between Town of Riverhead, a municipal corporation existing under the Laws of the State of New York, party of the first part, with its principal place of business located at 4 West Second Street, Riverhead, New York, 11901 (Grantor) and J. Petrocelli Riverhead Town Square, LLC, party of the second part, with its principal place of business located at 100 Comac Street, Ronkonkoma, New York 11779 (Grantee).

WHEREAS, Grantor, Town of Riverhead is the fee owner of certain real estate situated at 117, 121 and 127 East Main Street, Riverhead, New York 11901, County of Suffolk, State of New York, described as SCTM# 0600-129.00-01.00-Lots 12 and 13 and SCTM # 0600-129-01-14 and the Town of Riverhead Public Parking District is the owner of SCTM# 0600-129.00-01.00-23 and SCTM#0600-128-06-66.4; and

WHEREAS, Grantee, has been designed as Master Developer of the Town Square Project by Resolution #325 adopted on April 19, 2022 and subject to determination of Qualified & Eligible status pursuant to Article 15 of the General Municipal Law, Master Developer shall proceed to redevelop a portion of the property at 127 East Main Street known and referred to as Lot 14, a portion of Lot 13, a portion of Lot 15 and a small portion of Lot 86.1 collectively known as the "Town Square Hotel Project" (the "Hotel Project") in accordance with and subject to the Master Developer Agreement dated August 18, 2025 between the parties (the "MDA"); and

WHEREAS, Grantor and Grantees hereto have determined that it is in their best interest and in order for Grantee to carry out its obligations under the MDA and such other agreements between the parties, for the Grantor to grant and the Grantee to accept a Temporary Non-exclusive Non-transferable License to enter onto and use a portion of premises described as SCTM#0600-129.00-01.00-Lots 12 and 13 for the limited purpose of staging of material and equipment (Construction Staging Area) necessary for construction of the Hotel Project and a second Temporary Exclusive Non-transferable License to use a portion of SCTM# 0600-129.00-01.00-23 and SCTM#0600-128-06-66.4 for employee and construction vehicle parking (Construction Parking Area). This License is made Non-exclusive to permit the Town to stage materials and/or coordinate and install its utilities and infrastructure necessary for the Town Square at or near the time of Grantee's staging of similar material and acts in furtherance of separate Easement Agreement for Utilities and Drainage between Grantor (Licensor) and Grantee (Licensee); and

NOW THEREFORE, IT IS HEREBY AGREED by and between the parties that the said Temporary Non-Exclusive License Agreement for Construction Staging Area "A" and Temporary Exclusive License Agreement for Construction Parking Area "B" shall be granted in consideration of the mutual covenants and conditions contained herein and the provisions set forth below by Grantee to Grantor and shall be subject to the following terms and conditions:

## Article I

### Licensed Premises & Use of Licensed Areas

1.01 The Grantor hereby grants and conveys to the Grantee a temporary non-exclusive license to use the area depicted in Exhibit "A" on and over the portion of premises described as SCTM# 0600-129.00-01.00-Lots 12 and 13 limited to the purpose of Construction Staging Area for necessary construction related purposes, such as, without limitation, construction trailer, construction equipment, materials trailer, building construction materials and other related uses. Grantee shall be prohibited from storing any hazardous material within the staging area of Exhibit "A" except in accordance with all applicable laws. It shall be the responsibility of Grantee to install a temporary fence to separate the area, Exhibit "A", used by Grantee from Main Street and SCTM# 0600-128-06-86.1 as such fence is depicted in Exhibit "A". The Grantee shall take such reasonable measures as necessary to reasonably secure the Construction Staging Area depicted in Exhibit "A" at all times while the license granted hereunder is being used by the Grantee.

1.02 In addition to the above, Grantor hereby grants and conveys to the Grantee a Temporary Non-Exclusive License to use the area depicted in Exhibit "B" and Exhibit "C" on and over the portion of premises described as SCTM#0600-129-01-Lot 14 and a portion of premises described as SCTM# 0600-129.00-01.00-23, (Exhibit "B") and SCTM# 0600- SCTM#0600-128-06-66.4 (Exhibit "C"), for parking by persons and vehicles involved in the construction of the Hotel Project (the "Construction Parking Area") and said employees and personnel shall park within the painted stalls located with the Construction Parking Area. Notwithstanding, the non-exclusiveness of the license, as the majority, albeit approximately four parking spaces, of the area of Construction Parking Area "B" is not improved by Town or Parking District for public parking this area may be restricted and deemed exclusive during term of license. As to Construction Parking Area "C", Grantee shall have exclusive use limited to the hours 7:00am to 5:00pm Monday through Friday. Note, material and equipment may not be stored in the staging areas depicted in Exhibit "B" and Exhibit "C" under this Temporary License Agreement for Staging Areas and instead, Grantor and Grantee shall enter into a separate agreement for Construction Staging Area for SCTM#0600-129-01-Lot 14 and a portion of premises described as 0600 SCTM# 0600-129.00-01.00-23 for a term beginning at the expiration of this Temporary License Agreement for Staging Areas. Grantee shall be permitted to post signs that the area depicted in Exhibit "B" is designated for and restricted to parking for construction employees/personnel working on the Hotel Project at 127 East Main Street. The Grantor will not have any responsibility for or be under any obligation to reimburse Grantee, or any contractor or subcontractor for any losses which may be due to vandalism, theft or malicious mischief except if the result of the gross negligence or willful misconduct of the Grantor. Notwithstanding the Temporary Non-Exclusive License for Staging Areas depicted in Exhibit "B" and Exhibit "C" and the terms set forth above, Grantor shall not have any obligation to police or remove vehicles from the license area depicted in Exhibit "B" or Exhibit "C" (Construction Parking Area).

1.03 Grantee's agents, contractors and subcontractors shall be responsible for reasonable protection against vandalism, theft or malicious mischief of all of materials and equipment and/or vehicles stored on the Construction Staging Area depicted in Exhibit "A" and vehicles, together with equipment and personally stored in such vehicles parked in the Construction Parking Area depicted in Exhibit "B" and Exhibit "C" at all times from the start of the project and throughout the term of this agreement.

1.04 Notwithstanding the above and limited to Construction Parking Area depicted in Exhibit "B" and Exhibit "C", as it is anticipated that several different projects will begin construction at or near the time of construction of the Hotel Project, including the Town Square and 203-213 East Main Street Project, the Grantor shall have the right upon not less than 30 days' notice to Grantee to relocate the Construction Parking Area identified in Exhibit "B" and Exhibit "C" to another location to the area north of the Project site as depicted in Exhibit "D", Exhibit "E" or Exhibit "F".

1.05 Notwithstanding the fact that the license is temporary and non-exclusive as to license area in Exhibit "A", Exhibit "B" and Exhibit "C", Grantor shall not interfere with, disrupt or impede Grantee's ability to perform its activities contemplated hereunder nor shall Grantor conduct any activity which may interfere with construction access necessary for construction of the Hotel Project, except as set forth in Article 2 below.

1.06 The Construction Staging Area depicted in Exhibit "A" is non-exclusive and intended to be used in part by or shared with Grantor for staging of material and equipment for the Town Square project. Grantor and Grantee shall be required to coordinate efforts to permit the Hotel Project and Town Square Project to stage materials and commence improvements, particularly installation of utilities, drainage, necessary for Hotel Project and Town Square Project.

## **Article II** **Restriction related to Access to Project and Staging Areas**

2.01 In addition to the above, Grantee's employees and personnel shall access the Hotel Project site and the Construction Staging Area and Construction Parking Area depicted in Exhibit "A" and "B", respectively, via Peconic Avenue to Heidi Behr Way specifically intended to avoid and/or minimize impacts to the business and residential community on and proximate to Main Street and so as not to unreasonably interfere with historic and programmed events on Main Street (i.e. Mosaic Festival, Country Fair, Alive on 25).

2.02 To the extent Grantee requires access to the Hotel Project site and/or Construction Staging Area "A" from Main Street and McDermott Street to Heidi Behr Way, Grantee shall obtain written approval by the Town Engineer and Director of Economic Development and Planning with appropriate safeguards for signaling, flagman etc. and subject to the prohibition below such approval not to be unreasonably withheld, conditioned or delayed. Notwithstanding the above, there shall be no access to Hotel Project site and Construction Staging Area "A" from Main Street and McDermott Street to Heidi Behr Way during the hours of 7:30am to 4:30pm.

2.03 Grantee shall not create a curb cut to access the staging area depicted in Exhibit "A" from Main Street and instead shall use access the site from SCTM# 0600-128.00-06.00-Lot 86.1.

### **Article III Acceptance of Property "AS IS"**

3.01 Grantee has inspected the licensed areas and accepts same "AS IS". Grantee acknowledges that the Grantor has not made and does not make any representation or warranty as to the existence or non-existence of any condition or hazard on the Construction Staging Area or Construction Parking Area except that the Grantor represents that it has good title and authority necessary to grant the licenses to Grantee hereunder.

3.02 Grantee releases, waives, discharges, covenants not to sue, and holds harmless the Grantor, its officials, officers, employees, and agents from and for any and all liabilities, damages, obligations, losses, claims, causes of action, costs, debts, dues, charges or expenses (including reasonable attorney's fees), of whatsoever kind and nature on account of, in connection with, or resulting from, any and all injury to Grantee, its agents, employees or property of the Grantor or resulting from the death or permanent disability of Grantee, its agents, employees related to use of the licensed areas, except for liabilities resulting from the negligence or willful misconduct of Grantor.

### **Article IV Term for License Area "A" and "B"**

4.01 The term of the temporary non-exclusive license for use of staging area depicted in Exhibit "A" shall be for a ten (10) month term from the date of this agreement, however, upon the option of the Grantee the term may be extended for an additional six (6) month term.

4.02 The term of the temporary exclusive license for the Construction Parking Area depicted in Exhibit "B" shall terminate upon the expiration of the term of the Construction Staging Area, Exhibit "A" described in 4.01 above.

4.03 The term of the temporary non-exclusive license for the Construction Parking Area depicted in Exhibit "C" shall terminate within one (1) year from the date of this agreement, however upon the option of the Grantee and upon such terms and conditions approved by Grantor, the term may be extended for two additional six (6) month periods. Notwithstanding the above and limited to Construction Parking Area depicted in Exhibit "C", as set forth in 1.04, the Grantor shall have the right upon not less than 30 days' notice to Grantee to relocate the Construction Parking Area identified in Exhibit "B" and Exhibit "C" to another location to the area north of the Project site as depicted in Exhibit "D", Exhibit "E" or Exhibit "F".

### **Article V Compensation/License Fee**

5.01 As and for a fee for the above described use of the licensed areas (and intended to include fee for initial/first Temporary License Agreements for Construction Staging Area and Construction Parking Area, Easement for Utilities to serve Hotel Project, and Easement for Ingress and Egress from Hotel Project parking to Heidi Behr Way) Grantee shall enter into a Construction Management Agreement for Town Square (public gathering space/upper deck) and Town Square (playground/lower) deck with a reduced compensation (fee) not to exceed 7% of the total combined project cost for construction,

excluding purchase of equipment/improvements to be installed in the Town Square Public Gathering Space/Upper Deck and Town Square Playground/Lower Deck, for construction management services for both the Town Square Public Gathering Space/Upper Deck and Town Square Playground/Lower Deck.

5.02 In the event Grantee fails to enter into the above-described Construction Management Agreements through no fault of the Town or in the event that either of the Construction Management Agreements are terminated in accordance with their terms by reason of a default or breach of the Construction Management Agreements by the Grantee, a fee in the amount of \$300,000.00 shall be due and owing to Grantor as and for use of the licensed areas.

#### **Article VI Documentation and Pre-Construction Conditions**

6.01 Grantee shall document and file pre-construction conditions of the licensed areas depicted in Exhibit "A" Exhibit "B" and Exhibit "C" within 60 days prior to anticipated commencement of term of this agreement but not less than 15 days prior to use or occupancy of the licensed areas whichever is sooner, or to the extent as set forth in Article I provision 1.04, the Town determines an alternate site is appropriate Grantee shall document and file pre-construction conditions of the area depicted in Exhibits "D", "E" or "F", as the case may be, within 10 days of Town notification of alternate site and not less than 2 days prior to use or occupancy of the revised licensed area.

6.02 Grantee shall file all reports and photographs of pre-construction conditions with the Engineering Department. In addition to the above, Grantee shall document and file pre-construction conditions of the curb cut areas/entrances and all paved surfaces from Peconic Avenue and from Main Street to McDermott Street onto and including Heidi Behr Way through to the licensed area depicted in Exhibit "A" and "B".

6.03 Grantor and Grantee understand and acknowledge that these roadways will remain open to the business owners, patrons and residents and continue to experience normal wear and tear, however, the Grantor and Grantee acknowledge that the potential for damage to curbing, drainage and road surfaces due to hauling of construction equipment, delivery trucks, etc. upon such roadways poses a significant risk of damage to such roadways or other improvements beyond normal wear and tear such that shall be required to obtain a two year performance bond in the amount of \$1,000,000 in favor of the Grantor (Town of Riverhead) to guarantee restoration of the roadway and such other improvements damaged by construction vehicles described above. This requirement for a performance bond is separate and apart from any security or performance bond required as part of site plan and building permit approvals.

#### **Article VII Maintenance & Repair of Licensed Premises**

7.01 During the term of the licenses granted hereunder, Grantee, its agents or employees shall maintain the staging areas, Exhibit "A", "B" and "C" or such alternate staging site in good condition and will restore the staging areas to its pre-construction condition, with reasonable wear and tear for standard and typical vehicular use and other uses contemplated by this Agreement excepted, to include repair to any damages related to but not limited to: landscaping, pavement, sidewalks, curbs, or other public

infrastructure components. All repairs must be performed in a manner substantially consistent with specifications required by the Highway Superintendent or Town Engineer, as case may be, and completed within 30 days after completion of the term of the license or such longer time period as reasonably necessary.

7.02 Notwithstanding the above, the Grantor reserves the right to demand that Grantee, its agents or employees undertake immediate repair of damage that causes a threat to public safety. In addition to the above, Grantee shall not damage existing roadway (i.e. Heidi Behr Way, McDermott Street-see below), pavement, sidewalk, existing curbing, markings or other public infrastructure (i.e. drains, pipes, hydrants) and instead shall maintain all in its current condition and will restore all such areas/roadways/sidewalks etc. to its pre-construction condition to include repair to any damaged pavement, curbs, markings, or other public infrastructure components.

7.03 In addition to the above, to the extent that the extent Grantee or Grantees agents, contractors, or employees damage any portion of the roadways, curbing, improvements (collectively referred to as "roadway" or "roadways") of McDermott Street, Heidi Behr Way, areas of East Main Street and Peconic Avenue immediately proximate to entrance to McDermott Street or Heidi Behr Way, Grantee shall repair said property, including but not limited to the re-surface or repave the roadways to the substantially same condition as it was prior to the event or incident causing damage to the roadway area within thirty [30] days of receipt of written notice from Grantor and if the repairs cannot be reasonable completed within that timeframe for any reason including due to unforeseen circumstances beyond Grantee's control (i.e., material shortages, weather delays), Grantee shall be granted a reasonable extension of time to complete the repairs, not to exceed 60 days. If the repairs are not completed within the extended timeframe, Grantee shall reimburse Grantor for any and all reasonable and documented costs and expenses incurred by Grantor in repairing such damage or restoring the roadway to its present condition.

7.04 Note, all work on any Town-owned property shall require compliance with New York State Prevailing Wage and such other rule or regulation for public works projects defined in General Municipal Law 103.

## **Article VIII Alteration of Licensed Areas**

8.01 Grantee, its agents or employees shall not alter the staging area or install any improvements above, on or under the staging area except as specifically authorized by this Agreement or written direction by the Town Engineer or Highway Superintendent.

## **Article IX Insurance**

9.01 Grantee, its agents or employees represents that Grantee, its agents or employees and all contractors and subcontractors, shall maintain throughout the term of the Temporary Exclusive License Agreement for Construction Staging, at its sole cost and expense, a policy of comprehensive general liability insurance, automobile insurance, and worker's compensation insurance, and such other policies in terms and amounts satisfactory to the Town of Riverhead but not less than such amounts set forth in (10)

below and naming the Town of Riverhead as an additional insured. In addition, the policy shall provide for primary non-contributory declaration page and endorsement in favor of the Town of Riverhead.

9.02 Grantee shall procure and maintain at its own cost and expense appropriate business and liability insurance protection, including but not limited to the following:

Commercial General Liability with coverage not less than \$1,000,000.00 per occurrence \$2,000,000.00 aggregate for each annual policy period of combined single limit bodily injury and property damage. Such form shall include contractual liability, personal injury, advertising liability, and broad form property damage, products and completed operations coverages. This policy, Commercial General Liability, shall be primary and non-contributory.

Automobile Liability insurance (if any non-owned or owned vehicles are used by Grantee in the performance of this Agreement) in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) per person, per accident, for bodily injury and not less than One Hundred Thousand Dollars (\$100,000.00) for property damage per occurrence. Town shall be named an additional insured.

Workers' Compensation and Employer's Liability insurance in compliance with all applicable New York State laws and regulations and Disability Benefits insurance, if required by law.

9.03 Grantee shall furnish to Town, prior to the execution of the Agreement, declaration pages for each policy of insurance and certificates, other than a policy for commercial general liability insurance, and upon demand, a true and certified original copy of each such policy evidencing compliance with the aforesaid insurance requirements. All evidence of insurance shall provide for Town to be notified in writing thirty (30) days prior to any cancellation, nonrenewal, or material change in the policy to which such evidence relates. It shall be the duty of Grantee to notify Town immediately of any cancellation, nonrenewal, or material change in any insurance policy.

## **Article X** **Defense & Indemnification**

10.01 Grantee shall indemnify, defend and hold harmless Grantor, its agents, servants, officials, and employees from and against all liabilities, fines, penalties, actions, damages, claims, demands, judgments, losses, suits or actions, costs, and expenses resulting from, or arising out of, use of the licensed area or the provisions of services provided under this Agreement, whether such operation or services is performed or provided by Grantee, its agents, contractors, subcontractors, or any other person acting for or on behalf of Grantee including reimbursement of the cost of reasonable attorneys' fees incurred by Town, its agents, servants, officials, and employees in any action or proceeding arising out of the use or in connection with the license areas or the provisions set forth in this Agreement. Notwithstanding the foregoing, Grantee indemnification and defense obligations contained in this section shall not include liabilities resulting from, or arising out of, (i) the negligence or willful misconduct of Grantor or its agents, servants, officials, and employees; (ii) the conditions of any public property outside of the licensed area, except

as described in this Agreement, and not otherwise controlled by Grantee or (iii) any act or omission of a third party not acting on behalf of Grantee.

## **Article XI** **Restrictions Related to Construction Parking Outside of Licensed Areas**

11.01 Grantor and Grantee mutually agree that Grantee or Grantee's agents, contractors, subcontractors, and invitees shall be prohibited from parking on or any portion of property identified as SCTM#0600-128-6-23 (parking area immediately adjacent to Riverhead Brew House) and depicted in Exhibit "G".

## **Article XII** **Liquidated Damages and/or Force Majeure**

12.01 In the event that at the end of the term of this Agreement, the Grantee fails to vacate the Construction Staging Area and/or the Construction Parking Area, or fails to remove the Grantees equipment and materials therefrom, then, subject to the following Notice to Cure provision, Grantee shall pay the Grantor liquidated damages in the amount of \$1000.00/day for each business work day (Monday through and including Friday but excluding Holidays) commencing on the day after the last day of the license term until the date that work under the provisions of this Agreement has been substantially completed, most notably removal of all equipment and materials belonging to Grantee and or Grantee's contractors and sub-contractors has been removed from the Town property Exhibit "A" commonly referred to as Town Square and said property is restored to its reasonably documented pre-construction/pre-staging status.

