

**TRI-PARTY AGREEMENT
SECURED WITH LENDING INSTITUTION
TOWN OF ACTON**

AGREEMENT made this 12th day of February, 2015 by and between NOTCA, LLC, (hereinafter referred to as the "Applicant") of 205 Willow Street, Waltham, Acton, Massachusetts 02453; Brookline Bank (hereinafter referred to as the "Lender") of 131 Clarendon Street, Boston, MA 02117; and the Town of Acton, a Massachusetts municipal corporation acting through its Board of Selectmen (the "Selectmen") (hereinafter referred to as the "Town") of 472 Main Street, Acton, MA 01720.

WHEREAS, pursuant to the provisions of Massachusetts General Laws 40A, the Town, acting by and through its Selectmen, approved "Amended Decision #08/01/13- 444 TRB Development Group, Inc. Site Plan Special Permit 400-408 Massachusetts Avenue May 19, 2014 GRANTED with Conditions" (the "Decision");

WHEREAS, said Decision is recorded in the Middlesex South District Registry of Deeds in Book 64071, Page 336;

WHEREAS, the Applicant has established a cash account with the Lender in the total amount of One Hundred Seven Thousand One Hundred (\$107,100.00) Dollars as security for the completion of the items set forth on Exhibit A hereto and incorporated by reference herein (the "REA").

NOW, THEREFORE, in order to secure to the Town the completion of the items on Exhibit A and in consideration of the mutual covenants and agreements contained herein, and for \$10.00 and other good and valuable consideration, the receipt whereof is hereby acknowledged by the parties hereto, the parties hereto hereby agree as follows:

1. The Lender shall retain One Hundred Seven Thousand One Hundred (\$107,100.00) Dollars, in the REA, to secure the completion of the items described in Exhibit A (hereinafter collectively the "Improvements").
2. Applicant can obtain a reduction in the amount in the REA upon application to the Zoning Enforcement Officer ("ZEO") and approval by the ZEO of release of portion of the amount in the REA upon completion of a portion of the Improvements. Lender shall not release any portion of the REA without the receipt of authorization for such reduction by the ZEO, as evidenced by a written notification from the ZEO.
3. The Improvements shall be completed no later than February 1, 2016, unless such date is extended by written agreement of each of the parties hereto.
4. This agreement shall not expire until the ZEO, upon request, certifies that all Improvements have been completed, or until 45 days have elapsed, without a ZEO response, from the date the ZEO receives, by Certified Mail, a request for such certification, whichever comes first.
5. The full amount of the REA remaining following release of portions of the REA by the ZEO shall be due immediately to the Town of Acton in case of the default of the Applicant or his/her successor in constructing the Improvements. Default of the Applicant or successor shall be defined in this Tri-Party Agreement as meaning:

Handwritten signatures and initials at the bottom right of the page, including a signature that appears to be 'S.F.' and a circled initial 've'.

- a) failure to complete all Improvements as set forth on Schedule A by the scheduled completion date, or
 - b) bankruptcy of the developer or the foreclosure of any mortgage on all or part of the Site, the Lender hereby agreeing with the Town that neither the Bankruptcy of the Applicant, the default of the Applicant/mortgagor under the Note, Loan agreement or Mortgage, the foreclosure of the Mortgage or any other mortgage, nor the release of the Mortgage shall be cause for the Lender to refuse to release the REA to the Town.
6. In the event the balance of the REA is released to the Town, it will be used and applied by the Town in completion of the Improvements, any amounts not used by the Town as aforesaid shall be returned to the Applicant.
 7. This Agreement sets forth the entire agreement between the parties regarding the matters set forth herein, is binding upon the parties and their respective successors, assigns and legal representatives, and may be modified only by written instrument executed by all parties.
 8. The obligations of the parties hereunder are to be construed consistent with the Decision.
 9. This Agreement may be signed in separate counterparts, with each copy having the full force and effect of an original and facsimiles, pdfs and other electronic copies shall constitute originals.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS

Agreement as of the date and year first above written.

