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DEVELOPMENT AGREEMENT

This Development Agreement (hereinafter, the "Agreement") is entered into as of the ____ day of _____, 2016, by Walker Realty LLC (hereinafter with any nominee, successor or assign, the "Developer"), and the City of Marlborough, Massachusetts (hereinafter, the "City").

WHEREAS, the Developer is the prospective owner of approximately 43.6 acres of land located along Route 20, Marlborough, Middlesex County, Massachusetts, currently owned by Marlborough/Northborough Realty Trust, which land is more particularly described in Exhibit "A" appended hereto (hereinafter, the "Property"); and

WHEREAS, the Developer desires to develop the Property for a mixed use development as permitted under the Hospitality and Recreation Mixed Use Overlay District (hereinafter, the "Overlay Zoning") adopted by the City on _____, 2016 to include a variety of uses including, without limitation, hotel, recreation, restaurant, retail and office uses, and to construct buildings and structures thereon (hereinafter, the "Project"), to be located on one or more portions of the Property (each, hereinafter a "Development Parcel"); and

WHEREAS, as required under the terms of the Overlay Zoning, the Developer agrees to impose on the Property the limitations set forth herein, for the benefit of the City, which shall have the power to enforce the terms hereof; and

WHEREAS, the Developer and the City wish to set forth herein their agreement on the aforementioned matters;

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Developer hereby declares the following development restrictions on the Property, and the Developer and the City agree as follows:

1. **Effective Date of Overlay Zoning.** In accordance with Section C.3 of the Overlay Zoning, the Overlay Zoning shall take effect and govern the development of all parcels within the Property effective on the date that the Developer provides written notice to the City Clerk that the Developer has closed on the purchase of the Property.
2. **Transportation Demand Management.** The Developer shall comply with the Transportation Demand Management (TDM) requirements set forth in the Final Environmental Impact Report (FEIR) Certificate for the Project.
3. **Payment for Fire Station Feasibility Study.** The Developer, upon filing an application for the first building permit in connection with any Development Parcel(s) under the terms of the Overlay Zoning, shall contribute funds to the City to allow the City, acting by and through the City Council, to undertake an analysis of the feasibility of building a fire station in the vicinity of Glenn Street, provided that the Developer's total obligations under this paragraph shall not exceed Forty Thousand Dollars (\$40,000.00).

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4. **Sewer Relocation.** The Developer, with the filing of the first special permit and/or site plan review application in connection with any Development Parcel(s) under the terms of the Overlay Zoning, shall present plans acceptable to the City Engineer to relocate the sewer main in the vicinity of the Property (hereinafter, the "Sewer Relocation"), as shown on the plan entitled, " _____ " dated _____, prepared by _____ (hereinafter, the "Master Concept Plan"). The Developer shall, at its sole cost and expense, complete the Sewer Relocation prior to the issuance of the first certificate of occupancy for a Development Parcel. The Developer shall be permitted to connect to the City's sewer system in order to provide sewer service to the Project in locations approximately shown on the Master Concept Plan. The Developer shall not be required to pay any sewer connection or sewer privilege fees associated with connecting the Project to the City's sewer system. The City shall cooperate with any permits, approvals or other requirements necessary to complete the Sewer Relocation, but at no cost to the City. The sewer main associated with the Sewer Relocation shall be the property of the City and the City shall be responsible for the operation and maintenance of said sewer main. Prior to the issuance of the first certificate of occupancy for a Development Parcel, the Developer agrees to execute a utility easement, on terms to be mutually agreed upon between the City and the Developer, granting the City the right to access the sewer main running under any portion of the Property for ongoing operation, maintenance, replacement and repair.

5. **Phasing of the Project.** While market conditions, weather, and construction shall dictate the phasing of the development of the Property, at present it is envisioned that development of the hotel, recreation and retail components of the Project will be complete within twelve (12) months of the execution of this Agreement. Development of the office components of the Project are presently contemplated to be complete within the eighteen (18) to thirty-six (36) months of the execution of this Agreement.