12.02 Prior to the accrual of any liquidated damages, the Grantor shall provide Grantee with written notice (the "Notice to Cure") of Grantee's alleged failure to timely vacate and restore the property to its reasonably documented pre-construction/pre-staging status. This Notice to Cure shall specifically identify the material deficiencies and provide Grantee with thirty (30) calendar days from the date of the Notice to Cure to cure the specifically identified material deficiencies to the reasonable satisfaction of the Town Engineer or Highway Superintendent, whose satisfaction shall not be unreasonably withheld, conditioned or delayed. If Grantee cures the specifically identified material deficiencies within the thirty (30) calendar day cure period, no liquidated damages shall accrue. If Grantee fails to cure the specifically identified material deficiencies within the thirty (30) calendar day cure period, then liquidated damages shall accrue from the day immediately following the expiration of the cure period until the date of restoration of the property to its reasonably documented pre-construction/pre-staging status. The Grantor and Grantee agree that the liquidated damages amount provided for herein is a fair and reasonable amount due to potential for significant harm to the Town, East End Arts and its residents and the fact that the amount of damages may be uncertain.

12.03 Force Majeure, in the event that the work contemplated herein is delayed by any event, act or occurrence that is out of reasonable control of Grantee and/or its contractors or subcontractors, the time deadlines for performance or completion shall be extended for up to and adjusted accordingly. In the event that the work contemplated herein is delayed by any event, act, or occurrence beyond the reasonable control of Grantee and/or its agents, subcontractors, or employees (a "Force Majeure Event"), including but not limited to acts of God, war, terrorism, civil unrest, labor strikes, pandemic or severe

weather, the time deadlines for performance or completion shall be extended by a period equal to the duration of the Force Majeure Event. Grantee shall provide written notice to Grantor within ten (10) calendar days of the commencement of a Force Majeure Event, describing the event and its anticipated duration, and provide reasonable documentation supporting the claim of a Force Majeure Event.

### **Article XIII Temporary Non-Exclusive Use**

13.01 The Grantor and Grantee acknowledge that this Staging Agreement shall be temporary and exclusive, except as to Grantor's right to use Exhibit "A" for storage of material and equipment in furtherance of the Town Square Project. Grantor and Grantee that this agreement may not be modified or terminated without the written agreement of the parties hereto.

### **Article XIV Agreement signed in Counterparts**

14.01 This Agreement may be executed in counterparts each of which shall be deemed an original and all of which shall constitute one and the same agreement.

### **Article XV Modification of Agreement**

15.01 This Agreement may not be modified, amended, altered or supplemented except by a written agreement executed by the parties hereto.

### **Article XVI Surrender/Termination**

16.01 Upon the termination of this license, all rights, use and interest of the Grantee in and to this License shall be surrendered peaceably to the Grantor and the Grantee shall remove all property from the staging area and restore the staging area and, if needed, any adjoining property, to its former condition or better.

### **Article XVII Default and Termination, Violation, Abandonment**

17.01 Except as otherwise specifically stated in this Agreement, upon written notice by either party of a specific alleged default or failure to fulfill an obligation under this Agreement the allegedly non-breaching party shall have thirty (30) days from receipt of such notice to commence substantial efforts to cure the alleged default or failure. If substantial cure cannot be reasonably commenced within said thirty (30) day period, and the allegedly breaching party has diligently and continuously pursued such remedy as shall be reasonably necessary to cure the default or failure, the parties shall mutually agree in writing to a reasonable extension of time for completion of the cure. Failure to agree on an extension shall not constitute a default, provided both parties agree to an extension of the period in which the violation must be cured.

17.02 If the alleged default or failure is not cured within the initial cure period or any agreed upon extension, then the non-breaching party, at its sole option, shall have the

right to terminate this Agreement by sending a written "Notice of Termination" to the breaching party, with the termination date to be sixty (60) days from the date of receipt of the Notice of Termination. The Notice of Termination shall be deemed effective for all purposes when received via United States Mail, by certified mail, return receipt requested and regular mail.

17.03 Abandonment shall be defined as the complete and unequivocal cessation of all Construction Work or the Project for a period of sixty (60) consecutive days without demonstrable intent to resume work, and without providing written notice of such intent to Grantor at least thirty (30) days prior to such cessation. Upon an abandonment of the Construction Work or Project, the Grantor may serve a Notice of Abandonment in the same manner and procedure as a Notice of Default, and then serve a Notice of Termination, terminating the Agreement. Grantee's provision of written notice to resume work within the 60-day period precludes a finding of abandonment.

17.04 In the event that the Grantor alleges that Grantee has violated the limits of the times or days during which the Licensed Work is permitted, or the requirement of this Agreement that Grantee shall comply with any portion of this Agreement, any permit or approval, and any provision of the Town Code for the Town of Riverhead applicable to Grantee and compliance with other applicable Federal, State and local laws and regulations, beyond any applicable notice, grace and/or cure period, then the Grantee, in its sole discretion, shall, without waiver or forfeiture of, or prejudice to, to issue a ten (10) business day written notice of violation to Grantor, specifying the date and nature of the alleged violation; (2). If the alleged violation stated in the ten(10) business day written notice of violation is not commenced to be cured within the specified ten (10) business days, then, beginning on the eleventh day that the violation shall have existed, Grantee shall be liable to the Town of Riverhead for payment of penalties and any additional actual, documented damages and out of pocket costs incurred by the Grantor; (3). This provision is not exclusive of the provisions on default and termination provisions stated above, and if a violation is not commenced to be cured by Grantee after the service of a notice of violation the election by the Grantor to serve a notice of violation shall not be exclusive or preclude the service of a notice of default and then termination pursuant to the provisions of this Agreement.

17.05 The failure by either party to declare a default by the other where a default or breach of any provision of this Agreement exists shall not be a waiver of that default by the non-defaulting party or of any of such party's rights hereunder. The waiver by either the Grantor or Grantee, or both, of any of its rights with respect to a default or any other matter arising under this Agreement shall not constitute or be construed as constituting a waiver with respect to any other default or matter.

17.06 Termination. This Agreement along with its rights and privileges, shall terminate only: (a) upon the expiration of the stated term of the Agreement; (b) upon completion of the Project; (c) upon mutual written agreement of both parties; or (d) upon termination pursuant to the default provisions herein.

17.06 The failure of either party hereto to enforce at any time any of the provisions of this Agreement shall in no way be construed as a waiver of any such provisions, or the right of either party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach.

**Article XVIII**  
**Laws of State of New York**

18.01 This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

**Article XIX**  
**Entire Agreement**

19.01 This Agreement constitutes the entire agreement of the parties regarding the subject matter of this Agreement and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are hereby merged herein.

**Article XX**  
**Notices**

20.01 Any notice permitted or required by this Agreement shall, unless otherwise provided herein, be deemed received, if delivered, when actually received, or, if mailed, on the third day after mailing by registered or certified mail, postage prepaid, to the party's address set forth above, or to such other address designated in writing to the other parties.

**Article XXI**  
**AMENDMENTS**

21.01 No provision of this License Agreement may be amended or modified except by an agreement in writing executed by both parties hereto.

**Article XXII**  
**SEVERABILITY**

22.01 In the event that one or more of the provisions contained in this License shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and the remainder of the provisions of this License shall continue in full force and effect without impairment.

**Article XXIII**  
**SOLE AGREEMENT**

23.01 This License constitutes the sole agreement between the Grantor and the Grantee with respect to the staging areas.

**Article XXIV**  
**Effective Date**

24.01 This Agreement shall be effective upon the date it is executed by an authorized representative of each signing party.

**Article XXV**  
**Authorized Representative**

25.01 Each individual signing on behalf of a party to this Agreement states that he or she is the duly authorized representative of the signing party and that his or her signature on this Agreement has been duly authorized by, and creates the binding and enforceable obligation of, the party on whose behalf the representative is signing.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed on the 19<sup>th</sup> day of August, 2025.

TOWN OF RIVERHEAD

BY: 

Timothy C. Hubbard, Supervisor

MASTER DEVELOPER

BY: 

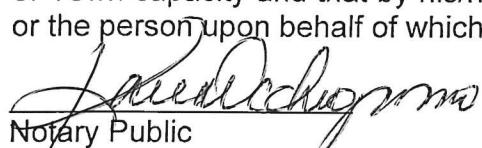
Joseph Petrocelli, Managing Member of  
J. Petrocelli Riverhead Town Square, LLC

STATE OF NEW YORK }

}ss.:

COUNTY OF SUFFOLK }

On the 19<sup>th</sup> day of August, 2025, before me the undersigned personally appeared TIMOTHY C. HUBBARD, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacities or Town capacity and that by his/her/their signatures on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

  
Notary Public

Karen Occhiogrosso  
Notary Public, State of New York  
Reg. No. 01OC6435479

Qualified in Suffolk County

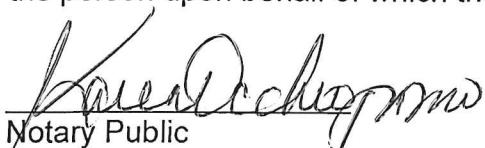
Commission Expires June 27, 2026

STATE OF NEW YORK }

}ss.:

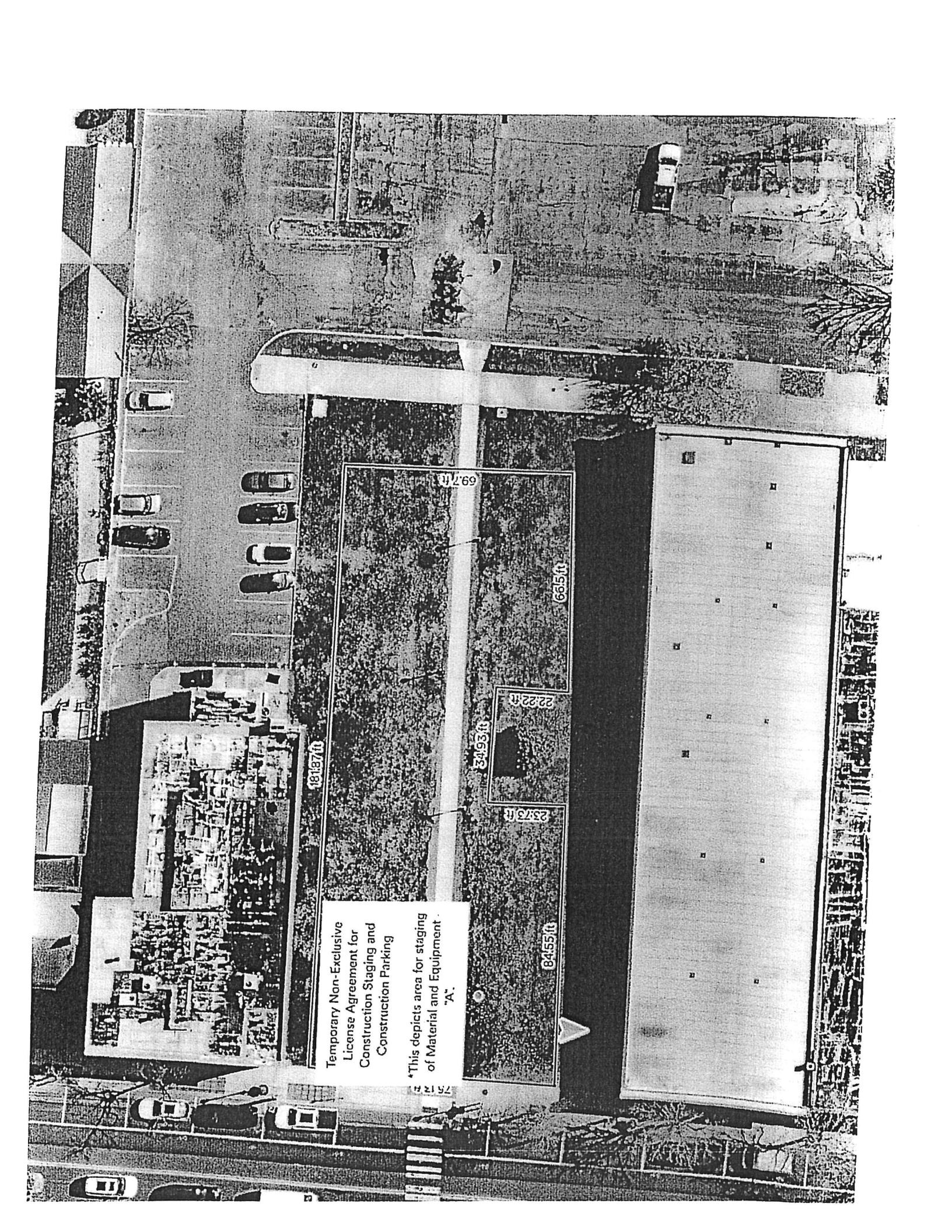
COUNTY OF SUFFOLK }

On the 19<sup>th</sup> day of August, 2025, before me the undersigned personally appeared JOSEPH PETROCELLI, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity or Town capacity and that by his/her/their signatures on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

  
Notary Public

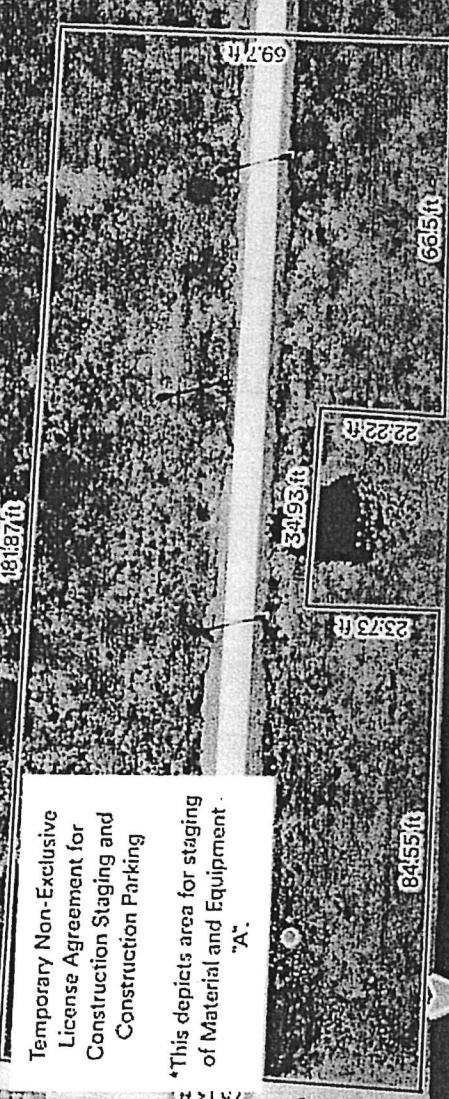
Karen Occhiogrosso  
Notary Public, State of New York  
Reg. No. 01OC6435479  
Qualified in Suffolk County  
Commission Expires June 27, 2026

## Exhibit “A”

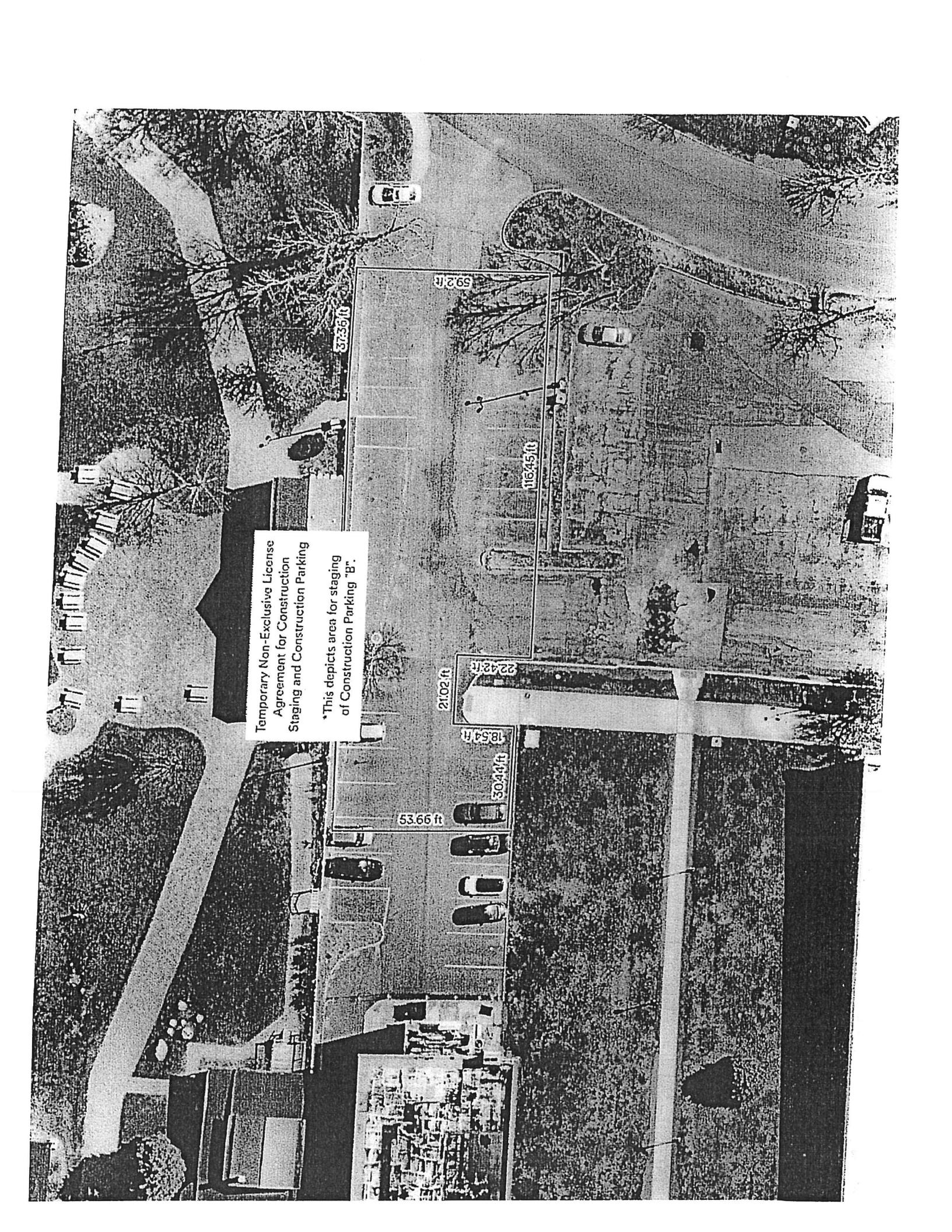


Temporary Non-Exclusive  
License Agreement for  
Construction Staging and  
Construction Parking

This depicts area for staging  
of Material and Equipment  
"A".