APPLICANT:

NOTCA, LLC

By: _____
 Vincent Cuttone, Manager

LENDER:

BROOKLINE BANK

By: _____
 Timothy V. Steiner
 Title: Vice President
 Authorized Signatory

TOWN OF ACTON,
 ACTING THROUGH ITS BOARD OF SELECTMEN

By: _____

By: _____

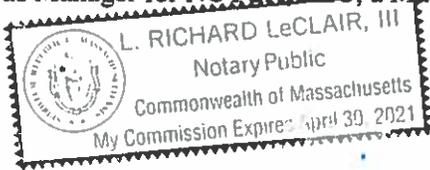
By: _____

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

February 12, 2015

On this 12th day of February, 2015, before me, the undersigned Notary Public, personally appeared Vincent Cuttone, proved to me through satisfactory evidence of identification, which was: [] personally known to me to have the identity claimed; or [] examination of Massachusetts Driver's License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose as Manager for NOTCA, LLC, a Massachusetts limited liability company.



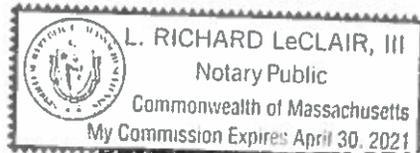
[Signature]
Notary Public
My commission expires:

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

February 12, 2015

On this 11th day of February, 2015, before me, the undersigned Notary Public, personally appeared 11 notary S. Sklar, the of BROOKLINE BANK, proved to me through satisfactory evidence of identification, which was: [] personally known to me to have the identity claimed; or [] examination of Massachusetts Driver's License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose on behalf of BROOKLINE BANK.



[Signature]
Notary Public
My commission expires:

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

February _____, 2015

On this ___ day of February, 2015, before me, the undersigned Notary Public, personally appeared, Member of Board of Selectmen of the Town of Acton, proved to me through satisfactory evidence of identification, which was: [] personally known to me to have the identity claimed; or [] examination of Massachusetts Driver's License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose on behalf of Town of Acton.

Notary Public
My commission expires:

[Signature]

[Signature]

TOWN OF ACTON ENGINEERING DEPARTMENT
 Project Name: CVS
Bond Calculation

Date: 12/23/2014
 Length:

DESCRIPTION	QTY	UNIT	COST/UNIT	TOTAL COST
ITEM 1 - CLEARING				
A. CLEARING, EXCAVATING, & FILLING (with on-site material) to SUBGRADE		L.F.		\$ -
B. HAULED FILL		C.Y.		\$ -
C. EXCAVATION BELOW 26"		C.Y.		\$ -
D. STUMP DISPOSAL		L.S.		\$ -
SUBTOTAL CLEARING (ITEM 1)				\$ -

ITEM 2 - WATER

A. F & I - 4" WATER MAIN		L.F.		\$ -
B. F & I - 6" WATER MAIN		L.F.	\$ 36.00	\$ -
C. F & I - 12" WATER MAIN		L.F.		\$ -
D. PRIVATE WELL		EACH		\$ -
E. TAPPING, SLEAVE & GATE VALVE		EACH	\$ 2,370.00	\$ -
F. HOUSE SERVICE CONNECTIONS		EACH	\$ 1,800.00	\$ -
G. HYDRANTS, INCL. VALVES & FITTINGS		EACH	\$ 1,850.00	\$ -
H. "AS-BUILT" PLAN AND TIES TO GATES & SHUT-OFFS		L.S.		\$ -
I. DISCONTINUE WATER SERVICE		L.F.	\$ 13.10	\$ -
SUBTOTAL CLEARING (ITEM 2)				\$ -

