

APPENDIX 2A.
DEVELOPER'S AGREEMENT

DEVELOPER'S AGREEMENT

THIS AGREEMENT made this 11th day of April, 2005, by and between Cornwall Commons, LLC, 615 Route 32, P.O. Box 503, Highland Mills, New York, 10930 (hereinafter DEVELOPER) and the Town of Cornwall, 183 Main Street, Cornwall, New York (hereinafter the "TOWN");

RECITALS

WHEREAS, the DEVELOPER is the owner of certain real property located on the west side of N.Y.S. Route 9W at the boundary of the Town of Cornwall and the Town of New Windsor; and

WHEREAS, the portion of the said property located in the Town of Cornwall consists of approximately 143.68 acres and is identified on the Tax Map as Section 9, Block 1, Lot 25.2 (hereinafter "the CORNWALL PROPERTY"); and

WHEREAS, the portion of the said property located in the Town of New Windsor consists of approximately 53.862 acres and it identified on the Tax Map as Section 37, Block 1, Lot 45.1 (hereinafter "the NEW WINDSOR PROPERTY"); and

WHEREAS, the CORNWALL PROPERTY and the NEW WINDSOR PROPERTY together will hereinafter be referred to as "THE CORNWALL COMMONS PROPERTY"; and

WHEREAS, the CORNWALL PROPERTY is located within the Cornwall Sewer District; and

WHEREAS, the NEW WINDSOR PROPERTY is located within New Windsor Sewer District No. 22; and

WHEREAS, the DEVELOPER made application to the Town of Cornwall Planning Board for a commercial subdivision of the CORNWALL PROPERTY; and

WHEREAS, in regard to the said subdivision of the CORNWALL PROPERTY, the Town of Cornwall Planning Board assumed lead agency status for review of a Generic Environmental Impact Statement (hereinafter "GEIS") under the New York State Environmental Quality Review Act (hereinafter "SEQRA"); and

WHEREAS, on April 15, 2003, the Town of Cornwall Planning Board adopted a Lead Agency Findings Statement under SEQRA setting forth the proposed standards and measures to mitigate potential adverse environmental impacts from development of the CORNWALL PROPERTY, including an alternative development of the CORNWALL PROPERTY for a "Planned Adult Community" ("PAC"); and

WHEREAS, on April 15, 2003, the Town of Cornwall Planning Board, as lead agency, adopted a Finding Statement under SEQRA setting forth the proposed development standards and measures to mitigate adverse impacts for development of the Cornwall Commons property; and

WHEREAS, on July 7, 2003, the Town of Cornwall Planning Board granted preliminary approval for a commercial subdivision of the CORNWALL PROPERTY; and

WHEREAS, in 2003, the TOWN adopted an updated Comprehensive Plan pursuant to Town Law §272-a, under which, inter alia, permitting development of the CORNWALL PROPERTY as a PAC was contemplated and proposed; and

WHEREAS, the TOWN is presently considering an amendment to its updated Comprehensive Plan which also contemplates and proposes permitting development of the CORNWALL PROPERTY as a PAC; and

WHEREAS, since present zoning does not provide for PACs, it will be necessary for the TOWN to enact appropriate zoning changes permitting PAC development to implement this goal and policy articulated within the proposed Comprehensive Plan; and

WHEREAS, within the said subdivision of the CORNWALL PROPERTY the DEVELOPER intends to construct a PAC as well as (a) 45,000 sq ft of retail use plus one or more pad sites, (b) an eighty (80) bed congregate care facility, (c) a hotel-motel, and (d) a stand alone office building or buildings with approximately 50,000 square feet of office space on the first floor plus if the DEVELOPER determines that market demand justifies it, up to an additional 35,000 square feet of office space on either the second floor of the retail or office uses or within the areas where retail uses have been designated; and

WHEREAS, the DEVELOPER wishes to provide central sewer service for the proposed use of the CORNWALL PROPERTY through the Cornwall Sewer District; and

WHEREAS, the DEVELOPER has made application to the Town of New Windsor Planning Board for a sixty-five lot single-family residential subdivision of the NEW WINDSOR PROPERTY; and

WHEREAS, on July 23, 2003, the Town of New Windsor Planning Board adopted a Findings Statement under SEQRA setting forth the proposed standards and measures to mitigate potential adverse environmental impacts from development of the NEW WINDSOR PROPERTY; and

WHEREAS, on August 27, 2003, the Town of New Windsor Planning Board granted preliminary approval for a sixty-five lot single-family residential subdivision of the NEW WINDSOR PROPERTY which has been extended; and

() WHEREAS, should the NEW WINDSOR PROPERTY be annexed to the Town of Cornwall, under the present Town of Cornwall Zoning such property would qualify for development of, among other uses, a senior citizen project at a maximum density of ten (10) units per acre; and

WHEREAS, the DEVELOPER wishes to have an agreement with the TOWN under which the TOWN would provide sewer capacity for the proposed use of the NEW WINDSOR PROPERTY; and