## Exhibit "B"

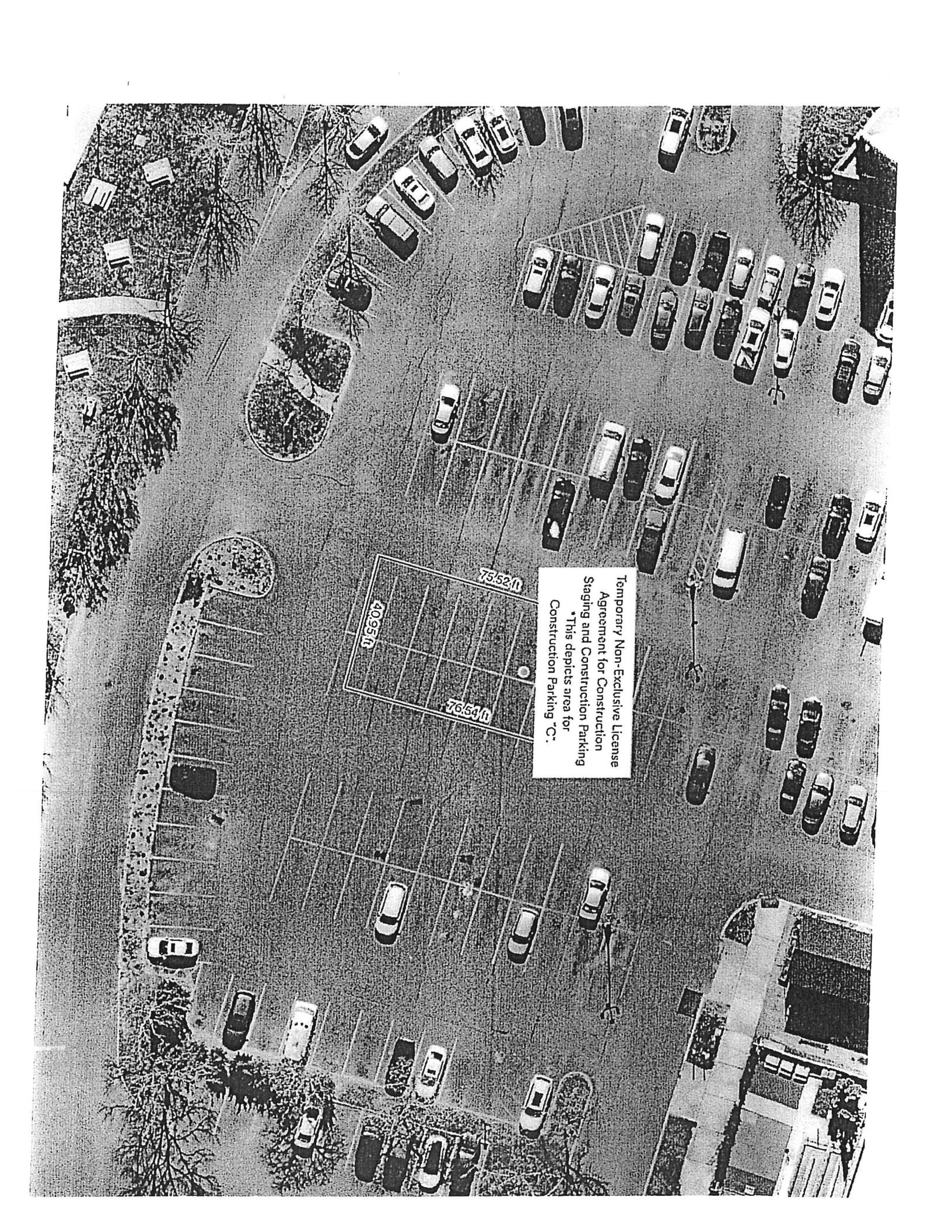


Temporary Non-Exclusive License  
Agreement for Construction  
Staging and Construction Parking

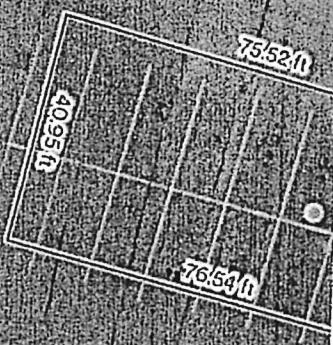
\*This depicts area for staging  
of Construction Parking "B".



## Exhibit "C"



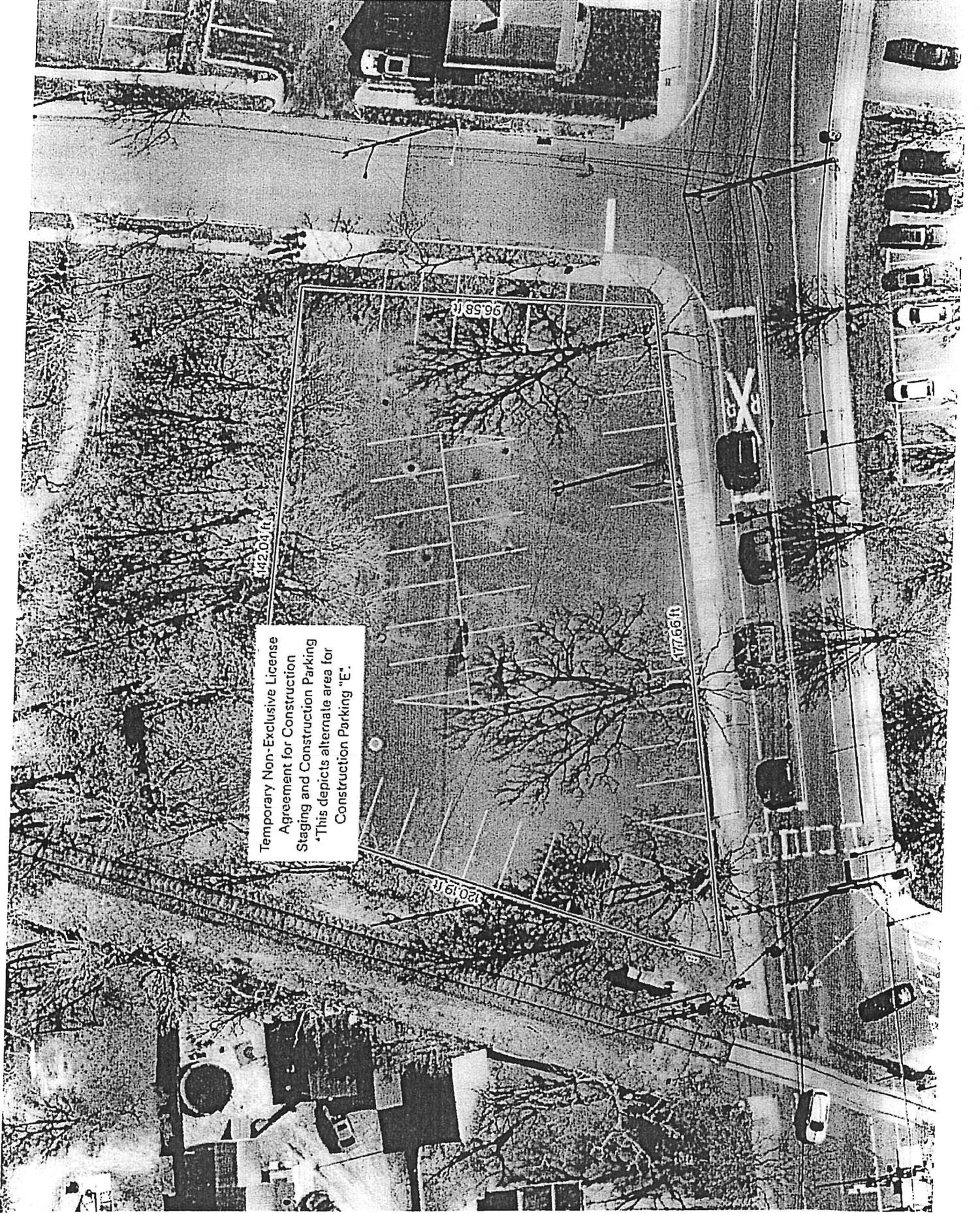
Temporary Non-Exclusive License  
Agreement for Construction  
Staging and Construction Parking  
\*This depicts area for  
Construction Parking "C".



## EXHIBIT "D"



## EXHIBIT "E"



Temporary Non-Exclusive License  
Agreement for Construction  
Staging and Construction Parking  
\*This depicts alternate area for  
Construction Parking "E".

142.04 ft

118.95 ft

117.66 ft

120.19 ft

## EXHIBIT "F"

Temporary Non-Exclusive License  
Agreement for Construction  
Staging and Construction Parking  
This depicts alternate area for  
Construction Parking "F"

3257 ft

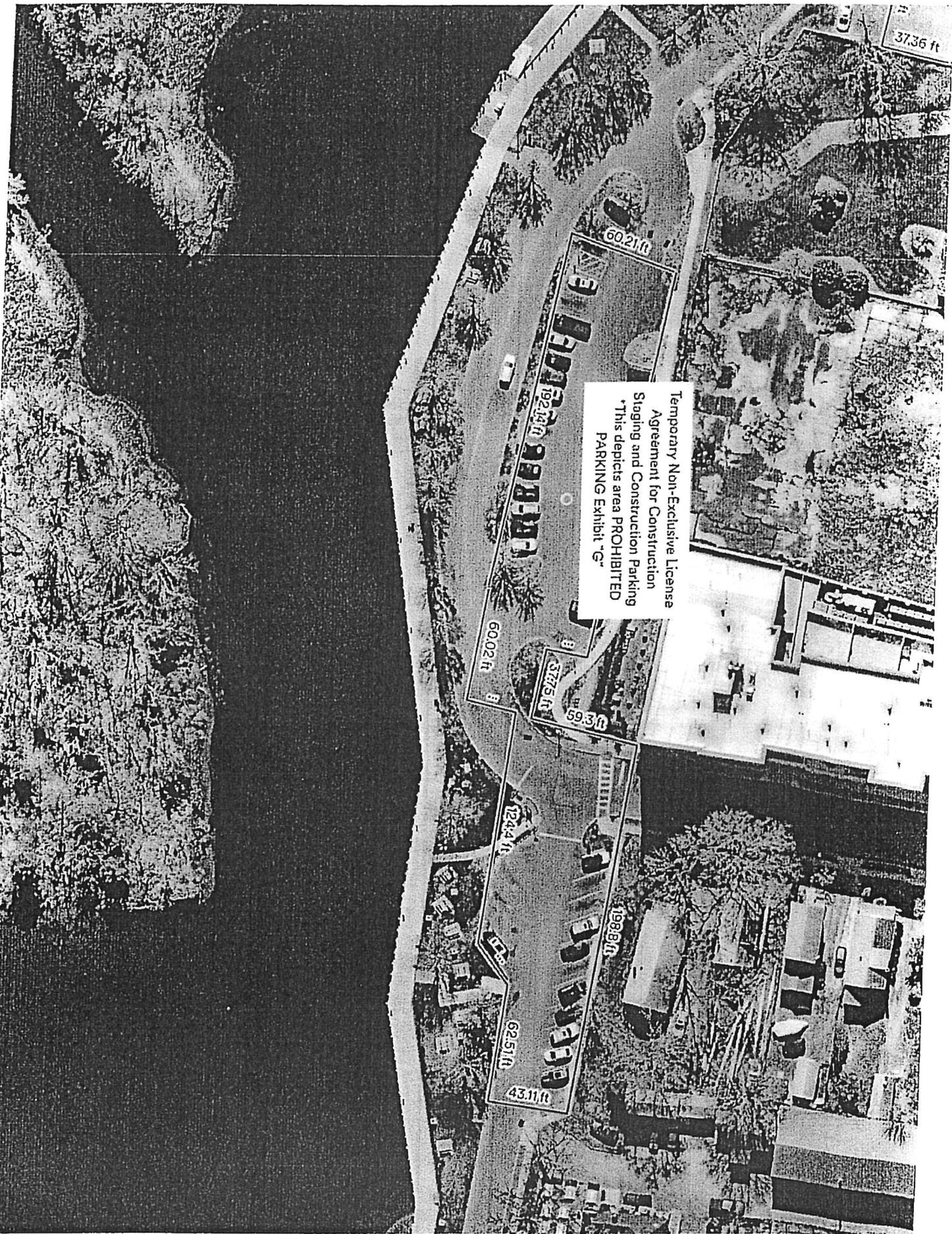
296.5 ft

42.85 ft

19.77 ft

## EXHIBIT "G"

Temporary Non-Exclusive License  
Agreement for Construction  
Staging and Construction Parking  
\*This depicts area PROHIBITED  
PARKING Exhibit "G"



# MASTER DEVELOPER AGREEMENT

## EXHIBIT "D"

### Temporary Exclusive License Agreement for Construction Staging

**TEMPORARY EXCLUSIVE LICENSE AGREEMENT  
FOR CONSTRUCTION STAGING AREA (Second Construction Staging Area  
Agreement)**

This Agreement made this 10<sup>th</sup> day of August, 2025, between Town of Riverhead, a municipal corporation existing under the Laws of the State of New York, party of the first part, with its principal place of business located at 4 West Second Street, Riverhead, New York, 11901 (Grantor) and J. Petrocelli Riverhead Town Square, LLC., party of the second part, with its principal place of business located at 100 Comac Street, Ronkonkoma, New York 11779 (Grantee).

WHEREAS, Grantor, Town of Riverhead is the fee owner of certain real estate situated at 117, 121 and 127 East Main Street, Riverhead, New York 11901, County of Suffolk, State of New York, described as SCTM# 0600-129.00-01.00-Lots 12, 13 and SCTM # 0600-128-06-86.1 often referred to as Lot 14 and the Town of Riverhead Public Parking District is the owner of SCTM# 0600-129.00-01.00-23 and SCTM#0600-128-06-66.4; and

WHEREAS, Grantee, has been designed as Master Developer of the Town Square Project by Resolution #325 adopted on April 19, 2022 and subject to determination of Qualified & Eligible status pursuant to Article 15 of the General Municipal Law, Master Developer shall proceed to redevelop a portion of the property at 127 East Main Street known and referred to as Lot 14, a portion of Lot 13, a portion of Lot 15 and a small portion of Lot 86.1 collectively known as the "Town Square Hotel Project" (the "Hotel Project") in accordance with and subject to the Master Developer Agreement dated August 19, 2025 between the parties (the "MDA"); and

WHEREAS, Grantor and Grantees hereto have determined that it is in their best interest and in order for Grantee to carry out its obligations under the MDA and such other agreements between the parties, for the Grantor to grant and the Grantee to accept a Temporary Exclusive Non-transferable License to enter onto and use a portion of premises described as SCTM#0600-128-06.86.1, Lot 14, and a portion of SCTM# 0600-129.00-01.00-23 for the limited purpose of staging of material and equipment (Construction Staging Area) necessary for construction of the Hotel Project and a second Temporary Exclusive Non-transferable License to use SCTM#0600-128-06-66.4 for employee and construction vehicle parking (Construction Parking Area); and

NOW, THEREFORE, IT IS HEREBY AGREED, by and between the parties that the said Temporary Exclusive License Agreement for Construction Staging Area "A" and Temporary Exclusive License Agreement for Construction Parking Area "B" shall be granted in consideration of the mutual covenants and conditions contained herein and the provisions set forth below by Grantee to Grantor and shall be subject to the following terms and conditions:

**Article I  
Licensed Premises & Use of Licensed Areas**

1.01 The Grantor hereby grants and conveys to the Grantee a temporary exclusive license to use the area depicted in Exhibit "A" on and over the portion of premises described as SCTM#0600-128-06.86.1, Lot 14, and a portion of SCTM# 0600-129.00-

01.00-23 limited to the purpose of Construction Staging Area for necessary construction related purposes, such as, without limitation, construction trailer, construction equipment, materials trailer, building construction materials and other related uses. Grantee shall be prohibited from storing any hazardous material within the staging area of Exhibit "A" except in accordance with all applicable laws. It shall be the responsibility of Grantee to install a temporary fence to separate the area, Exhibit "A", used by Grantee from Heidi Behr Way and adjacent properties, including SCTM# 0600-128-06-86.1 as such fence is depicted in Exhibit "A". The Grantee shall take such reasonable measures as necessary to reasonably secure the Construction Staging Area depicted in Exhibit "A" at all times while the license granted hereunder is being used by the Grantee.

1.03 Grantee's agents, contractors and subcontractors shall be responsible for reasonable protection against vandalism, theft or malicious mischief of all of materials and equipment and/or vehicles stored on the Construction Staging Area depicted in Exhibit "A" at all times from the start of the project and throughout the term of this agreement.

1.04 Notwithstanding the fact that the license is temporary and exclusive as to license area in Exhibit "A" Grantor shall not interfere with, disrupt or impede Grantee's ability to perform its activities contemplated hereunder nor shall Grantor conduct any activity which may interfere with construction access necessary for construction of the Hotel Project, except as set forth in Article 2 below.

## **Article II** **Restriction related to Access to Project and Staging Areas**

2.01 In addition to the above, Grantee's employees and personnel shall access the Hotel Project site and the Construction Staging Area depicted in Exhibit "A" and Construction Parking Area(s) identified in the Temporary Non-Exclusive License Agreement For Construction Staging Area via Peconic Avenue to Heidi Behr Way specifically intended to avoid and/or minimize impacts to the business and residential community on and proximate to Main Street and so as not to unreasonably interfere with historic and programmed events on Main Street (i.e. Mosaic Festival, Country Fair, Alive on 25).

2.02 To the extent Grantee requires access to the Hotel Project site and/or Construction Staging Area "A" from Main Street and/or Main Street and McDermott Street to Heidi Behr Way, Grantee shall obtain written approval by the Town Engineer and Director of Economic Development and Planning with appropriate safeguards for signaling, flagman etc. and subject to the prohibition below such approval not to be unreasonably withheld, conditioned or delayed. Notwithstanding the above, there shall be no access to Hotel Project site and Construction Staging Area "A" from Main Street and McDermott Street to Heidi Behr Way during the hours of 7:30am to 4:30pm.

2.03 Grantee shall not create a curb cut to access the staging area depicted in Exhibit "A" from Main Street and instead shall use access the site from SCTM# 0600-129.00-01.00-23.

### **Article III Acceptance of Property "AS IS"**

3.01 Grantee has inspected the licensed areas and accepts same "AS IS". Grantee acknowledges that the Grantor has not made and does not make any representation or warranty as to the existence or non-existence of any condition or hazard on the Construction Staging Area or Construction Parking Area except that the Grantor represents that it has good title and authority necessary to grant the licenses to Grantee hereunder.

3.02 Grantee releases, waives, discharges, covenants not to sue, and holds harmless the Grantor, its officials, officers, employees, and agents from and for any and all liabilities, damages, obligations, losses, claims, causes of action, costs, debts, dues, charges or expenses (including reasonable attorney's fees), of whatsoever kind and nature on account of, in connection with, or resulting from, any and all injury to Grantee, its agents, employees or property of the Grantor or resulting from the death or permanent disability of Grantee, its agents, employees related to use of the licensed areas, except for liabilities resulting from the negligence or willful misconduct of Grantor.

### **Article IV Term for License Area**

4.01 The term of the temporary exclusive license for use of the Construction Staging Area depicted in Exhibit "A" shall be for one (1) year and shall commence upon the termination and/or expiration of the Construction Staging Area depicted in Exhibit "A" identified in the Temporary Non-Exclusive License Agreement For Construction Staging Area and Construction Parking Area and terminate 365 days from commencement date, however, upon the option of the Grantee and upon such terms and conditions approved by Grantor, the term may be extended for an additional six (6) month term.

### **Article V Compensation/License Fee**

5.01 As and for a fee for the above described use of the licensed areas (and intended to include fee for initial Temporary License Agreements for Construction Staging Area and Construction Parking Area, Easement for Utilities to serve Hotel Project, and Easement for Ingress and Egress from Hotel Project parking to Heidi Behr Way) Grantee shall enter into a Construction Management Agreement for Town Square (public gathering space/upper deck) and Town Square (playground/lower) deck with a reduced compensation (fee) not to exceed 7% of the total combined project cost for construction, excluding purchase of equipment/improvements to be installed in the Town Square Public Gathering Space/Upper Deck and Town Square Playground/Lower Deck, for construction management services for both the Town Square Public Gathering Space/Upper Deck and Town Square Playground/Lower Deck.

5.02 In the event Grantee fails to enter into the above-described Construction Management Agreements through no fault of the Town or in the event that either of the Construction Management Agreements are terminated in accordance with their terms by

reason of a default or breach of the Construction Management Agreements by the Grantee, a fee in the amount of \$300,000.00 shall be due and owing to Grantor as and for use of the licensed areas.

## **Article VI** **Documentation and Pre-Construction Conditions**

6.01 Grantee shall document and file pre-construction conditions of the licensed areas depicted in Exhibit "A" 60 days prior to anticipated commencement of term of this agreement but not less than 15 days prior to use or occupancy of the licensed area whichever is sooner.

6.02 Grantee shall file all reports and photographs of pre-construction conditions with the Engineering Department. In addition to the above, Grantee shall document and file pre-construction conditions of the curb cut areas/entrances and all paved surfaces from Peconic Avenue and from Main Street to McDermott Street onto and including Heidi Behr Way through to the licensed area depicted in Exhibit "A".

6.03 Grantor and Grantee understand and acknowledge that these roadways will remain open to the business owners, patrons and residents and continue to experience normal wear and tear, however, the Grantor and Grantee acknowledge that the potential for damage to curbing, drainage and road surfaces due to hauling of construction equipment, delivery trucks, etc. upon such roadways poses a significant risk of damage to such roadways or other improvements beyond normal wear and tear such that shall be required to obtain a two year performance bond in the amount of \$1,000,000 in favor of the Grantor (Town of Riverhead) to guarantee restoration of the roadway and such other improvements damaged by construction vehicles described above. This requirement for a performance bond is separate and apart from any security or performance bond required as part of site plan and building permit approvals.