6. **Architectural Review.** Prior to issuance of a building permit for any Development Parcel(s), the Developer shall submit to the City Council each proposed individual (or group of) building(s) for architectural review by the City Council, to ensure that the detailed building design will substantially conform in all material respects, including but not limited to building form, motif, shape, grouping of forms, materials and design with the details provided within the Master Concept Plan and this Agreement (by way of example, consistent with those features and materials depicted in previously provided renderings of the 110 Grill, Evviva Cucina, Hyatt/Fairfield and AREX entertainment building). To the extent practicable, and provided the same are commercially reasonable, consistent with the proposed use and requirements of the applicable tenant, and in keeping with the details presented by the Developer within the Master Concept Plan and this Agreement, the Developer shall incorporate comments and input from the City Council into the final design of the Project's buildings.

7. **Payment of City Consultant Expenses.** The City Council, in connection with its review of any special permit and/or site plan review application submitted in connection with any Development Parcel(s) under the terms of the Overlay Zoning, shall be permitted to retain the experts and consultants reasonably determined by the City Council as necessary to conduct an appropriate review of any such application. The reasonable costs and expenses of such experts and consultants shall be paid by the owner of the Development Parcel(s) submitting such application. The City Council shall provide such owner with the Council's selected name, scope

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of services and projected costs of the expert or consultant it proposes to retain. Such owner shall have five (5) business days, from the date of such owner's receipt of the City Council's proposed selection, to approve or object to that proposed selection, and any such objection shall be in writing and shall specify the reasons for objection. If the owner fails to object, the owner shall be deemed to have approved the City Council's selection. If the owner objects and the basis for objection cannot be resolved, the City Council shall provide the owner with an alternative selection. An owner shall, within thirty (30) calendar days of such owner's receipt, pay any invoice provided to such owner by the City Council relating to services provided by a selected expert or consultant that has been approved pursuant to the foregoing, in connection with a special permit and/or site plan review application submitted in connection with any Development Parcel(s) owned by such owner.

In addition, given the proposed development schedule and the scope of the Project, it is anticipated that third party consultants may be required for building, site, conservation, electrical, plumbing, gas and other municipal/code compliance inspections in order to assist and supplement the City's Office of Inspectional Services. In the event that the Developer or the City deems that the same is necessary at any time, and from time to time, either party may request that the City Council retain an appropriate third party to conduct the appropriate inspectional review and the City Council shall, upon such request, retain said third party in an expeditious manner. The costs of such third party services shall be derived from the appropriate permit application fees paid by the Developer for the applicable portion of the Project for which the services are utilized.

8. Infrastructure Improvement Grants. The Developer acknowledges certain obligations under the FEIR Certificate for the Project to complete certain public infrastructure improvements in the vicinity of the Project. To assist the City in economic development activities, the Developer shall cooperate with and support the City in its application to obtain grant financing or public monies for public infrastructure improvements, including an application for a MassWorks grant, which the City shall pursue with an application to be submitted in August of 2016 for certain public infrastructure improvements associated with the Project, which monies provide a direct or indirect benefit to the Property. The City agrees that if awarded financing or public monies for said improvements, the City shall immediately commence the construction of said improvements in order to reasonably meet the Developer's Project schedule. The City shall, at no cost to the City, cooperate with and support the Developer in its application to obtain any required permits and approvals for the Project, including, without limitation, approval for the Project under the Massachusetts Environmental Policy Act.

9. Certificates of Compliance. The City agrees from time to time to execute a certificate in form and substance reasonably satisfactory to the owner of any Development Parcel evidencing such owner's compliance with the terms and conditions of this Agreement, provided that such owner is then, in fact, in compliance with the terms and provisions of this Agreement, and if not, such certificate shall specify such owner's non-compliance.

10. Notices. Any notices hereunder shall be in writing and shall be deemed duly given upon receipt if mailed by certified or registered mail, postage and registration charges paid, by overnight delivery service with receipt, or by hand delivery to the City or the Developer, as applicable, at the addresses set forth below; provided, however, that the City, the Developer

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and/or any owner of a Development Parcel may, from time to time, designate an additional or substitute address for such notices (provided, that such designation must be made by notice given in accordance with the foregoing).

To the City of Marlborough:

City of Marlborough
140 Main Street
Marlborough, MA 01752
Attention: Mayor

With a copy (which shall not constitute notice) to:

City of Marlborough
140 Main Street
Marlborough, MA 01752
Attention: City Solicitor's Office

To Developer:

Walker Realty LLC
4 Lan Drive
Westford, MA 01886
Attention: Kevin S. Eriksen, Esq., General Counsel

With a copy to:

Mirick, O'Connell, DeMallie & Lougee, LLP
100 Front Street
Worcester, MA 01608
Attention: Brian R. Falk, Esq.