ITEM 3 - DRAINAGE

A. Raise & Mortar - C.B. W/FRAME & GRATE (L.C.B.)		EACH	\$ 2,025.00	\$ -
B. Raise, Mortar & Shape Inverts - D.M.H.		EACH	\$ 2,500.00	\$ -
C. F & I - PIPE END HEADWALL		EACH		\$ -
D. F & I - FLARED END		EACH	\$ 500.00	\$ -
E. OUTLET CONTROL STRUCTURE		EACH	\$ 2,500.00	\$ -
F. DETENTION BASIN		EACH	\$ 4,000.00	\$ -
G. F & I - 6" HDPE		L.F.	\$ -	\$ -
H. F & I - 10" HDPE		L.F.		\$ -
I. F & I - 12" R.C.P.		L.F.		\$ -
J. F & I - 12" HDPE		L.F.	\$ 11.60	\$ -
K. ROOF DRYWELL		EACH	\$ 1,000.00	\$ -
L. DRAINAGE TRENCH		EACH	\$ 500.00	\$ -
M. DROP INLET		EACH	\$ 2,025.00	\$ -
N. UNDERGROUND DETENTION BASIN		EACH	\$ 6,000.00	\$ -
O. RIPRAP		S.Y.	\$ 61.00	\$ -
P. INFILTRATION TRENCH		EACH	\$ 1,700.00	\$ -
Q. DRAINAGE SWALE		EACH	\$ 1,000.00	\$ -
SUBTOTAL CLEARING (ITEM 3)				\$ -

ITEM 4 - SURFACE

A. F & I - 6" GRAVEL SUB-BASE	C.Y.	\$	28.50	\$	-
B. F & I - 6" COMPACTED GRAVEL	C.Y.	\$	30.00	\$	-
C. FINE GRADE for PAVING	L.F.			\$	-
D. 1.5" TYPE I BITUMINOUS CONC. - Binder	S.Y.	\$	8.65	\$	-
E. 2" TYPE I BITUMINOUS CONC. - Top	S.Y.	\$	4.51	\$	-
F. CAPE COD BERM	L.F.	\$	3.88	\$	-
G. SIDEWALK (Gravel, Grading, & Paving)	L.F.			\$	-
H. WHEEL CHAIR RAMPS	EACH	\$	500.00	\$	-
I. SLOPED GRANITE EDGING	L.F.			\$	-
SUBTOTAL CLEARING (ITEM 4)				\$	-

ITEM 5 - SHOULDERS

A. SHAPE SHOULDER & SUBGRADE	L.F.	\$	3.50	\$	-
B. F & I - 6" LOAM for SHOULDERS	L.F.	\$	2.00	\$	-
C. FILTER FABRIC	L.F.	\$	0.82	\$	-
D. HAYBALES	L.F.	\$	12.25	\$	-
E. F & I - TREES (Est. by Tree Warden)	EACH	\$	500.00	\$	-
F. SLOPE STABILIZATION	S.Y.	\$	1.32	\$	-
G. STONE CONSTRUCTION ENTRANCE	C.Y.	\$	45.00	\$	-
H. SEDIMENT BASIN	EACH	\$	500.00	\$	-
SUBTOTAL CLEARING (ITEM 5)				\$	-

ITEM 6 - ENGINEERING

A. F & I - ROAD BOUNDS, incl. LAYOUT & CERTIFICATION		EACH	\$	350.00	\$	-
B. PREPARE "AS-BUILT" PLAN & LETTER CERTIFYING WORK	1	L.S.	\$	5,000.00	\$	5,000.00
C. ROAD LAYOUT with GRADES		EACH	\$	3,000.00	\$	-
D. LEGAL DESCRIPTION, WARRANT ARTICLE & PROPOSED DEED		L.S.			\$	-
SUBTOTAL CLEARING (ITEM 6)				\$	5,000.00	

ITEM 7 - MISCELLANEOUS

A. 8-FT HIGH WOOD PANEL FENCE	615	L.F.	\$	31.50	\$	19,372.50
B. INTERIOR SITE LANDSCAPING	1	L.S.	\$	50,000.00	\$	50,000.00
C. COLOR STAMPED ASPHALT (COATING ONLY)	433	S.Y.	\$	53.00	\$	22,949.00
D. TRENCH LEDGE BLASTING		C.Y.			\$	-
E. STOP SIGN & LINE		EACH			\$	-
F. GUARD RAIL - Posts		L.S.			\$	-
G. EMER. ACCESS RD. (Gravel, etc.)		L.S.			\$	-
SUBTOTAL CLEARING (ITEM 7)				\$	92,321.50	

SUBTOTAL	\$	97,321.50
PLUS 10% CONTINGENCY	\$	9,732.15
GRAND TOTAL	\$	107,053.65
PRICE PER FOOT		#DIV/0!
FINAL BOND AMOUNT SAY....	\$	107,100.00