## **Article VII** **Maintenance & Repair of Licensed Premises**

7.01 During the term of the licenses granted hereunder, Grantee, its agents or employees shall maintain the staging area, Exhibit "A", or such alternate staging site in good condition and will restore the staging areas to its pre-construction condition, with reasonable wear and tear for standard and typical vehicular use and other uses contemplated by this Agreement excepted, to include repair to any damages related to but not limited to: landscaping, pavement, sidewalks, curbs, or other public infrastructure components. All repairs must be performed in a manner substantially consistent with specifications required by the Highway Superintendent or Town Engineer, as case may be, and completed within 30 days after completion of the term of the license or such longer time period as reasonably necessary.

7.02 Notwithstanding the above, the Grantor reserves the right to demand that Grantee, its agents or employees undertake immediate repair of damage that causes a threat to public safety. In addition to the above, Grantee shall not damage existing roadway (i.e. Heidi Behr Way, McDermott Street-see below), pavement, sidewalk, existing curbing, markings or other public infrastructure (i.e. drains, pipes, hydrants) and instead shall

maintain all in its current condition and will restore all such areas/roadways/sidewalks etc. to its pre-construction condition to include repair to any damaged pavement, curbs, markings, or other public infrastructure components.

7.03 In addition to the above, to the extent that the extent Grantee or Grantees agents, contractors, or employees damage any portion of the roadways, curbing, improvements (collectively referred to as "roadway" or "roadways") of McDermott Street, Heidi Behr Way, areas of East Main Street and Peconic Avenue immediately proximate to entrance to McDermott Street or Heidi Behr Way, Grantee shall repair said property, including but not limited to the re-surface or repave the roadways to the substantially same condition as it was prior to the event or incident causing damage to the roadway area within thirty [30] days of receipt of written notice from Grantor and if the repairs cannot be reasonable completed within that timeframe for any reason including due to unforeseen circumstances beyond Grantee's control (i.e., material shortages, weather delays), Grantee shall be granted a reasonable extension of time to complete the repairs, not to exceed 60 days. If the repairs are not completed within the extended timeframe, Grantee shall reimburse Grantor for any and all reasonable and documented costs and expenses incurred by Grantor in repairing such damage or restoring the roadway to its present condition.

7.04 Note, all work on any Town-owned property shall require compliance with New York State Prevailing Wage and such other rule or regulation for public works projects defined in General Municipal Law 103.

## **Article VIII Alteration of Licensed Area**

8.01 Grantee, its agents or employees shall not alter the staging area or install any improvements above, on or under the staging area except as specifically authorized by this Agreement, Easement Agreement for Driveway Access (ingress and egress for Hotel Project), or written direction by the Town Engineer or Highway Superintendent.

## **Article IX Insurance**

9.01 Grantee, its agents or employees represents that Grantee, its agents or employees and all contractors and subcontractors, shall maintain throughout the term of the Temporary Exclusive License Agreement for Construction Staging, at its sole cost and expense, a policy of comprehensive general liability insurance, automobile insurance, and worker's compensation insurance, and such other policies in terms and amounts satisfactory to the Town of Riverhead but not less than such amounts set forth in (10) below and naming the Town of Riverhead as an additional insured. In addition, the policy shall provide for primary non-contributory declaration page and endorsement in favor of the Town of Riverhead.

9.02 Grantee shall procure and maintain at its own cost and expense appropriate business and liability insurance protection, including but not limited to the following:

Commercial General Liability with coverage not less than \$1,000,000.00 per occurrence \$2,000,000.00 aggregate for each annual policy period of combined single limit bodily injury and property damage. Such form shall include contractual liability, personal injury, advertising liability, and broad form property damage, products and completed operations coverages. This policy, Commercial General Liability, shall be primary and non-contributory.

Automobile Liability insurance (if any non-owned or owned vehicles are used by Grantee in the performance of this Agreement) in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) per person, per accident, for bodily injury and not less than One Hundred Thousand Dollars (\$100,000.00) for property damage per occurrence. Town shall be named an additional insured.

Workers' Compensation and Employer's Liability insurance in compliance with all applicable New York State laws and regulations and Disability Benefits insurance, if required by law.

9.03 Grantee shall furnish to Town, prior to the execution of the Agreement, declaration pages for each policy of insurance and certificates, other than a policy for commercial general liability insurance, and upon demand, a true and certified original copy of each such policy evidencing compliance with the aforesaid insurance requirements. All evidence of insurance shall provide for Town to be notified in writing thirty (30) days prior to any cancellation, nonrenewal, or material change in the policy to which such evidence relates. It shall be the duty of Grantee to notify Town immediately of any cancellation, nonrenewal, or material change in any insurance policy.

## **Article X** **Defense & Indemnification**

10.01 Grantee shall indemnify, defend and hold harmless Grantor, its agents, servants, officials, and employees from and against all liabilities, fines, penalties, actions, damages, claims, demands, judgments, losses, suits or actions, costs, and expenses resulting from, or arising out of, use of the licensed area or the provisions of services provided under this Agreement, whether such operation or services is performed or provided by Grantee, its agents, contractors, subcontractors, or any other person acting for or on behalf of Grantee including reimbursement of the cost of reasonable attorneys' fees incurred by Town, its agents, servants, officials, and employees in any action or proceeding arising out of the use or in connection with the license areas or the provisions set forth in this Agreement. Notwithstanding the foregoing, Grantee indemnification and defense obligations contained in this section shall not include liabilities resulting from, or arising out of, (i) the negligence or willful misconduct of Grantor or its agents, servants, officials, and employees; (ii) the conditions of any public property outside of the licensed area, except as described in this Agreement, and not otherwise controlled by Grantee or (iii) any act or omission of a third party not acting on behalf of Grantee.

**Article XI**  
**Restrictions Related to Construction Parking Outside of Licensed Areas**

11.01 Grantor and Grantee mutually agree that Grantee or Grantee's agents, contractors, subcontractors, and invitees shall be prohibited from parking on or any portion of property identified as SCTM#0600-128-6-23 (parking area immediately adjacent to Riverhead Brew House) and depicted in Exhibit "B".

**Article XII**  
**Liquidated Damages and/or Force Majeure**

12.01 In the event that at the end of the term of this Agreement, the Grantee fails to vacate the Construction Staging Area and/or the Construction Parking Area, or fails to remove the Grantees equipment and materials therefrom, then, subject to the following Notice to Cure provision, Grantee shall pay the Grantor liquidated damages in the amount of \$1000.00 day for each business work day (Monday through and including Friday but excluding Holidays) commencing on the day after the last day of the license term until the date that work under the provisions of this Agreement has been substantially completed, most notably removal of all equipment and materials belonging to Grantee and or Grantee's contractors and sub-contractors has been removed from the Town property Exhibit "A" commonly referred to as Town Square and said property is restored to its reasonably documented pre-construction/pre-staging status.

12.02 Prior to the accrual of any liquidated damages, the Grantor shall provide Grantee with written notice (the "Notice to Cure") of Grantee's alleged failure to timely vacate and restore the property to its reasonably documented pre-construction/pre-staging status. This Notice to Cure shall specifically identify the material deficiencies and provide Grantee with thirty (30) calendar days from the date of the Notice to Cure to cure the specifically identified material deficiencies to the reasonable satisfaction of the Town Engineer or Highway Superintendent, whose satisfaction shall not be unreasonably withheld, conditioned or delayed. If Grantee cures the specifically identified material deficiencies within the thirty (30) calendar day cure period, no liquidated damages shall accrue. If Grantee fails to cure the specifically identified material deficiencies within the thirty (30) calendar day cure period, then liquidated damages shall accrue from the day immediately following the expiration of the cure period until the date of restoration of the property to its reasonably documented pre-construction/pre-staging status. The Grantor and Grantee agree that the liquidated damages amount provided for herein is a fair and reasonable amount due to potential for significant harm to the Town, East End Arts and its residents and the fact that the amount of damages may be uncertain.

12.03 Force Majeure, in the event that the work contemplated herein is delayed by any event, act or occurrence that is out of reasonable control of Grantee and/or its contractors or subcontractors, the time deadlines for performance or completion shall be extended for up to and adjusted accordingly. In the event that the work contemplated herein is delayed by any event, act, or occurrence beyond the reasonable control of Grantee and/or its agents, subcontractors, or employees (a "Force Majeure Event"), including but not limited to acts of God, war, terrorism, civil unrest, labor strikes, pandemic or severe weather, the time deadlines for performance or completion shall be extended by a period equal to the duration of the Force Majeure Event. Grantee shall provide written notice to

Grantor within ten (10) calendar days of the commencement of a Force Majeure Event, describing the event and its anticipated duration, and provide reasonable documentation supporting the claim of a Force Majeure Event.

### **Article XIII Temporary Exclusive Use**

13.01 The Grantor and Grantee acknowledge that this Agreement shall be temporary and exclusive. Grantor and Grantee that this agreement may not be modified or terminated without the written agreement of the parties hereto.

### **Article XIV Agreement signed in Counterparts**

14.01 This Agreement may be executed in counterparts each of which shall be deemed an original and all of which shall constitute one and the same agreement.

### **Article XV Modification of Agreement**

15.01 This Agreement may not be modified, amended, altered or supplemented except by a written agreement executed by the parties hereto.

### **Article XVI Surrender/Termination**

16.01 Upon the termination of this license, all rights, use and interest of the Grantee in and to this License shall be surrendered peaceably to the Grantor and the Grantee shall remove all property from the staging area and restore the staging area and, if needed, any adjoining property, to its former condition or better.

### **Article XVII Default and Termination, Violation, Abandonment**

17.01 Except as otherwise specifically stated in this Agreement, upon written notice by either party of a specific alleged default or failure to fulfill an obligation under this Agreement the allegedly non-breaching party shall have thirty (30) days from receipt of such notice to commence substantial efforts to cure the alleged default or failure. If substantial cure cannot be reasonably commenced within said thirty (30) day period, and the allegedly breaching party has diligently and continuously pursued such remedy as shall be reasonably necessary to cure the default or failure, the parties shall mutually agree in writing to a reasonable extension of time for completion of the cure. Failure to agree on an extension shall not constitute a default, provided both parties agree to an extension of the period in which the violation must be cured.

17.02 If the alleged default or failure is not cured within the initial cure period or any agreed upon extension, then the non-breaching party, at its sole option, shall have the right to terminate this Agreement by sending a written "Notice of Termination" to the breaching party, with the termination date to be sixty (60) days from the date of receipt of

the Notice of Termination. The Notice of Termination shall be deemed effective for all purposes when received via United States Mail, by certified mail, return receipt requested and regular mail.

17.03 Abandonment shall be defined as the complete and unequivocal cessation of all Construction Work or the Project for a period of sixty (60) consecutive days without demonstrable intent to resume work, and without providing written notice of such intent to Grantor at least thirty (30) days prior to such cessation. Upon an abandonment of the Construction Work or Project, the Grantor may serve a Notice of Abandonment in the same manner and procedure as a Notice of Default, and then serve a Notice of Termination, terminating the Agreement. Grantee's provision of written notice to resume work within the 60-day period precludes a finding of abandonment.

17.04 In the event that the Grantor alleges that Grantee has violated the limits of the times or days during which the Licensed Work is permitted, or the requirement of this Agreement that Grantee shall comply with any portion of this Agreement, any permit or approval, and any provision of the Town Code for the Town of Riverhead applicable to Grantee and compliance with other applicable Federal, State and local laws and regulations, beyond any applicable notice, grace and/or cure period, then the Grantee, in its sole discretion, shall, without waiver or forfeiture of, or prejudice to, to issue a ten (10) business day written notice of violation to Grantor, specifying the date and nature of the alleged violation; (2). If the alleged violation stated in the ten(10) business day written notice of violation is not commenced to be cured within the specified ten (10) business days, then, beginning on the eleventh day that the violation shall have existed, Grantee shall be liable to the Town of Riverhead for payment of penalties and any additional actual, documented damages and out of pocket costs incurred by the Grantor; (3). This provision is not exclusive of the provisions on default and termination provisions stated above, and if a violation is not commenced to be cured by Grantee after the service of a notice of violation the election by the Grantor to serve a notice of violation shall not be exclusive or preclude the service of a notice of default and then termination pursuant to the provisions of this Agreement.

17.05 The failure by either party to declare a default by the other where a default or breach of any provision of this Agreement exists shall not be a waiver of that default by the non-defaulting party or of any of such party's rights hereunder. The waiver by either the Grantor or Grantee, or both, of any of its rights with respect to a default or any other matter arising under this Agreement shall not constitute or be construed as constituting a waiver with respect to any other default or matter.

17.06 Termination. This Agreement along with its rights and privileges, shall terminate only: (a) upon the expiration of the stated term of the Agreement; (b) upon completion of the Project; (c) upon mutual written agreement of both parties; or (d) upon termination pursuant to the default provisions herein.

17.06 The failure of either party hereto to enforce at any time any of the provisions of this Agreement shall in no way be construed as a waiver of any such provisions, or the right of either party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach.

**Article XVIII**  
**Laws of State of New York**

18.01 This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

**Article XIX**  
**Entire Agreement**

19.01 This Agreement constitutes the entire agreement of the parties regarding the subject matter of this Agreement and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are hereby merged herein.

**Article XX**  
**Notices**

20.01 Any notice permitted or required by this Agreement shall, unless otherwise provided herein, be deemed received, if delivered, when actually received, or, if mailed, on the third day after mailing by registered or certified mail, postage prepaid, to the party's address set forth above or to such other address designated in writing to the other parties.

**Article XXI**  
**AMENDMENTS**

21.01 No provision of this License Agreement may be amended or modified except by an agreement in writing executed by both parties hereto.

**Article XXII**  
**SEVERABILITY**

22.01 In the event that one or more of the provisions contained in this License shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and the remainder of the provisions of this License shall continue in full force and effect without impairment.

**Article XXIII**  
**SOLE AGREEMENT**

23.01 This License constitutes the sole agreement between the Grantor and the Grantee with respect to the Construction Staging Area and the Construction Parking Area.

**Article XXIV**  
**Effective Date**

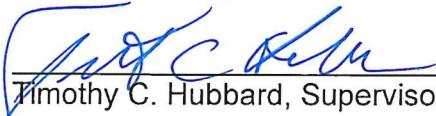
24.01 This Agreement shall be effective upon the date it is executed by an authorized representative of each signing party.

**Article XXV**  
**Authorized Representative**

25.01 Each individual signing on behalf of a party to this Agreement states that he or she is the duly authorized representative of the signing party and that his or her signature on this Agreement has been duly authorized by, and creates the binding and enforceable obligation of, the party on whose behalf the representative is signing.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed on the 19<sup>th</sup> day of August, 2025.

TOWN OF RIVERHEAD

BY: 

Timothy C. Hubbard, Supervisor

MASTER DEVELOPER

BY: 

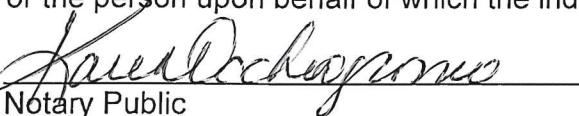
Joseph Petrocelli, Managing Member of  
J. Petrocelli Riverhead Town Square, LLC

STATE OF NEW YORK    }

}ss.:

COUNTY OF SUFFOLK    }

On the 19<sup>th</sup> day of August, 2025, before me the undersigned personally appeared TIMOTHY C. HUBBARD, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacities or Town capacity and that by his/her/their signatures on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

  
Notary Public

Karen Occhiogrosso  
Notary Public, State of New York

Reg. No. 01OC6435479

Qualified in Suffolk County

Commission Expires June 27, 2026

STATE OF NEW YORK    }

COUNTY OF SUFFOLK    }

}ss.:

On the 19<sup>th</sup> day of August, 2025, before me the undersigned personally appeared JOSEPH PETROCELLI, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity or Town capacity and that by his/her/their signatures on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