11. Attorney's Fees. Each of the parties hereto shall be responsible for their own attorney's fees incurred in connection with the preparation and review of this Agreement.

12. No Public Rights. The restrictions hereby conveyed do not grant to the public in general any right to enter the Property. All other rights not expressly granted hereby are reserved to the Developer, including, without limitation, fee ownership of the Property.

13. Enforcement Against Developer. The City shall have the right to enforce the terms hereof insofar as they pertain to the Developer, including, without limitation, Section 3 (monetary contributions to the City for a fire station feasibility analysis, Section 4 (the Sewer Relocation), and Section 8 (cooperating and supporting the City in applying for grant financing or public monies for public infrastructure improvements). The City may elect to exercise such rights by appropriate legal proceedings for monetary and/or injunctive and other equitable relief, and such proceedings shall be in addition to, and not in limitation of, any and all other rights and remedies available to the City in law and in equity. The City shall have the option to enforce the

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terms hereof insofar as they pertain to the Developer, but does not have the obligation to do so. The Developer shall reimburse the City for all reasonable costs and expenses (including, without limitation, attorneys' fees) incurred by the City in enforcing this Agreement against the Developer, provided that the Developer is adjudged to be in violation of this Agreement by a court of competent jurisdiction or the Developer acknowledges the same. The provisions of this Section shall survive the expiration or earlier termination of this Agreement.

14. Enforcement Against Development Parcel Owners. The City shall have the right to enforce the terms hereof against the owner of any Development Parcel(s) by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violation by such owner, including, without limitation, specific performance and/or relief requiring removal of any improvements constructed on such Development Parcel in violation of the terms hereof (it being agreed that the City has no adequate remedy at law), and such right shall be in addition to, and not in limitation of, any and all other rights and remedies available to the City in law and in equity. A default hereunder by the owner of a Development Parcel or Development Parcels shall not constitute a default hereunder by owner of any other Development Parcel or Development Parcels, and the City shall have no right to enforce the terms hereof against the owner of a Development Parcel except in the event of a violation related to the Development Parcel(s) owned by such owner. The City shall have the option to enforce the terms hereof, but does not have the obligation to do so. By its acceptance of this Agreement, the City does not undertake any liability or obligation relating to the condition of the Property, nor does the City's execution of this Agreement operate as a waiver of the requirements of any state or local laws, rules, regulations, or ordinances applicable to the use of the Property or any part thereof. The owner of any Development Parcel(s) shall reimburse the City for all reasonable costs and expenses (including, without limitation, attorneys' fees) incurred by the City in enforcing this Agreement against such owner and/or its Development Parcel(s) or in remedying or abating any violation on such Development Parcel(s), provided that such owner is adjudged to be in violation of this Agreement by a court of competent jurisdiction or such owner acknowledges the same. The provisions of this Section shall survive the expiration or earlier termination of this Agreement.

15. Binding Effect. The Developer, for itself and its nominees, successors and assigns, hereby imposes on the Property the limitations and obligations set forth below, which limitations and obligations shall be for the benefit of and be enforceable by the City. The terms hereof shall bind the Property for a period of thirty (30) years from the date when this Agreement is recorded with the Registry, which Agreement shall be senior in priority to any liens, encumbrances or mortgages. It is the intention of the parties that, except as otherwise set forth herein, the Agreement shall run with the Property for said thirty (30) years, notwithstanding any foreclosure of any lien on the Property by any entity. The Agreement is subject to the terms of M.G.L. Chapter 184, as hereinafter provided. Each and every term, condition and provision hereof shall be fully enforceable and binding on the City and the Property (and/or each Development Parcel, as applicable).

16. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Massachusetts.

17. Authorization. The City Council hereby approves the provisions of this Agreement, which approval shall be set forth in an order to be recorded herewith by the Developer at its sole

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expense, with a copy of the recorded document to be provided to the City Solicitor's Office. The City Council hereby authorizes the Mayor to execute this Agreement on the City's behalf, and to monitor and enforce compliance by the Developer and by the owner of each Development Parcel with the Agreement's terms and conditions.

18. Recording of Agreement. The Developer, at its sole expense, shall record this Agreement at the Registry. After it has been recorded, this Agreement can only be modified if such modification is in writing signed by the City, the Developer and, if applicable, the owners of all Development Parcels affected by such modification.

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