  
Notary Public

Karen Occhiogrosso  
Notary Public, State of New York

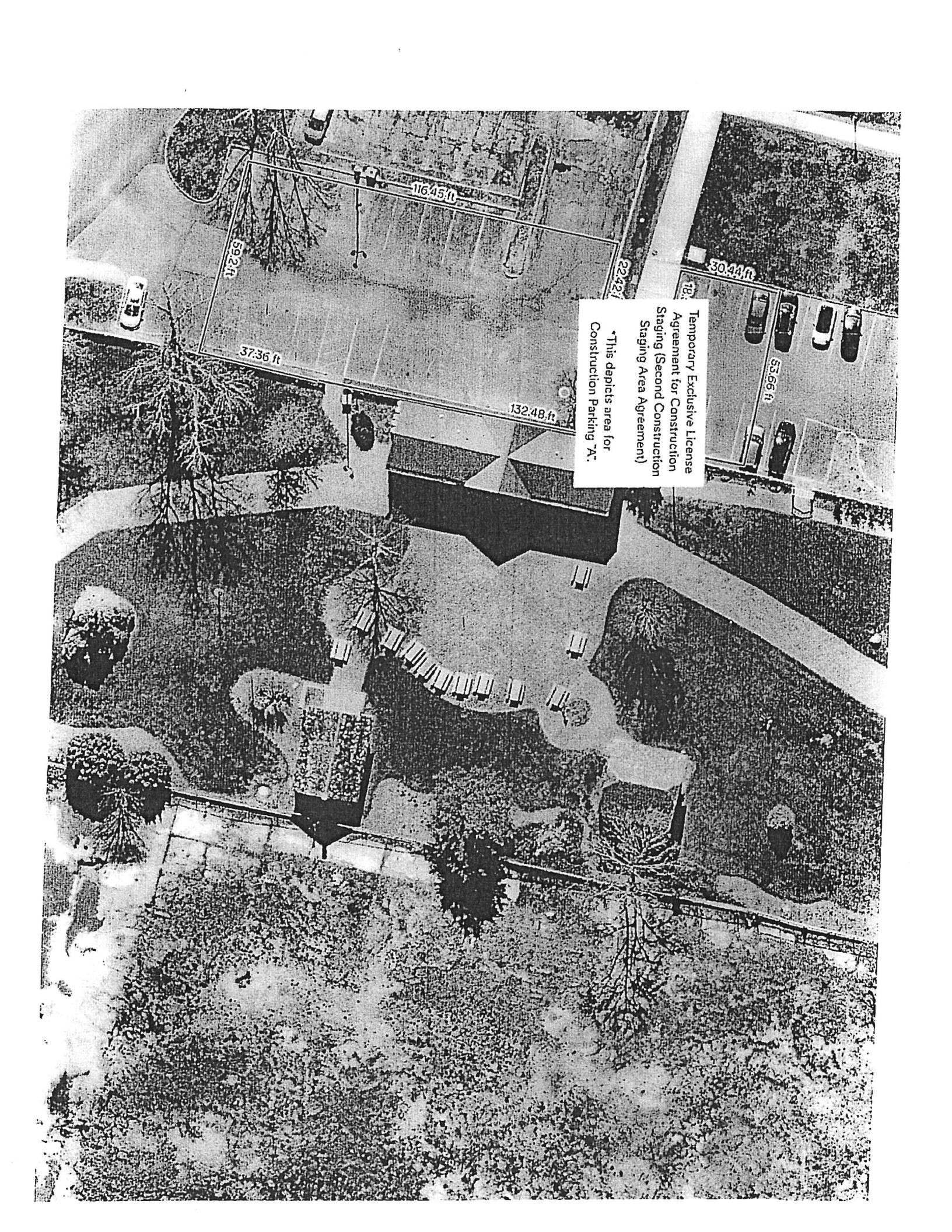
Reg. No. 01OC6435479

Qualified in Suffolk County

Commission Expires June 27, 2026

## Exhibit "A"

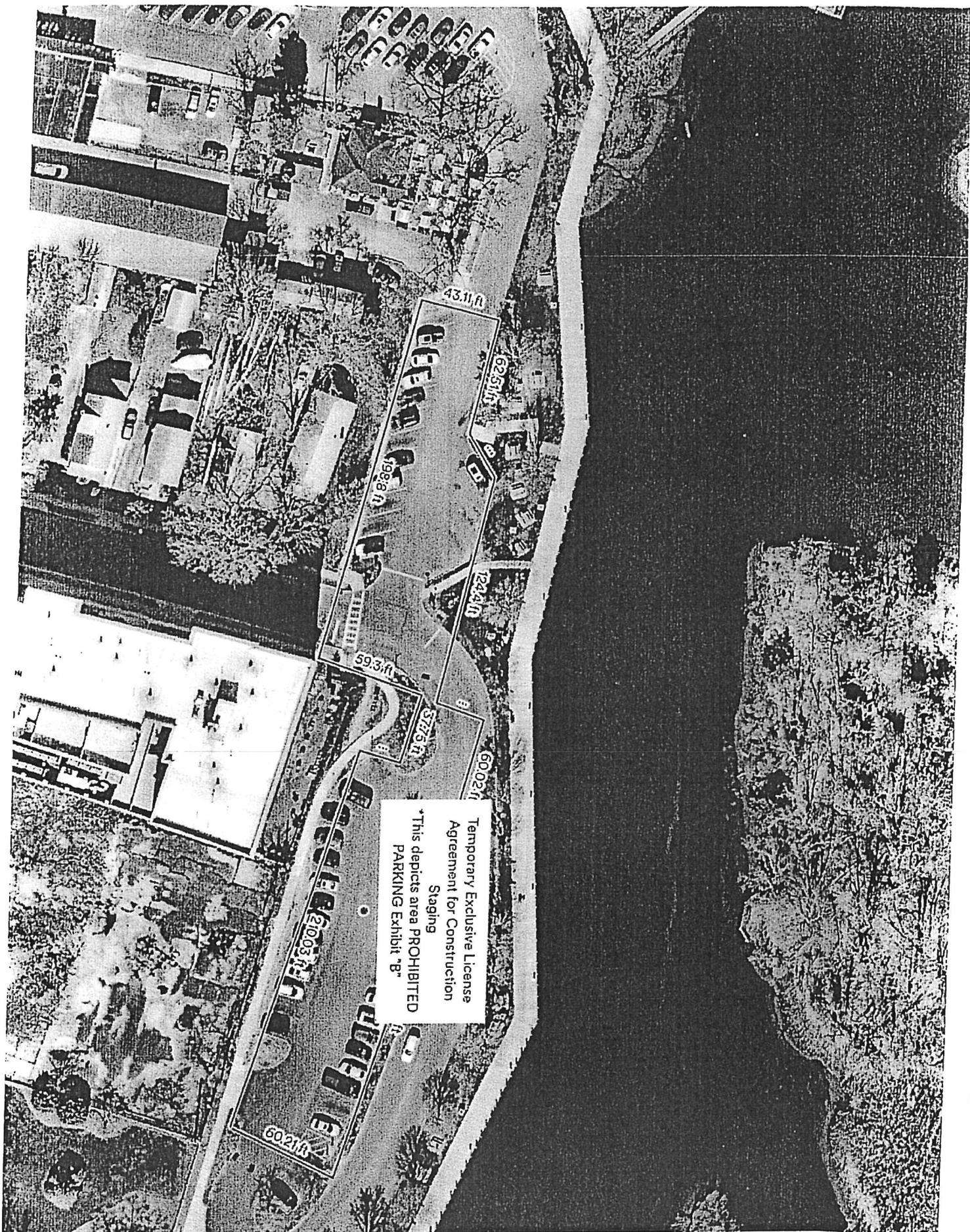
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Temporary Exclusive License  
Agreement for Construction  
Staging (Second Construction  
Staging Area Agreement)

\*This depicts area for  
Construction Parking "A"

## Exhibit "B"



# MASTER DEVELOPER AGREEMENT

## EXHIBIT "E"

### Easement for Utilities and Drainage

## EASEMENT FOR UTILITIES AND DRAINAGE

This Agreement made this 10<sup>th</sup> day of August, 2025, between Town of Riverhead, a municipal corporation existing under the Laws of the State of New York, party of the first part, with its principal place of business located at 4 West Second Street, Riverhead, New York, 11901 ·(Grantor) and J. Petrocelli Riverhead Town Square, LLC. party of the second part, with its principal place of business located at 100 Comac Street, Ronkonkoma, New York 11779 (Grantee).

WHEREAS, Grantor, is the fee owner of certain real estate situated at 117 and 121 East Main Street, Riverhead, New York 11901, County of Suffolk, State of New York, described as SSTM# 0600-129.00-01.00-Lots 12 and 13; and

WHEREAS, Grantee, has been designed as Master Developer of the Town Square Project by Resolution #325 adopted on April 19, 2022 and subject to determination of Qualified & Eligible status pursuant to Article 15 of the General Municipal Law, Master Developer either has already obtained title to, or shall proceed to obtain title to, and redevelop a portion of the property at 127 East Main Street known and referred to as Lot 14, a portion of Lot 13, a portion of Lot 15 and a small portion of Lot 86.1 collectively known as the "Town Square Hotel Project" (the "Hotel Project"); and

WHEREAS, Grantor and Grantee have determined that it is in their best interest for the Grantor to grant and the Grantee to accept a permanent non-exclusive easement in, under and along a portion of premises described as SSTM#0600-129.00-01.00-Lot 13 in furtherance of Grantee's development of Hotel Project and limited to purpose to construction, installation, repair and maintenance of utilities, including stormwater and catch basins, however, specifically excluding grease traps (grease traps to be located on portion of SSTM#0600-129.00-01.00-Lot15 to be conveyed to Grantee pursuant to terms of Master Developer Agreement).

NOW THEREFORE, IT IS HEREBY AGREED by and between the parties that the value of said permanent non-exclusive easement shall be the consideration to be paid by Grantee, for said easement which sum of \$1.00, together with reduced construction management fee required to be paid by Grantor to Grantee pursuant to several construction management agreements (playground, amphitheater and crosswalks, collectively the "Construction Management Agreements" as more fully set forth in the Construction Management Agreements to be entered into by and between Grantor and Grantee; and

1. The Grantor hereby grants and conveys to the Grantee its successors, assigns, lessees, licensees and agents, a perpetual non-exclusive easement under and through the easement area more particularly described in Exhibit "A" (the "Easement Area" or "Utility and Drainage Easement Area"), for the purpose of providing the Grantee ability to construct, install, operate, maintain, repair and reconstruct utilities and drainage and appurtenant drainage facilities related to and necessary for the construction and operation of the Hotel Project. Grantee shall also have the specific rights of ingress and egress for personnel and equipment, for the construction, installation, reconstruction, operation and maintenance of said utilities and drainage facilities consistent with the easement provided herein. Subject to other terms and conditions of this Utility and

Drainage Easement Agreement, Grantee shall also have the right to remove impediments to operation and maintenance of the Easement Area such as trees, asphalt and sidewalks subject to paragraphs (5) and (7) below. Grantee further agrees all construction, reconstruction, operation, maintenance, removal and any other activities which disturb the Easement Area will be coordinated with Grantor so as to not unreasonably interfere with the use of the Grantor's property.

2. Grantee has inspected the Easement Area and accepts same "AS IS" subject to the terms and conditions set forth in this Agreement. Grantee acknowledges that Grantor has not made and does not make any representation or warranty as to the existence or non-existence of any condition or hazard in the Easement Area. Grantee releases, waives, discharges, covenants not to sue, and holds harmless the Grantor, its officials, officers, employees, and agents from and for any and all liabilities, damages, obligations, losses, claims, causes of action, costs, debts, dues, charges or expenses (including attorney's fees), of whatsoever kind and nature on account of, in connection with, or resulting from, any and all injury to Grantee, its agents, employees or property of the Grantor or resulting from the death or permanent disability of Grantee, its agents, employees related to use of the Easement Area except to the extent that any such liabilities, damages, obligations, losses, claims, causes of action, costs, debts, dues, charges or expenses (including attorney's fees), arises from the negligent act or omissions of the Grantor, its officials, subdivisions, agents or employees or their willful misconduct.

3. Grantor hereby reserves the right to full use and enjoyment of the Drainage Easement Area except for such use as may unreasonably interfere with the exercise by Grantee or Grantee's assigns of the rights granted herein. Grantee acknowledges that Grantor intends and shall make improvements above and below present ground level in furtherance of the Town Square Project, including a hardscape (pavement or pavers), water features, trees and landscape and Grantee shall be required to consult with Grantor and Grantor's Town Square design, architect and engineering professionals and provide a survey detail for the type and location of all utilities and drainage for approval by Grantor prior to installation of utilities and drainage within the easement area such approval not to be unreasonably withheld, conditioned or delayed. In addition, upon completion of the utility and drainage work by Grantee, Grantee shall provide Grantor with an "as built" survey plotting location of all such improvements in the area of the Utility and Drainage Easement Area.

4. Except as described in (3) above, Grantor shall not construct any structure, plant any trees or undertake any action that would impair or undermine the utility and drainage improvements made by Grantee in the Utility and Drainage Easement Area. Grantee acknowledges that maintenance and reconstruction shall require Grantee to disturb the improvements made by Grantor and Grantee shall at Grantee's sole cost and expense be required to restore the area of the Utility and Drainage Easement Area as set forth in paragraphs (5) and (7) below.

5. Grantee shall, upon performing any installation, maintenance or repair work on underground utility and drainage structures within the Easement Area, restore the surface of the ground damaged in the performance of said installation, maintenance or

repair work, to their original condition to the extent that such restoration is reasonably practical or possible.

6. This grant of Utility and Drainage Easement does not obligate nor charge the Grantee with any duties or responsibilities with regard to the ownership, condition, repair, and/or maintenance of the Easement Area except as required in paragraph (5) hereof.

7. Grantor, regardless of any prior approval granted by the Grantor to make improvements within the Utility and Drainage Easement Area, shall be responsible for all costs and expenses incurred by the Grantee in connection with the repair of utility and drainage improvements when and to the extent such damages result from or arise out of the negligence or willful misconduct of the Grantor, its officers, agents or employees, and shall reimburse the Grantee for costs and expenses incurred by the Grantee in enforcing this provision including its reasonable attorney's fees.

8. Any utility and drainage structures, drainage lines, or related appurtenances existing, constructed, reconstructed or installed within the Utility and Drainage Easement Area and maintained, operated or repaired by the Grantee shall be and remain the property of the Grantee.

9. Grantee, its agents or employees represents that Grantee, its agents or employees and all contractors-and subcontractors, shall maintain throughout the term of this Easement Agreement, at its sole cost and expense, a policy of comprehensive general liability insurance, automobile insurance, and worker's compensation insurance, with limits not less than such amounts set forth in paragraph (10) below and naming the Grantor as an additional insured. In addition, the policy shall provide for primary non-contributory declaration page and endorsement in favor of the Grantor.

10. Grantee shall procure and maintain at its own cost and expense appropriate business and liability insurance protection, including but not limited to the following:

Commercial General Liability with coverage not less than \$1,000,000.00 per occurrence \$2,000,000.00 aggregate for each annual policy period of combined single limit bodily injury and property damage. Such form shall include contractual liability, personal injury, and broad form property damage, products and completed operations coverages. This policy, Commercial General Liability, shall be primary and non-contributory.

Automobile Liability insurance (if any non-owned or owned vehicles are used by Grantee in the performance of this Agreement) in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) per person, per accident, for bodily injury and not less than One Hundred Thousand Dollars (\$100,000.00) for property damage per occurrence. Town shall be named an additional insured.

Workers' Compensation and Employer's Liability insurance in compliance with all applicable New York State laws and regulations and Disability Benefits insurance, if required by law.

11. Grantee shall furnish to Grantor, upon the execution of the Agreement, declaration pages for each policy of insurance and certificates, other than a policy for commercial general liability insurance, and upon demand, a true and certified original copy of each such policy evidencing compliance with the aforesaid insurance requirements. All evidence of insurance shall provide for Grantor to be notified in writing thirty (30) days prior to any cancellation, nonrenewal, or material change in the policy to which such evidence relates. It shall be the duty of Grantee to notify Grantor immediately of any cancellation, nonrenewal, or material change in any insurance policy.

12. Grantee shall indemnify, defend and hold harmless Grantor, its agents, servants, officials, and employees from and against all liabilities, fines, penalties, actions, damages, claims, demands, judgments, losses, suits or actions, costs, and expenses resulting from, or arising out of, Grantee's use of the Easement Area or the provisions of services provided under this Agreement, whether such operation or services is performed or provided by Grantee or by any subcontractors, or any other person acting for or on behalf of Grantee including reimbursement of the cost of reasonable attorneys' fees incurred by Grantor, its agents, servants, officials, and employees in any action or proceeding arising out of or in connection with the Agreement. Notwithstanding the foregoing, Grantee's indemnification and defense obligations contained in this section shall not include liabilities resulting from, or arising out of, (i) the negligence or willful misconduct of Grantor its agents, servants, officials, and employees; (ii) the conditions of any property outside of the Easement Area and not otherwise controlled by Grantee.

13. Grantee, its agents or employees shall not alter the Easement Area or any improvements on the Easement Area except as specifically authorized by this Agreement or by the Grantor.

14. This Agreement and the covenants, easements, restrictions, and other terms and provisions of this Easement Agreement shall constitute covenants that are appurtenant to and shall run with each of their respective parcels forever and shall be binding upon and inure to the parties, their heirs, personal representatives and assigns. It is understood and agreed that the terms "Grantor" and "Grantee", as and when used herein, or any pronouns used in place thereof, shall mean and include the masculine and/or feminine, the singular or plural number, individuals, firms or corporations, that the rights and obligations of the Grantor and Grantee shall be binding upon and inure to the benefit of their respective estates, heirs, personal representatives, successors in interest. This Easement Agreement and the easements, rights, obligations and liabilities created hereby shall be perpetual to the extent permitted by law.

15. This Utility and Drainage Easement Agreement will become effective upon the full execution hereof. Grantor does hereby specially warrant the title that Grantor has the right to grant the Easement and Grantor will defend the same against the claims of all persons claiming by or through it, that Grantor has good right and lawful authority to grant the above-described easement.

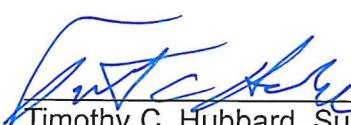
16. Any transferee of any part of either the Hotel Project property or the Easement Area shall automatically be deemed, by acceptance of the title to any portion of either such parcel or any part thereof, to have assumed all obligations of this Easement Agreement relating thereto to the extent of its interest in such parcel, and to have agreed

with the then owner or owners of all other portions of the parcels to execute any and all instruments and to do any and all things reasonably required to carry out the intention of this Easement Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed on the 19th day of August, 2025. This grant of the Drainage Easement is nonexclusive. The Grantor reserves the right at any time and from time-to-time grant further nonexclusive easements within the Drainage Easement Area to such further grantees as Grantor deems appropriate in Grantor's reasonable discretion, provided such additional nonexclusive easements do not interfere with the use, operation, maintenance or access to, the Easement Area by Grantee, Grantee's successors or assigns.

TOWN OF RIVERHEAD

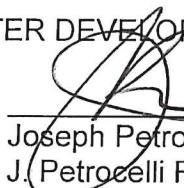
BY:



Timothy C. Hubbard, Supervisor

MASTER DEVELOPER

BY:



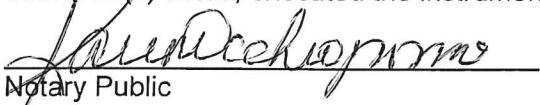
Joseph Petrocelli, Managing Member of  
J. Petrocelli Riverhead Town Square, LLC.

STATE OF NEW YORK      }

}ss.:

COUNTY OF SUFFOLK      }

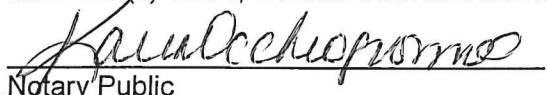
On the 19th day of August, 2025, before me the undersigned personally appeared TIMOTHY C. HUBBARD, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacities or Town capacity and that by his/her/their signatures on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

  
Notary Public

Karen Occhipinti  
Notary Public, State of New York  
Reg. No. 01OC6435479  
Qualified in Suffolk County  
Commission Expires June 27, 2026

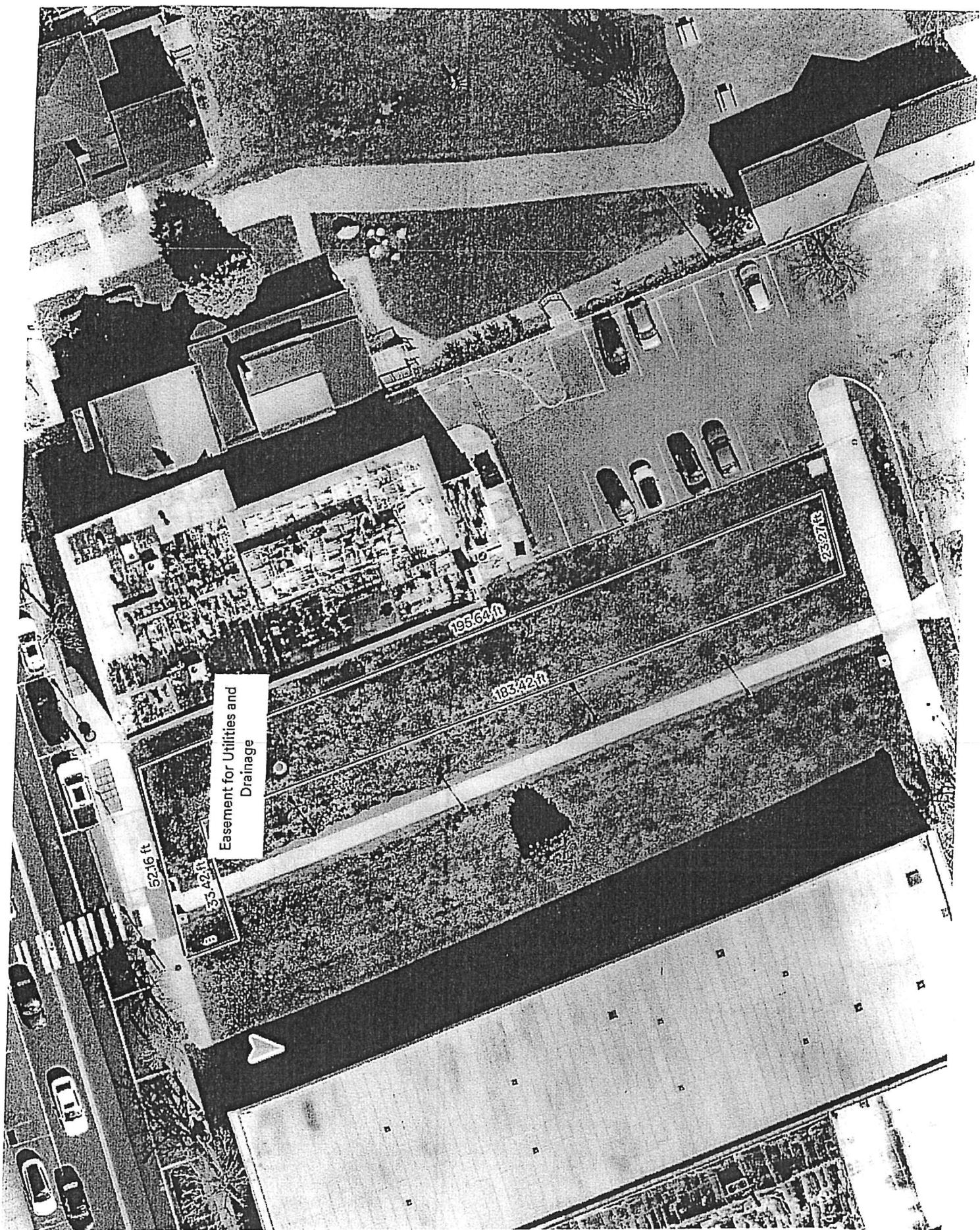
STATE OF NEW YORK      }  
COUNTY OF SUFFOLK      }ss.:

On the 19th day of August, 2025, before me the undersigned personally appeared JOSEPH PETROCELLI, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity or Town capacity and that by his/her/their signatures on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

  
Notary Public

Karen Occhipinti  
Notary Public, State of New York  
Reg. No. 01OC6435479  
Qualified in Suffolk County  
Commission Expires June 27, 2026

## Exhibit "A"



# MASTER DEVELOPER AGREEMENT

## EXHIBIT "F"

### Easement Agreement for Driveway Access

**EASEMENT FOR DRIVEWAY ACCESS (INGRESS AND EGRESS)  
TO HOTEL PROJECT**

This Agreement made this 10 day of August, 2025, between Town of Riverhead, a municipal corporation existing under the Laws of the State of New York, party of the first part, with its principal place of business located at 4 West Second Street, Riverhead, New York, 11901 (Grantor) and J. Petrocelli Riverhead Town Square, LLC, party of the second part, with its principal place of business located at 100 Comac Street, Ronkonkoma, New York 11779 (Grantee).

WHEREAS, Grantor, is the fee owner of certain real estate situated at 117, 121 and 127 East Main Street, Riverhead, New York 11901, County of Suffolk, State of New York, described as SCTM# 0600-129.00-01.00-Lots 12 and 13; and

WHEREAS, Grantee, has been designed as Master Developer of the Town Square Project by Resolution #325 adopted on April 19, 2022 and subject to determination of Qualified & Eligible status pursuant to Article 15 of the General Municipal Law, Master Developer either has already obtained title to, or shall proceed to obtain title to, and redevelop a portion of the property at 127 East Main Street known and referred to as Lot 14, a portion of Lot 13, a portion of Lot 15 and a small portion of Lot 86.1 collectively known as the "Town Square Hotel Project" (the "Hotel Project"), with the remainder of Lot 14 to be retained by Grantor; and Grantor and Grantee hereto have determined that it is in their best interest for the Grantor to grant and the Grantee to accept a permanent non-exclusive easement on and along portion of premises described as a portion of SCTM #0600-129.00-01.00-Lot 14 (southerly portion of Lot 14 to continue to be owned by the Grantor), small portion of #0600-129.00-01.00-Lot 15 (179 sq feet) and a portion of SCTM # 0600-129.00-01.00-23 (the "Easement Area") in furtherance of Grantee's development, ownership and operation of the Hotel Project to permit and require Grantee to construct driveway in accordance with design and specifications outlined and identified in Town Square Project (LVF design specifications) during the construction of the Hotel Project, convey all driveway improvements located on the Easement Area to the Grantor, and secure a permanent non-exclusive easement on, over and through the driveway for ingress and egress of vehicles, pedestrians, hotel guests, employees, condominium owners, delivery trucks, and the like all related to use, maintenance and operation of the Hotel Project. Grantor and Grantee agree that the Easement Area may also be utilized for fire and emergency access for municipal, police, fire department, and ambulance emergency response; and

NOW THEREFORE, IT IS HEREBY AGREED by and between the parties that the value of said easement and the consideration therefore, includes-Grantee's costs to construct the driveway improvements in accordance with design and specifications outlined and identified in Town Square Project (LVF design specifications) during the construction of or upon completion or substantial completion of Hotel Project and convey all such driveway improvements located on the Easement Area to the Grantor, together with costs related to maintenance of the Easement Area shall be the consideration to be paid by Grantee, to Grantor for said easement, together with payment of the sum of \$1.00 to be paid to the Grantor upon execution of this agreement.

1. The Grantor hereby grants and conveys to the Grantee its successors, assigns, lessees, licensees and agents, a perpetual non-exclusive easement over and

through a portion of premises described as SCTM #0600-129.00-01.00-Lot 14 (southerly portion of Lot 14 to be retained by the Grantor) together with a portion of SCTM # 0600-129.00-01.00-23 and the Easement Area more particularly described in Exhibit "A" (the "Easement Area" To Be Provided by Grantee's Engineer, VHB) annexed hereto and made a part hereof as Exhibit "A") for the purpose of constructing a driveway (Driveway Project) in accordance with design and specifications outlined and identified in Town Square Project (LVF design specifications) and subject to any grant requirements applicable to grant funding/reimbursement and any such other applicable provisions of law. Upon completion or substantial completion of Hotel Project, inclusive of and specifically related to the Driveway Project, Grantee shall convey all driveway improvements to the Grantor, and secure a permanent non-exclusive easement on, over and through the driveway for ingress and egress of vehicles, pedestrians, hotel guests, employees, condominium owners, delivery trucks, and the like all related to use, maintenance and operation of the Hotel Project and as necessary for the construction and operation of the Hotel Project. Grantor and Grantee agree, the Easement may be utilized for fire and emergency access for municipal, police, fire department, and ambulance emergency response.

2. As set forth above, upon completion or substantial completion of Hotel Project or upon receipt of Grantor's notice to proceed with Driveway Project, Grantee shall promptly consult with Grantor and Grantor's Town Square design, architect and engineering professionals to confirm location and design standards and specifications for the Driveway Project and obtain approval by Grantor prior to the start of construction as to location, design and specifications. Grantee shall provide not less than 72 hours' notice of the commencement of construction of the driveway project to either LVF and/or Town Engineer Ken Testa and Community Development Director Dawn Thomas which notice may be given orally or electronically. Grantee shall notify Grantor of the date of completion and Grantor shall inspect and determine if the Driveway Project meets all requirements of design standards and specifications within 72 hours. The Driveway Project shall not be deemed complete until Grantor "signs off" approves that same meet the design-standards and specifications. Upon completion, Grantee, by and through its engineer, shall provide Grantor with an "as built" survey plotting location of all such improvements made as part of the Driveway Project. Finally, upon completion of the Driveway Project and by the terms of this Easement Agreement all the improvements hereinabove described as "Driveway Project" shall be owned by Grantor.

3. The Easement granted herein is non-exclusive, and Grantor shall continue to have the right to use the Easement Area, on a twenty-four hour a day, seven days a week basis for ingress and egress and Grantor agrees that Grantor shall not erect, or cause or permit to be erected, installed, or placed upon the Easement Area any building, structure, or other-improvement on, over or within the Easement Area or otherwise interfere in any way whatsoever with Grantee's use of the full width and length of the Driveway Easement.

4. Grantee shall not erect or cause or permit to be erected, installed, or placed upon the Easement Area any building, structure, or other improvement on, over or within the Easement Area or otherwise interfere in any way whatsoever with Grantor's use of the full width and length of the Easement Area. In addition, Grantee shall not alter, enlarge or relocate the existing driveway or curb cut in a southerly or westerly direction so as to encroach onto Grantor's property beyond the Easement Area.

5. Grantor and Grantee mutually agree that Grantee shall maintain the Easement Area in a manner that makes the use Easement Area accessible and available for Grantee and/or Grantee's invitees and Grantor and/or Grantor's invitees however, Grantor and Grantee agree that Grantee shall be required to repair and maintain the improvements which are part of the Driveway Project (pavement, curbing, pavers) and shall keep the area open, unobstructed, and free of debris. Grantee shall be required to remove snow from the Easement Area.

6. Grantor and Grantee agree that there shall be no parking on, along or within the Easement Area.

7. In the event that either Grantor or Grantee or their respective agents, contractors, or employees cause any damage the Easement Area and the improvements thereon, the offending party shall, at its sole cost and expense, restore the Easement Area, including but not limited to the surface of the land, to the same condition as it was prior to the event or incident causing damage to the Easement Area within fifteen (15) days of receipt of written notice from the other party or as soon thereafter as reasonably practicable to the reasonable satisfaction of the other party. Notice as set forth in the provision and such other provisions of this Agreement shall be as follows: Any notice shall be considered as having been given: (i) to Town of Riverhead if mailed by certified mail, postage prepaid to Town of Riverhead, Attention: Office of the Town Attorney, 4 West Second Street, Riverhead, New York 11901; or (ii) to Consultant if mailed by certified mail, postage prepaid to J. Petrocelli Riverhead Town Square, LLC at 100 Comac Street, Ronkonkoma, NY 11779.

8. The Grantor and Grantee acknowledge that this Easement shall be permanent, and all rights, title and privileges herein granted, including all benefits and burdens, shall run with the land and shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, executors, administrators, successors, assigns and legal representatives. Grantor and Grantee and any such successors or assigns may not modify or terminate this Easement without approval of the Town.

9. Grantee shall, upon performing any installation, maintenance or repair work on the area of the Driveway Project/Easement Area, restore the surface of the ground damaged in the performance of said installation, maintenance or repair work, to their original condition to the extent that such restoration is reasonably practical or possible.

10. This grant of Easement does not obligate nor charge the Grantee with any duties or responsibilities with regard to the ownership, condition, repair, and/or maintenance of the Easement Area except as required in paragraph (5) hereof.

11. Grantee, its agents or employees represents that Grantee, its agents or employees and all contractors and subcontractors, shall maintain throughout the term of the Permanent Easement , at its sole cost and expense, a policy of comprehensive general liability insurance, automobile insurance, and worker's compensation insurance, and such other policies in terms and amounts satisfactory to the Town of Riverhead but not less than such amounts set forth in paragraph (13) below and naming the Town of Riverhead as an additional insured. In addition, the policy shall provide for primary non-contributory declaration page and endorsement in favor of the Town of Riverhead.

12. Grantee shall procure and maintain at its own cost and expense appropriate business and liability insurance protection, including but not limited to the following:

Commercial General Liability with coverage not less than \$1,000,000 per occurrence \$2,000,000 aggregate for each annual policy period of combined single limit bodily injury and property damage. Such form shall include contractual liability, personal injury, and broad form property damage, products and completed operations coverages. This policy, Commercial General Liability, shall be primary and non-contributory.

Automobile Liability insurance (if any non-owned or owned vehicles are used by Grantee in the performance of this Agreement) in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) per person, per accident, for bodily injury and not less than One Hundred Thousand Dollars (\$1,000,000.00) for property damage per occurrence. Town shall be named an additional insured.

Workers' Compensation and Employer's Liability insurance in compliance with all applicable New York State laws and regulations and Disability Benefits insurance, if required by law.

13. Grantee shall furnish to Grantor, upon the execution of the Agreement, declaration pages for each policy of insurance and certificates, other than a policy for commercial general liability insurance, and upon demand, a true and certified original copy of each such policy evidencing compliance with the aforesaid insurance requirements. All evidence of insurance shall provide for Grantor to be notified in writing thirty (30) days prior to any cancellation, nonrenewal, or material change in the policy to which such evidence relates. It shall be the duty of Grantee to notify Grantor immediately of any cancellation, nonrenewal, or material change in any insurance policy.

14. Grantee shall indemnify, defend and hold harmless Grantor, its agents, servants, officials, and employees from and against all liabilities, fines, penalties, actions, damages, claims, demands, judgments, losses, suits or actions, costs, and expenses resulting from, or arising out of, Grantee's use of the Easement Area or the provisions of services provided under this Agreement, whether such operation or services is performed or provided by Grantee or by any subcontractors, or any other person acting for or on behalf of Grantee including reimbursement of the cost of reasonable attorneys' fees incurred by Grantor, its agents, servants, officials, and employees in any action or proceeding arising out of or in connection with the Agreement. Notwithstanding the foregoing, Grantee's indemnification and defense obligations contained in this section shall not include liabilities resulting from, or arising out of,

- (i) the negligence or willful misconduct of Grantor or its agents, servants, officials, and employees;
- (ii) the conditions of any property outside of the Easement Area and not otherwise controlled by Grantee.

15. Grantee, its agents or employees shall not alter the Easement Area or any improvements on the Easement Area except as specifically authorized by this Agreement or by the Grantor.

16. Indemnity. (a) Grantee shall indemnify and hold harmless the Grantor from and against all claims for property damage, personal injury, or wrongful death when and to the extent such damage, injury or death proximately results from or arises out of the negligence or misconduct of the Grantee its successors and assigns in the operation or maintenance of Easement Area, and will reimburse the Grantor for any judgments, costs, and expenses, including reasonable attorney's fees, incurred in connection with the defense of any such claim or incurred by the Grantor in enforcing this agreement. (b) Grantor shall defend, indemnify and hold harmless the Grantee from and against all claims for property damage, personal injury, or wrongful death when to the extent such damage, injury or death proximately results from or arises out of the negligence or misconduct of the Grantor, and will reimburse the Grantee for any judgments, costs, and expenses, including reasonable attorney's fees, incurred in connection with the defense of any such claim, or incurred by the Grantee in enforcing this agreement.

17. This Agreement and the covenants, easements, restrictions, and other terms and provisions of this Easement Agreement shall constitute covenants that are appurtenant to and shall run with each of their respective parcels forever and shall be binding upon and inure to the parties, their heirs, personal representatives and assigns. It is understood and agreed that the terms "Grantor" and "Grantee", as and when used herein, or any pronouns used in place thereof, shall mean and include the masculine and/or feminine, the singular or plural number, individuals, firms or corporations, that the rights and obligations of the Grantor and Grantee shall be binding upon and inure to the benefit of their respective estates, heirs, personal representatives, successors in interest. This Easement Agreement and the easements, rights, obligations and liabilities created hereby shall be perpetual to the extent permitted by law.

18. This Easement Agreement will become effective upon the full execution hereof. Grantor does hereby specially warrant the title that Grantor has the right to grant the Easement and Grantor will defend the same against the claims of all persons claiming by or through it, that Grantor has good right and lawful authority to grant the above-described easement.

19. This Agreement may be executed in counterparts each of which shall be deemed an original and all of which shall constitute one and the same agreement.

20. This Agreement may not be modified, amended, altered or supplemented except by a written agreement executed by the parties hereto.

21. The failure of either party hereto to enforce at any time any of the provisions of this Agreement shall in no way be construed as a waiver of any such provisions, or the right of either party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach.

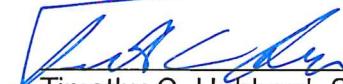
22. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

23. This Agreement constitutes the entire agreement of the parties regarding the subject matter of this Agreement and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are hereby merged herein.

24. This Easement/Access Agreement shall be recorded in the real property records of Suffolk County New York at Grantee's cost and expense and the Grantor shall sign such other documentation, if any, which is reasonably required to affect the recordation.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed on the 19th day of August, 2025. This grant of the Permanent Easement is nonexclusive. The Grantor reserves the right at any time and from time-to-time grant further nonexclusive easements within the Easement Area to such further grantees as Grantor deems appropriate in Grantor's reasonable discretion, provided such additional nonexclusive easements do not interfere with the use, operation, maintenance or access to, the Easement Area by Grantee, Grantee's successors or assigns.

TOWN OF RIVERHEAD

BY: 

Timothy C. Hubbard, Supervisor

MASTER DEVELOPER

BY: 

Joseph Petrocelli, President of  
J. Petrocelli Riverhead Town Square, LLC.

STATE OF NEW YORK      }

}ss.:

COUNTY OF SUFFOLK      }

On the 19th day of August, 2025, before me the undersigned personally appeared TIMOTHY C. HUBBARD, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacities or Town capacity and that by his/her/their signatures on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

Karen Occhiogrosso  
Notary Public

Karen Occhiogrosso  
Notary Public, State of New York  
Reg. No. 01OC6435479  
Qualified in Suffolk County  
Commission Expires June 27, 2026

STATE OF NEW YORK      }

}ss.:

COUNTY OF SUFFOLK      }

On the 19th day of August, 2025, before me the undersigned personally appeared JOSEPH PETROCELLI, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity or Town capacity and that by his/her/their signatures on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

Karen Occhiogrosso  
Notary Public

Karen Occhiogrosso  
Notary Public, State of New York  
Reg. No. 01OC6435479  
Qualified in Suffolk County  
Commission Expires June 27, 2026

## Exhibit “A”



# MASTER DEVELOPER AGREEMENT

## EXHIBIT "G"

Construction Management Agreement  
Town Square Public Gathering/Upper Deck

## CONSULTANT/PROFESSIONAL SERVICES AGREEMENT

This Agreement made the <sup>9th</sup> day of August, 2025, between the TOWN OF RIVERHEAD, a municipal corporation organized and existing under the laws of New York, with its office located at 4 West Second Street, Riverhead, New York 11901 (hereinafter referred to as the "Town") and J. Petrocelli Riverhead Town Square, LLC, party of the second part, with its principal place of business located at 100 Comac Street, Ronkonkoma, New York 11779 (hereinafter referred to as "Consultant").

In consideration of the mutual promises herein contained, Town of Riverhead and Consultant agree as follows:

### 1. PROJECT DESCRIPTION

The Town is proposing to construct and create a Town Square (Public Gathering Place/Upper Deck) with improved cross-walk linking the Town Square to Main Street and across Main Street to Suffolk Theatre, Riverhead, New York (the "Project"). The project site is the former building sites located at 117 East Main Street and a portion of 121 East Main Street which have been demolished and now exist as vacant land. The Town retained the services of LVF Landscape Architects, PLLC (hereinafter "LVF") to provide a discovery/design approach for the Town Square and Streetscape Improvements. The services provided by LVF related to the Town Square (Public Gather Place/Upper Deck) and Streetscape Improvements consist of concept design including preliminary site analysis, evaluation and mapping, review previous community outreach analysis flood mitigation planning, and identify permitting and approval requirements. LVF deliverables also include a graphic plan and schematic design with elevations. LVF shall prepare a set of documents for Town and New York State permitting and Contractor bidding by preparing a design development document set and assisting with the bidding and negotiation process.

### 2. SCOPE OF SERVICES

During the term of this Agreement, Consultant shall furnish the following services: Construction Manager. The Town does hereby employ Consultant as its sole and exclusive construction manager for the Project. Consultant shall oversee construction of the Project, act as a liaison between Owner and all architects, engineers, contractors, suppliers and government agencies regarding the Project and provide construction management services including lend support to Engineering Department for preparation of bid documents and shall participate in pre-bid meetings with potential vendors, participate with bid evaluations as required and ensure qualified engineers, contractors and suppliers are used, review and make recommendations regarding the proposed construction schedule, answer all RFI's and evaluate value engineering alternatives, monitoring construction schedules, on-site construction inspection, monitor compliance with plans and specifications, review change orders, contract administration, providing the Town with status updates and such other management services related to the Project as is reasonably necessary to ensure completion of the Project (the "Services").

### 3. TERM OF AGREEMENT

The Agreement shall be deemed to have commenced on August 14, 2025, and terminate on completion of the project or sooner termination of this agreement in accordance with its terms.

### 4. PAYMENT

For these services, Town will pay Consultant the total sum of seven (7%) percent of the total construction costs to be billed for completion of the project, unless LVF design, specifications and bid award(s) provide for phases of construction, Consultant shall bill and be paid on the construction cost related to the completion of each phase of construction.

Completion shall be defined as the fulfillment of the services in accordance with the design and specifications and meet industry standards for material and quality of work. The Town shall determine and approve "project completion" and such approval of the Town shall not to be unreasonably withheld, conditioned or delayed unless the work performed is not in accordance with the plans or fails to meet industry standards as set forth above.

The Town shall not have any liability for any other expenses or costs incurred by Consultant other than the Compensation.

Consultant shall not incur any expenses in Town's behalf except for those items expressly provided for. Invoices for services and reimbursable expenses shall contain the following statement signed by Consultant, or if this Agreement is with a firm, an officer or authorized representative of the firm: "I hereby certify, to the best of my knowledge and belief, that this invoice is correct, and that all items invoiced are based upon actual costs incurred or services rendered consistent with the terms of the professional services agreement." Consultant shall produce an invoice after completion of construction or completion of each phase of construction, and such invoice(s) shall be due net thirty (30) days from the invoicing date.

### 5. RIGHTS TO DOCUMENTS OR DATA

All information and data, regardless of form, generated in the performance of, or delivered under this Agreement, as well as any information provided to Consultant by Town, shall be and remain the sole property of Town. Consultant shall keep all such information and data in confidence and not disclose or use it for any purpose other than in performing this Agreement, except with Town's prior written approval except under compulsion of law, court order or subpoena. In the event that the legal right in any data and information generated in the performance of this Agreement does not vest in Town by law, Consultant hereby agrees and assigns to Town such legal rights in all such data and information. Final payment shall not be due hereunder until after receipt by Town of such complete document and data file, or a certification from the Consultant that there is no such information created by the services performed under this Agreement, and receipt of all

information and data which is the property of Town. These obligations shall survive the termination of this Agreement.

#### **6. PUBLICITY**

Consultant shall not, without the prior written consent of Town, in any manner advertise or publish the fact that Town has entered into this Agreement with Consultant. Consultant shall not, without the prior written consent of the Town, provide, release or make available for inspection any documents, data, written material of any kind without the prior written consent of at least three members of the Town board or by resolution of the Town Board except under compulsion of law, court order or subpoena.

#### **7. ASSIGNMENT AND SUBCONTRACTING**

Performance of any part of this Agreement may not be subcontracted nor assigned without, in each case, the prior written consent of at least three members of the Town Board or by resolution of the Town Board.

#### **8. TERMINATION**

This Agreement may be terminated at any time and for any reason by either party upon 30 days written notice to the other party. In the event of such termination, Town shall have no further obligation to Consultant except to make any payments which may have become due for services rendered under this Agreement as tabulated up to the effective date of termination.

#### **9. RECORDS**

Consultant shall keep reasonably accurate records of the time spent in the performance of services hereunder in accordance with its customary practices and shall be paid pursuant to provision four (4) above. The Town shall, until the expiration of three years after final payment under this Agreement, have access to and the right to examine any directly pertinent books, documents, papers and records of Consultant involving transactions related to this Agreement.

#### **10. CHANGES**

The Town, by resolution of the Town Board or written request by at least three members of the Town Board, may, at any time by written notice to Consultant, issue additional instructions, require additional services or direct the omission of services covered by this Agreement. It is understood and agreed that major revisions to drawings when such revisions are inconsistent with prior instructions and approvals, changes in project scope, value engineering revisions resulting in changes in project scope and budget that are inconsistent with prior instructions and approvals, local laws & regulations or other services requested beyond those described above shall constitute additional services and such compensation for additional services may be separately negotiated lump sum amounts for specific tasks to be paid to Consultant or incorporated into the original project with a fixed price increase for such change order for the project or construction phase with Consultant receiving a corresponding increase based upon such cost adjustment. In the event that the Consultant determines that a change order is required, Consultant shall

obtain written approval of the Town, by resolution or written consent of at least three members of the Town Board, and if the change shall require the payment of additional compensation, Consultant must obtain the written approval of three members of the Town Board or resolution of the Town Board for the change order to commencement of work regarding the change order. It is agreed and understood that no oral agreement, conversation, or understanding between the Consultant and the Town, its departments, officers, agents and employees shall affect or modify any of the terms or obligations of this Agreement or schedules annexed hereto and made a part hereof.

#### 11. NOTICES

Any notice shall be considered as having been given: (i) to Town of Riverhead if mailed by certified mail, postage prepaid to Town of Riverhead, Attention: Office of the Town Attorney, 4 West Second Street, Riverhead, New York 11901; or (ii) to Consultant if mailed by certified mail, postage prepaid to J. Petrocelli Riverhead Town Square, LLC at 100 Comac Street, Ronkonkoma, NY 11779.

#### 12. COMPLIANCE WITH LAWS

Consultant shall comply with all applicable federal, state and local laws and ordinances and regulations in the performance of its services under this Agreement. Consultant will notify Town immediately if Consultant's work for Town becomes the subject of a government audit or investigation. Consultant will promptly notify Town if Consultant is indicted, suspended or debarred. Consultant represents that Consultant has not been convicted of fraud or any other felony arising out of a contract with any local, state or federal agency. In carrying out the work required hereunder, Consultant agrees not to make any communication to or appearance before any person in the executive or legislative branches of the local, state or federal government for the purpose of influencing or attempting to influence any such persons in connection with the award, extension, continuation, renewal, amendment or modification of any contract or agreement. Consultant may perform professional or technical services that are rendered directly in the preparation, submission or negotiation activities preceding award of a Town agreement/contract or to meet requirements imposed by law as a condition for receiving the award but only to the extent specifically detailed in the statement of work. Professional and technical services are limited to advice and analysis directly applying Consultant's professional and technical discipline.

#### 13. INSURANCE, INDEMNITY AND LIABILITY

Consultant shall maintain Comprehensive General Liability Insurance and, if applicable, worker's compensation insurance, as follows:

Worker's Compensation Insurance. Consultant shall maintain during the term of this Agreement worker's compensation insurance for all of Consultant's employees providing scope of services pursuant to this Agreement, which shall name the Town of Riverhead and Town of Riverhead Water District as additional insureds. In addition, in the event Consultant utilizes sub-contractor(s) regarding scope of services, sub-contractor(s) shall also be required to maintain worker's compensation insurance for each employees

providing scope of services pursuant to this Agreement which shall also name the Town of Riverhead and Town of Riverhead Water District as additional insured, unless such sub-contractors are insured pursuant to Consultant's worker's compensation insurance policy.

Automobile Public Liability Insurance - The Consultant shall obtain and maintain during the life of the Agreement such automobile public liability insurance as shall protect him and any subcontractor performing work covered by this Agreement from claims for damages for personal injury, including death as well as from claims for property damage which may arise from operations under this Agreement, whether such operations be by himself or by any subcontractor, or by any one directly or indirectly employed by either of them and the amounts of such insurance shall be as follows:

Automobile Public Liability Insurance in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) for bodily injuries, including death and property damage per occurrence.

Umbrella Liability for bodily injury, including death and property damage in an amount of not less than TWO MILLION DOLLARS (\$2,000,000.00).

Commercial General Liability Insurance and Umbrella Liability Insurance: Consultant shall maintain during the term of this Agreement commercial general liability insurance and umbrella liability insurance regarding scope of services as applicable to Consultant's employees, agents and sub-contractor(s) regarding coverage for and claims related to personal injury, including death, as well as claims for property damage which may arise from rendered services pursuant to this Agreement, including acts and/or omissions, which shall name the Town of Riverhead and Town of Riverhead Water District as additional insureds, with policy limits as follows: Comprehensive General Liability Insurance in the amount of not less than ONE MILLION DOLLARS (\$1,000,000.00) per each occurrence and TWO MILLION DOLLARS (\$2,000,000.00), general aggregate.

Professional Liability Insurance: Consultant shall maintain during the term of this Agreement professional liability insurance in the amount of FIVE MILLION DOLLARS (\$5,000,000.00) in the aggregate.

The above insurance policies must name the Town of Riverhead as additional insureds on a primary and non-contributory basis for general liability, automobile liability and excess umbrella liability. The additional insured status must be evidenced by a copy of endorsement CG 20 10 10 01, "additional insured-owners, lessee or contractors-scheduled person" or organization endorsement or its equivalent and copy of endorsement CG 20 37 10 01, "additional insured-owners, lessees or contractors-completed operations endorsement", or its equivalent.

The Consultant shall furnish the TOWN OF RIVERHEAD with certificates of each insurer insuring the Consultant or any subcontractor under this Agreement, except

with respect to subdivision D. of paragraph 13. In respect to this paragraph, the Consultant shall furnish the TOWN OF RIVERHEAD with the original insurance policy.

Both certificates, as furnished, and the insurance policy, as required, shall bear the policy numbers, the expiration date of the policy and the limit or limits of liability thereunder. Both the certificates and the policy shall be further endorsed to provide the TOWN OF RIVERHEAD with any notice of cancellation at least thirty (30) days prior to the actual date of such cancellation.

**HOLD HARMLESS/INDEMNIFICATION:** The Consultant hereby indemnifies and holds the Town, its departments, officers, agents and employees, harmless against claims, actions or demands against Town, its departments, officers, agents and employees and against any and all damages, liabilities or expenses, including counsel fees, arising out of the acts or omissions of the Consultant.

The Town hereby indemnifies and holds the Consultant, its officers, agents and employees, harmless against claims, actions or demands against the Consultant, its officers, agents and employees and against any and all damages, liabilities or expenses, including counsel fees, arising out of the acts or omissions of the Town.

#### 14. LIMITATION OF LIABILITY

Except for the indemnification obligations herein, Consultant's liability with respect to the services performed hereunder shall be limited to the written warranty remedies applicable to the services furnished hereunder, and with respect to the other performance of this Agreement shall be limited to the amount of the actual fees paid to Consultant hereunder. Consultant shall not be liable for any loss of profits, consequential, incidental or contingent damages whatsoever, whether arising out of breach of contract, warranty, tort (including negligence and strict liability) or other theories of law, with respect to the products and services sold hereunder, or any undertakings, acts or omissions relating thereto. Nothing in this Agreement excludes or limits liability for death or personal injury caused by a party's negligence or willful misconduct.

#### 15. CONFLICT OF INTEREST

Consultant hereby represents and covenants that neither it nor any of its employees or representatives has or shall have, directly or indirectly, any agreement or arrangement with any official, employee or representative of the Town which any such official, employee, representative shall receive either directly or indirectly anything of value whether monetary or otherwise as the result of or in connection with any actual or contemplated application before any department of the Town, contract with the Town for sale of any product or service. Consultant further represents and covenants that neither it nor any of its employees or representatives has offered or shall offer any gratuity to the Town, its officers, employees, agents or representatives with a view toward obtaining this Agreement or securing favorable treatment with respect thereto. Consultant further represents that it will not engage in any activity which presents a conflict of interest in light of its relationship with Town.

## 16. DISCLOSURE

The Town shall have the right, in its discretion, to disclose the terms and conditions of this Agreement (as it may be amended from time to time), including but not limited to amounts paid pursuant hereto, to agencies of the local, state and federal government.

## 17. DISPUTES

If Consultant fails to perform any of its obligations hereunder in accordance with the terms hereof, then after reasonable notice to Consultant not to exceed thirty (30) days, and an opportunity for Consultant to cure such failure (except in case of emergency), the Town may (but shall not be obligated to) cure such failure at the expense of the Consultant, and the amount incurred by the Town on demand. Notwithstanding the above, any dispute arising under this Agreement which is not settled by Agreement of the parties may be settled by appropriate legal proceedings. The Town and Consultant agree that prior to resorting to litigation, the matter be submitted to mediation upon the written request of either party and the results of such mediation shall only be binding upon agreement of each party to be bound thereby. The costs of mediation proceedings shall be shared equally by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed on the 19<sup>th</sup> day of August, 2025.

TOWN OF RIVERHEAD

BY:



Timothy C. Hubbard, Supervisor

MASTER DEVELOPER

BY:



Joseph Petrocelli, Managing Member of  
J. Petrocelli Riverhead Town Square, LLC

# MASTER DEVELOPER AGREEMENT

## EXHIBIT "H"

Construction Management Agreement  
Town Square Playground/Lower Deck

## CONSULTANT/PROFESSIONAL SERVICES AGREEMENT

This Agreement made the 17<sup>th</sup> day of August, 2025, between the TOWN OF RIVERHEAD, a municipal corporation organized and existing under the laws of New York, with its office located at 4 West Second Street, Riverhead, New York 11901 (hereinafter referred to as the "Town") and J. Petrocelli Riverhead Town Square, LLC, party of the second part, with its principal place of business located at 100 Comac Street, Ronkonkoma, New York 11779 (hereinafter referred to as "Consultant").

In consideration of the mutual promises herein contained, Town of Riverhead and Consultant agree as follows:

### 1. PROJECT DESCRIPTION

The Town is proposing to construct and create a Town Square (Playground/Lower Deck) Riverhead, New York. The project site is the former building sites located at 117 East Main Street and a portion of 121 East Main Street which have been demolished and now exist as vacant land. The Town retained the services of LVF Landscape Architects, PLLC (hereinafter "LVF") to provide a discovery/design approach for the Riverfront Adaptive Children's Playground for predevelopment activities, including the planning, designing, and engineering of a new adaptive/fully accessible playground adjacent to the anticipated new Town Square (Public Gathering Place/Upper Deck) in downtown Riverhead consistent with the Downtown Riverfront Activation Plan dated October 2022. LVF shall prepare final designs, plans (the "Plans") and estimates as well as bid documents and/or municipal solicitation(s) for the construction and installation of the Riverfront Adaptive Children's Playground (the "Project") utilizing green infrastructure, resilience to stormwater flooding, sensory rich and educational activities for children of all ages and mobility, and inclusion of a water feature(s) that relates to Riverhead's riverfront. LVF shall also include landscaping and other elements to ensure the new playground is an attractive, safe and accessible attraction including both built-in features and off-the-shelf equipment as deemed appropriate by the Town and available funding; and shall consist of the plans, specifications and estimates by providing the Town with a complete set of plans, specifications and estimates, and a bid package for all work.

### 2. SCOPE OF SERVICES

During the term of this Agreement, Consultant shall furnish the following services:

Construction Manager. The Town does hereby employ Consultant as its sole and exclusive construction manager for the Project. Consultant shall oversee construction of the Project, act as a liaison between Owner and all architects, engineers, contractors, suppliers and government agencies regarding the Project and provide construction management services including lend support to Engineering Department for preparation of bid documents and shall participate in pre-bid meetings with potential vendors, participate with bid evaluations as required and ensure qualified engineers, contractors and suppliers are used, review and make recommendations regarding the proposed construction schedule, answer all RFI's and evaluate value engineering alternatives, monitoring construction schedules, on-site construction inspection, monitor compliance

with plans and specifications, review change orders, contract administration, providing the Town with status updates and such other management services related to the Project as is reasonably necessary to ensure completion of the Project (the "Services").

### 3. TERM OF AGREEMENT

The Agreement shall be deemed to have commenced on August 19, 2025, and terminate on completion of the project or sooner termination of this agreement in accordance with its terms.

### 4. PAYMENT

For these services, Town will pay Consultant the total sum of seven (7%) percent of the total construction costs, excluding costs for purchase of playground equipment, benches, water fountain, and landscaping materials (such as plants, trees, bushes) including the construction and/or installation thereof (the "Compensation") it being intended that Compensation be calculated based on the actual construction costs. In the event that LVF design, specifications and bid award(s) provide for phases of construction, Consultant shall bill and be paid on the construction cost related to the completion of each phase of construction.

Completion shall be defined as the fulfillment of the services in accordance with the design and specifications and meet industry standards for material and quality of work. The Town shall determine and approve "project completion" and such approval of the Town shall not to be unreasonably withheld, conditioned or delayed unless the work performed is not in accordance with the plans or fails to meet industry standards as set forth above.

The Town shall not have any liability for any other expenses or costs incurred by Consultant other than the Compensation.

Consultant shall not incur any expenses in Town's behalf except for those items expressly provided for. Invoices for services and reimbursable expenses shall contain the following statement signed by Consultant, or if this Agreement is with a firm, an officer or authorized representative of the firm: "I hereby certify, to the best of my knowledge and belief, that this invoice is correct, and that all items invoiced are based upon actual costs incurred or services rendered consistent with the terms of the professional services agreement." Consultant shall produce an invoice after completion of construction or completion of each phase of construction, and such invoice(s) shall be due net thirty (30) days from the invoicing date.

### 5. RIGHTS TO DOCUMENTS OR DATA

All information and data, regardless of form, generated in the performance of, or delivered under this Agreement, as well as any information provided to Consultant by Town, shall be and remain the sole property of Town. Consultant shall keep all such information and data in confidence and not disclose or use it for any purpose other than in performing this Agreement, except with Town's prior written approval except under compulsion of law, court order or subpoena. In the event that the legal right in any data and information generated in the performance of this Agreement does not vest in Town

by law, Consultant hereby agrees and assigns to Town such legal rights in all such data and information. Final payment shall not be due hereunder until after receipt by Town of such complete document and data file, or a certification from the Consultant that there is no such information created by the services performed under this Agreement, and receipt of all information and data which is the property of Town. These obligations shall survive the termination of this Agreement.

#### **6. PUBLICITY**

Consultant shall not, without the prior written consent of Town, in any manner advertise or publish the fact that Town has entered into this Agreement with Consultant. Consultant shall not, without the prior written consent of the Town, provide, release or make available for inspection any documents, data, written material of any kind without the prior written consent of at least three members of the Town board or by resolution of the Town Board except under compulsion of law, court order or subpoena.

#### **7. ASSIGNMENT AND SUBCONTRACTING**

Performance of any part of this Agreement may not be subcontracted nor assigned without, in each case, the prior written consent of at least three members of the Town Board or by resolution of the Town Board.

#### **8. TERMINATION**

This Agreement may be terminated at any time and for any reason by either party upon 30 days written notice to the other party. In the event of such termination, Town shall have no further obligation to Consultant except to make any payments which may have become due for services rendered under this Agreement as tabulated up to the effective date of termination.

#### **9. RECORDS**

Consultant shall keep reasonably accurate records of the time spent in the performance of services hereunder in accordance with its customary practices and shall be paid pursuant to provision four (4) above. The Town shall, until the expiration of three years after final payment under this Agreement, have access to and the right to examine any directly pertinent books, documents, papers and records of Consultant involving transactions related to this Agreement.

#### **10. CHANGES**

The Town, by resolution of the Town Board or written request by at least three members of the Town Board, may, at any time by written notice to Consultant, issue additional instructions, require additional services or direct the omission of services covered by this Agreement. It is understood and agreed that major revisions to drawings when such revisions are inconsistent with prior instructions and approvals, changes in project scope, value engineering revisions resulting in changes in project scope and budget that are inconsistent with prior instructions and approvals, local laws & regulations or other services requested beyond those described above shall constitute additional services and such compensation for additional services may be separately negotiated lump sum amounts for specific tasks to be paid to Consultant or incorporated into the original project with a fixed price increase for such change order for the project or

construction phase with Consultant receiving a corresponding increase based upon such cost adjustment. In the event that the Consultant determines that a change order is required, Consultant shall obtain written approval of the Town, by resolution or written consent of at least three members of the Town Board, and if the change shall require the payment of additional compensation, Consultant must obtain the written approval of three members of the Town Board or resolution of the Town Board for the change order to commencement of work regarding the change order. It is agreed and understood that no oral agreement, conversation, or understanding between the Consultant and the Town, its departments, officers, agents and employees shall effect or modify any of the terms or obligations of this Agreement or schedules annexed hereto and made a part hereof.

## 11. NOTICES

Any notice shall be considered as having been given: (i) to Town of Riverhead if mailed by certified mail, postage prepaid to Town of Riverhead, Attention: Office of the Town Attorney, 4 West Second Street, Riverhead, New York 11901; or (ii) to Consultant if mailed by certified mail, postage prepaid to J. Petrocelli Riverhead Town Square, LLC, Inc. at 100 Comac Street, Ronkonkoma, NY 11779.

## 12. COMPLIANCE WITH LAWS

Consultant shall comply with all applicable federal, state and local laws and ordinances and regulations in the performance of its services under this Agreement. Consultant will notify Town immediately if Consultant's work for Town becomes the subject of a government audit or investigation. Consultant will promptly notify Town if Consultant is indicted, suspended or debarred. Consultant represents that Consultant has not been convicted of fraud or any other felony arising out of a contract with any local, state or federal agency. In carrying out the work required hereunder, Consultant agrees not to make any communication to or appearance before any person in the executive or legislative branches of the local, state or federal government for the purpose of influencing or attempting to influence any such persons in connection with the award, extension, continuation, renewal, amendment or modification of any contract or agreement. Consultant may perform professional or technical services that are rendered directly in the preparation, submission or negotiation activities preceding award of a Town agreement/contract or to meet requirements imposed by law as a condition for receiving the award but only to the extent specifically detailed in the statement of work. Professional and technical services are limited to advice and analysis directly applying Consultant's professional and technical discipline.

## 13. INSURANCE, INDEMNITY AND LIABILITY

Consultant shall maintain Comprehensive General Liability Insurance and, if applicable, worker's compensation insurance, as follows:

Worker's Compensation Insurance. Consultant shall maintain during the term of this Agreement worker's compensation insurance for all of Consultant's employees providing scope of services pursuant to this Agreement, which shall name the Town of Riverhead and Town of Riverhead Water District as additional insureds. In addition, in

the event Consultant utilizes sub-contractor(s) regarding scope of services, sub-contractor(s) shall also be required to maintain worker's compensation insurance for each employees providing scope of services pursuant to this Agreement which shall also name the Town of Riverhead and Town of Riverhead Water District as additional insured, unless such sub-contractors are insured pursuant to Consultant's worker's compensation insurance policy.

Automobile Public Liability Insurance - The Consultant shall obtain and maintain during the life of the Agreement such automobile public liability insurance as shall protect him and any subcontractor performing work covered by this Agreement from claims for damages for personal injury, including death as well as from claims for property damage which may arise from operations under this Agreement, whether such operations be by himself or by any subcontractor, or by any one directly or indirectly employed by either of them and the amounts of such insurance shall be as follows:

Automobile Public Liability Insurance in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) for bodily injuries, including death and property damage per occurrence.

Umbrella Liability for bodily injury, including death and property damage in an amount of not less than TWO MILLION DOLLARS (\$2,000,000.00).

Commercial General Liability Insurance and Umbrella Liability Insurance: Consultant shall maintain during the term of this Agreement commercial general liability insurance and umbrella liability insurance regarding scope of services as applicable to Consultant's employees, agents and sub-contractor(s) regarding coverage for and claims related to personal injury, including death, as well as claims for property damage which may arise from rendered services pursuant to this Agreement, including acts and/or omissions, which shall name the Town of Riverhead and Town of Riverhead Water District as additional insureds, with policy limits as follows: Comprehensive General Liability Insurance in the amount of not less than ONE MILLION DOLLARS (\$1,000,000.00) per each occurrence and TWO MILLION DOLLARS (\$2,000,000.00), general aggregate.

Professional Liability Insurance: Consultant shall maintain during the term of this Agreement professional liability insurance in the amount of FIVE MILLION DOLLARS (\$5,000,000.00) in the aggregate.

The above insurance policies must name the Town of Riverhead as additional insureds on a primary and non-contributory basis for general liability, automobile liability and excess umbrella liability. The additional insured status must be evidenced by a copy of endorsement CG 20 10 10 01, "additional insured-owners, lessee or contractors-scheduled person" or organization endorsement or its equivalent and copy of endorsement CG 20 37 10 01, "additional insured-owners, lessees or contractors-completed operations endorsement", or its equivalent.

The Consultant shall furnish the TOWN OF RIVERHEAD with certificates of each insurer insuring the Consultant or any subcontractor under this Agreement, except with respect to subdivision D. of paragraph 13. In respect to this paragraph, the Consultant shall furnish the TOWN OF RIVERHEAD with the original insurance policy.

Both certificates, as furnished, and the insurance policy, as required, shall bear the policy numbers, the expiration date of the policy and the limit or limits of liability thereunder. Both the certificates and the policy shall be further endorsed to provide the TOWN OF RIVERHEAD with any notice of cancellation at least thirty (30) days prior to the actual date of such cancellation.

**HOLD HARMLESS/INDEMNIFICATION:** The Consultant hereby indemnifies and holds the Town, its departments, officers, agents and employees, harmless against claims, actions or demands against Town, its departments, officers, agents and employees and against any and all damages, liabilities or expenses, including counsel fees, arising out of the acts or omissions of the Consultant.

The Town hereby indemnifies and holds the Consultant, its officers, agents and employees, harmless against claims, actions or demands against the Consultant, its officers, agents and employees and against any and all damages, liabilities or expenses, including counsel fees, arising out of the acts or omissions of the Town.

#### **14. LIMITATION OF LIABILITY**

Except for the indemnification obligations herein, Consultant's liability with respect to the services performed hereunder shall be limited to the written warranty remedies applicable to the services furnished hereunder, and with respect to the other performance of this Agreement shall be limited to the amount of the actual fees paid to Consultant hereunder. Consultant shall not be liable for any loss of profits, consequential, incidental or contingent damages whatsoever, whether arising out of breach of contract, warranty, tort (including negligence and strict liability) or other theories of law, with respect to the products and services sold hereunder, or any undertakings, acts or omissions relating thereto. Nothing in this Agreement excludes or limits liability for death or personal injury caused by a party's negligence or willful misconduct.

#### **15. CONFLICT OF INTEREST**

Consultant hereby represents and covenants that neither it nor any of its employees or representatives has or shall have, directly or indirectly, any agreement or arrangement with any official, employee or representative of the Town which any such official, employee, representative shall receive either directly or indirectly anything of value whether monetary or otherwise as the result of or in connection with any actual or contemplated application before any department of the Town, contract with the Town for sale of any product or service. Consultant further represents and covenants that neither it nor any of its employees or representatives has offered or shall offer any gratuity to the Town, its officers, employees, agents or representatives with a view toward obtaining this Agreement or securing favorable treatment with respect thereto.

Consultant further represents that it will not engage in any activity which presents a conflict of interest in light of its relationship with Town.

#### 16. DISCLOSURE

The Town shall have the right, in its discretion, to disclose the terms and conditions of this Agreement (as it may be amended from time to time), including but not limited to amounts paid pursuant hereto, to agencies of the local, state and federal government.

#### 17. DISPUTES

If Consultant fails to perform any of its obligations hereunder in accordance with the terms hereof, then after reasonable notice to Consultant not to exceed thirty (30) days, and an opportunity for Consultant to cure such failure (except in case of emergency), the Town may (but shall not be obligated to) cure such failure at the expense of the Consultant, and the amount incurred by the Town on demand. Notwithstanding the above, any dispute arising under this Agreement which is not settled by Agreement of the parties may be settled by appropriate legal proceedings. The Town and Consultant agree that prior to resorting to litigation, the matter be submitted to mediation upon the written request of either party and the results of such mediation shall only be binding upon agreement of each party to be bound thereby. The costs of mediation proceedings shall be shared equally by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed on the 17<sup>th</sup> day of August, 2025.

TOWN OF RIVERHEAD

BY:   
Timothy C. Hubbard, Supervisor

MASTER DEVELOPER

BY:   
Joseph Petrocelli, Managing Member of  
J. Petrocelli Riverhead Town Square, LLC

# MASTER DEVELOPER AGREEMENT

## EXHIBIT "I"

Construction Management Agreement

East End Arts/Amphitheatre Project

## CONSULTANT/PROFESSIONAL SERVICES AGREEMENT

This Agreement made the ~~17~~<sup>18</sup> day of August, , 2025, between the TOWN OF RIVERHEAD, a municipal corporation organized and existing under the laws of New York, with its office located at 4 West Second Street, Riverhead, New York 11901 (hereinafter referred to as the "Town") and J. Petrocelli Riverhead Town Square, LLC, party of the second part, with its principal place of business located at 100 Comac Street, Ronkonkoma, New York 11779 (hereinafter referred to as "Consultant").

In consideration of the mutual promises herein contained, Town of Riverhead and Consultant agree as follows:

### 1. PROJECT DESCRIPTION

The Town is proposing to construct and create a sustainable and flood resilient amphitheater located on a portion of 133 East Main Street and a portion of 142 East Main Street, together with re-configured complex of historic buildings and an outdoor attractive gathering space (the "Project"). As stated above, the property is presently improved with several historic structures, walkways and art installations. The Town retained the services of Skolnick Architecture (hereinafter "Skolnick") to conduct market research and conceptual planning guidelines complimenting the Town Square Projects (Upper/Lower Deck) and other downtown development project. While the Town continues to work on the amphitheater project and securing funding related thereto, it is anticipated that the re-configuration of the complex of historic buildings to protect from flooding will be Phase I of this project and Phase II will be construction with consideration site work to complete the sustainable and flood resilient amphitheater project. It is anticipated that Town Engineers will prepare bid specifications for Phase I and same will be bid or awarded under the Town's Annual Construction Contract, Town's Annual Construction Contract or bid pursuant to General Municipal Law 103. As to Phase II, the Town anticipates retaining services which shall include plans, specifications and estimates by providing the Town with a complete set of plans, specifications and estimates, and a bid package for all work related to the amphitheater.

### 2. SCOPE OF SERVICES

During the term of this Agreement, Consultant shall furnish the following services:

Construction Manager. The Town does hereby employ Consultant as its sole and exclusive construction manager for the Project. Consultant shall oversee construction of the Project, act as a liaison between Owner and all architects, engineers, contractors, suppliers and government agencies regarding the Project and provide construction management services including lend support to Engineering Department for preparation of bid documents and shall participate in pre-bid meetings with potential vendors, participate with bid evaluations as required and ensure qualified engineers, contractors and suppliers are used, review and make recommendations regarding the proposed construction schedule, answer all RFI's and evaluate value engineering alternatives, monitoring construction schedules, on-site construction inspection, monitor compliance with plans and specifications, review change orders, contract administration, providing

the Town with status updates and such other management services related to the Project as is reasonably necessary to ensure completion of the Project (the "Services").

### **3. TERM OF AGREEMENT**

The Agreement shall be deemed to have commenced on August 1<sup>st</sup>, 2025, and terminate on completion of the project or sooner termination of this agreement in accordance with its terms.

### **4. PAYMENT**

For these services, Town will pay Consultant the total sum of seven (7%) percent of the total construction costs for Phase I and total construction costs for Phase II, to be billing to coincide with phases of construction described above.

Completion shall be defined as the fulfillment of the services in accordance with the design and specifications and meet industry standards for material and quality of work. The Town shall determine and approve "project completion" and such approval of the Town shall not to be unreasonably withheld, conditioned or delayed unless the work performed is not in accordance with the plans or fails to meet industry standards as set forth above.

The Town shall not have any liability for any other expenses or costs incurred by Consultant other than the Compensation.

Consultant shall not incur any expenses in Town's behalf except for those items expressly provided for. Invoices for services and reimbursable expenses shall contain the following statement signed by Consultant, or if this Agreement is with a firm, an officer or authorized representative of the firm: "I hereby certify, to the best of my knowledge and belief, that this invoice is correct, and that all items invoiced are based upon actual costs incurred or services rendered consistent with the terms of the professional services agreement." Consultant shall produce an invoice after each completed Phase of construction, and such invoice(s) shall be due net thirty (30) days from the invoicing date.

### **5. RIGHTS TO DOCUMENTS OR DATA**

All information and data, regardless of form, generated in the performance of, or delivered under this Agreement, as well as any information provided to Consultant by Town, shall be and remain the sole property of Town. Consultant shall keep all such information and data in confidence and not disclose or use it for any purpose other than in performing this Agreement, except with Town's prior written approval except under compulsion of law, court order or subpoena. In the event that the legal right in any data and information generated in the performance of this Agreement does not vest in Town by law, Consultant hereby agrees and assigns to Town such legal rights in all such data and information. Final payment shall not be due hereunder until after receipt by Town of such complete document and data file, or a certification from the Consultant that there is no such information created by the services performed under this Agreement, and receipt of all

information and data which is the property of Town. These obligations shall survive the termination of this Agreement.

#### **6. PUBLICITY**

Consultant shall not, without the prior written consent of Town, in any manner advertise or publish the fact that Town has entered into this Agreement with Consultant. Consultant shall not, without the prior written consent of the Town, provide, release or make available for inspection any documents, data, written material of any kind without the prior written consent of at least three members of the Town board or by resolution of the Town Board except under compulsion of law, court order or subpoena.

#### **7. ASSIGNMENT AND SUBCONTRACTING**

Performance of any part of this Agreement may not be subcontracted nor assigned without, in each case, the prior written consent of at least three members of the Town Board or by resolution of the Town Board.

#### **8. TERMINATION**

This Agreement may be terminated at any time and for any reason by either party upon 30 days written notice to the other party. In the event of such termination, Town shall have no further obligation to Consultant except to make any payments which may have become due for services rendered under this Agreement as tabulated up to the effective date of termination.

#### **9. RECORDS**

Consultant shall keep reasonably accurate records of the time spent in the performance of services hereunder in accordance with its customary practices and shall be paid pursuant to provision four (4) above. The Town shall, until the expiration of three years after final payment under this Agreement, have access to and the right to examine any directly pertinent books, documents, papers and records of Consultant involving transactions related to this Agreement.

#### **10. CHANGES**

The Town, by resolution of the Town Board or written request by at least three members of the Town Board, may, at any time by written notice to Consultant, issue additional instructions, require additional services or direct the omission of services covered by this Agreement. It is understood and agreed that major revisions to drawings when such revisions are inconsistent with prior instructions and approvals, changes in project scope, value engineering revisions resulting in changes in project scope and budget that are inconsistent with prior instructions and approvals, local laws & regulations or other services requested beyond those described above shall constitute additional services and such compensation for additional services may be separately negotiated lump sum amounts for specific tasks to be paid to Consultant or incorporated into the original project with a fixed price increase for such change order for the project or construction phase with Consultant receiving a corresponding increase based upon such cost adjustment In the event that the Consultant determines that a change order is required, Consultant shall

obtain written approval of the Town, by resolution or written consent of at least three members of the Town Board, and if the change shall require the payment of additional compensation, Consultant must obtain the written approval of three members of the Town Board or resolution of the Town Board for the change order to commencement of work regarding the change order. It is agreed and understood that no oral agreement, conversation, or understanding between the Consultant and the Town, its departments, officers, agents and employees shall affect or modify any of the terms or obligations of this Agreement or schedules annexed hereto and made a part hereof.

#### 11. NOTICES

Any notice shall be considered as having been given: (i) to Town of Riverhead if mailed by certified mail, postage prepaid to Town of Riverhead, Attention: Office of the Town Attorney, 4 West Second Street, Riverhead, New York 11901; or (ii) to Consultant if mailed by certified mail, postage prepaid to J. Petrocelli Riverhead Town Square at 100 Comac Street, Ronkonkoma, NY 11779.

#### 12. COMPLIANCE WITH LAWS

Consultant shall comply with all applicable federal, state and local laws and ordinances and regulations in the performance of its services under this Agreement. Consultant will notify Town immediately if Consultant's work for Town becomes the subject of a government audit or investigation. Consultant will promptly notify Town if Consultant is indicted, suspended or debarred. Consultant represents that Consultant has not been convicted of fraud or any other felony arising out of a contract with any local, state or federal agency. In carrying out the work required hereunder, Consultant agrees not to make any communication to or appearance before any person in the executive or legislative branches of the local, state or federal government for the purpose of influencing or attempting to influence any such persons in connection with the award, extension, continuation, renewal, amendment or modification of any contract or agreement. Consultant may perform professional or technical services that are rendered directly in the preparation, submission or negotiation activities preceding award of a Town agreement/contract or to meet requirements imposed by law as a condition for receiving the award but only to the extent specifically detailed in the statement of work. Professional and technical services are limited to advice and analysis directly applying Consultant's professional and technical discipline.

#### 13. INSURANCE, INDEMNITY AND LIABILITY

Consultant shall maintain Comprehensive General Liability Insurance and, if applicable, worker's compensation insurance, as follows:

Worker's Compensation Insurance. Consultant shall maintain during the term of this Agreement worker's compensation insurance for all of Consultant's employees providing scope of services pursuant to this Agreement, which shall name the Town of Riverhead and Town of Riverhead Water District as additional insureds. In addition, in the event Consultant utilizes sub-contractor(s) regarding scope of services, sub-contractor(s) shall also be required to maintain worker's compensation insurance for each employees

providing scope of services pursuant to this Agreement which shall also name the Town of Riverhead and Town of Riverhead Water District as additional insured, unless such sub-contractors are insured pursuant to Consultant's worker's compensation insurance policy.

Automobile Public Liability Insurance - The Consultant shall obtain and maintain during the life of the Agreement such automobile public liability insurance as shall protect him and any subcontractor performing work covered by this Agreement from claims for damages for personal injury, including death as well as from claims for property damage which may arise from operations under this Agreement, whether such operations be by himself or by any subcontractor, or by any one directly or indirectly employed by either of them and the amounts of such insurance shall be as follows:

Automobile Public Liability Insurance in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) for bodily injuries, including death and property damage per occurrence.

Umbrella Liability for bodily injury, including death and property damage in an amount of not less than TWO MILLION DOLLARS (\$2,000,000.00).

Commercial General Liability Insurance and Umbrella Liability Insurance: Consultant shall maintain during the term of this Agreement commercial general liability insurance and umbrella liability insurance regarding scope of services as applicable to Consultant's employees, agents and sub-contractor(s) regarding coverage for and claims related to personal injury, including death, as well as claims for property damage which may arise from rendered services pursuant to this Agreement, including acts and/or omissions, which shall name the Town of Riverhead and Town of Riverhead Water District as additional insureds, with policy limits as follows: Comprehensive General Liability Insurance in the amount of not less than ONE MILLION DOLLARS (\$1,000,000.00) per each occurrence and TWO MILLION DOLLARS (\$2,000,000.00), general aggregate.

Professional Liability Insurance: Consultant shall maintain during the term of this Agreement professional liability insurance in the amount of FIVE MILLION DOLLARS (\$5,000,000.00) in the aggregate.

The above insurance policies must name the Town of Riverhead as additional insureds on a primary and non-contributory basis for general liability, automobile liability and excess umbrella liability. The additional insured status must be evidenced by a copy of endorsement CG 20 10 10 01, "additional insured-owners, lessee or contractors-scheduled person" or organization endorsement or its equivalent and copy of endorsement CG 20 37 10 01, "additional insured-owners, lessees or contractors-completed operations endorsement", or its equivalent.

The Consultant shall furnish the TOWN OF RIVERHEAD with certificates of each insurer insuring the Consultant or any subcontractor under this Agreement, except

with respect to subdivision D. of paragraph 13. In respect to this paragraph, the Consultant shall furnish the TOWN OF RIVERHEAD with the original insurance policy.

Both certificates, as furnished, and the insurance policy, as required, shall bear the policy numbers, the expiration date of the policy and the limit or limits of liability thereunder. Both the certificates and the policy shall be further endorsed to provide the TOWN OF RIVERHEAD with any notice of cancellation at least thirty (30) days prior to the actual date of such cancellation.

**HOLD HARMLESS/INDEMNIFICATION:** The Consultant hereby indemnifies and holds the Town, its departments, officers, agents and employees, harmless against claims, actions or demands against Town, its departments, officers, agents and employees and against any and all damages, liabilities or expenses, including counsel fees, arising out of the acts or omissions of the Consultant.

The Town hereby indemnifies and holds the Consultant, its officers, agents and employees, harmless against claims, actions or demands against the Consultant, its officers, agents and employees and against any and all damages, liabilities or expenses, including counsel fees, arising out of the acts or omissions of the Town.

#### **14. LIMITATION OF LIABILITY**

Except for the indemnification obligations herein, Consultant's liability with respect to the services performed hereunder shall be limited to the written warranty remedies applicable to the services furnished hereunder, and with respect to the other performance of this Agreement shall be limited to the amount of the actual fees paid to Consultant hereunder. Consultant shall not be liable for any loss of profits, consequential, incidental or contingent damages whatsoever, whether arising out of breach of contract, warranty, tort (including negligence and strict liability) or other theories of law, with respect to the products and services sold hereunder, or any undertakings, acts or omissions relating thereto. Nothing in this Agreement excludes or limits liability for death or personal injury caused by a party's negligence or willful misconduct.

#### **15. CONFLICT OF INTEREST**

Consultant hereby represents and covenants that neither it nor any of its employees or representatives has or shall have, directly or indirectly, any agreement or arrangement with any official, employee or representative of the Town which any such official, employee, representative shall receive either directly or indirectly anything of value whether monetary or otherwise as the result of or in connection with any actual or contemplated application before any department of the Town, contract with the Town for sale of any product or service. Consultant further represents and covenants that neither it nor any of its employees or representatives has offered or shall offer any gratuity to the Town, its officers, employees, agents or representatives with a view toward obtaining this Agreement or securing favorable treatment with respect thereto. Consultant further represents that it will not engage in any activity which presents a conflict of interest in light of its relationship with Town.

#### 16. DISCLOSURE

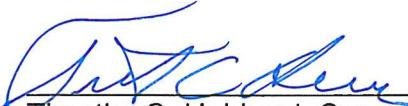
The Town shall have the right, in its discretion, to disclose the terms and conditions of this Agreement (as it may be amended from time to time), including but not limited to amounts paid pursuant hereto, to agencies of the local, state and federal government.

#### 17. DISPUTES

If Consultant fails to perform any of its obligations hereunder in accordance with the terms hereof, then after reasonable notice to Consultant not to exceed thirty (30) days, and an opportunity for Consultant to cure such failure (except in case of emergency), the Town may (but shall not be obligated to) cure such failure at the expense of the Consultant, and the amount incurred by the Town on demand. Notwithstanding the above, any dispute arising under this Agreement which is not settled by Agreement of the parties may be settled by appropriate legal proceedings. The Town and Consultant agree that prior to resorting to litigation, the matter be submitted to mediation upon the written request of either party and the results of such mediation shall only be binding upon agreement of each party to be bound thereby. The costs of mediation proceedings shall be shared equally by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed on the 1<sup>st</sup> day of August, 2025.

TOWN OF RIVERHEAD

BY:   
Timothy C. Hubbard, Supervisor

MASTER DEVELOPER

BY:   
Joseph Petrocelli, Managing Member of  
J. Petrocelli Riverhead Town Square, LLC