WHEREAS, a Sewer Agreement dated July 10, 2003, between the TOWN, the Town of New Windsor and the DEVELOPER was recorded in the Orange County Clerk's office on July 10, 2003, pertaining to sale of sewer capacity from the TOWN to Town of New Windsor Sewer District No. 22 for sewer service for the NEW WINDSOR PROPERTY (hereinafter referred to as "2003 SEWER AGREEMENT"); and

() WHEREAS, a dispute exists between the parties as to the validity of the 2003 SEWER AGREEMENT but, notwithstanding the existence of the said dispute, the TOWN has expressed its intent and willingness to provide sewer capacity for development of the NEW WINDSOR PROPERTY as well as for the CORNWALL PROPERTY (which is already within the TOWN's sewer district); and

WHEREAS, the DEVELOPER and the TOWN have therefore entered into this Developer's Agreement for the purpose of recording and memorializing the mutual consent of the DEVELOPER and the TOWN to the terms and conditions herein, and to set forth the DEVELOPER's obligations and the TOWN's commitments referable thereto which terms and conditions shall become a title encumbrance and shall run with the land and shall bind the DEVELOPER, its successors and assigns as well as the TOWN; and

WHEREAS, the Town Board will use the Generic Environmental Impact Statement provided for the Cornwall Commons project and the SEQR analysis for the Comprehensive Plan to issue findings supporting the zoning amendment, the annexation of the New Windsor property, extension of utility services and the entry into this Developer's Agreement; and

Whereas the DEVELOPER in reliance upon this Agreement is and will be foregoing other alternatives and giving up rights including but not limited to the discontinuance of its action against the Town pending in Supreme Court Orange County Index #2004-4381; and

Whereas, entering into this Agreement and performance of the terms hereunder is in the overall public interest.

TERMS

NOW, THEREFORE, in consideration of the foregoing, the parties hereto agree as follows:

1. A condition precedent to this agreement shall be that the Town enact zoning amendments under which the CORNWALL PROPERTY will be zoned Commercial Planned Development ("CPD") which shall allow a PAC on the property as a special permit use. The said zoning amendment must, in sum and substance, conform to the substantive zoning provisions set forth in Schedule "A" attached hereto. (The PAC zoning amendments, together with the Town's Zoning Law, as amended, are hereinafter referred to as the Zoning Law of the Town of Cornwall.)
2. The parties contemplate that a proposed local law enacting the said zoning amendment will be introduced on or before May 9, 2005, that a public hearing

thereon scheduled for June 2005 and that action upon the law will be taken in or before July 2005. It is understood and agreed that the said dates are approximate.

3. In the event a Local Law containing the substantive provisions set forth in Schedule "A" is not adopted on or before December 31, 2005, the Developer may terminate this agreement upon forty-five days notice, retaining its rights under the 2003 SEWER AGREEMENT as further provided below and its rights under paragraph 14 of this agreement.
4. The DEVELOPER, for itself, successors and assigns, agrees that if and when zoning amendments are enacted by the TOWN permitting development of a PAC upon the CORNWALL PROPERTY, any PAC thereon shall be constructed only in accordance with the provisions of the Zoning Code of the Town of Cornwall. Provided, however, that in no event shall the DEVELOPER's PAC development of the CORNWALL PROPERTY consist of more than a total of Four Hundred And Twenty-five (425) residential dwelling units with an additional Sixty-Five (65) residential dwelling units attributable to the NEW WINDSOR PROPERTY, for a total of not more than Four Hundred Ninety (490) residential units total on THE CORNWALL COMMONS PROPERTY, and, further, and in no event shall the maximum development density for the THE CORNWALL COMMONS PROPERTY exceed three (3) residential units per gross acre except as otherwise provided herein.
5. A condition precedent to this agreement shall be that under the aforesaid TOWN zoning amendments permitting PAC development, the DEVELOPER's commercial uses will not be deducted from the acreage used to determine the total

number of the DEVELOPER's dwelling units or, if some deduction is made for a commercial use or uses, such deduction does not preclude construction of a total of Four Hundred Ninety (490) residential units total on THE CORNWALL COMMONS PROPERTY.

6. The site specific development plan for THE CORNWALL COMMONS PROPERTY will include the following commercial land uses:

(a) 45,000 sq ft of retail use plus one or more pad sites;

(b) an eighty (80) bed congregate care facility;

(c) a hotel-motel, and

(d) one or more stand alone office buildings with not more than a total of 50,000 square feet of office space, plus if the DEVELOPER determines that market demand justifies it, up to an additional 35,000 square feet of office space on either the second floor of the retail or office uses or within the areas where retail uses have been designated.

7. The Developer acknowledges that the development of commercial uses for additional tax ratables on a portion of the property is a mutual goal and agrees that as, if and when the project receives the contemplated final site plan approval and special use permit, a declaration of covenants and restrictions shall be immediately made and recorded by the DEVELOPER limiting development of those commercially designated sites on the CORNWALL COMMONS PROPERTY to commercial uses. These covenants and restrictions shall be enforceable only by the Town of Cornwall Town Board and no other property

owner(s) and can be waived or modified only with the consent of the Town Board in its sole discretion.

8. DEVELOPER agrees that DEVELOPER shall be wholly and solely responsible for all costs and expenses attendant upon providing central sewer service to the CORNWALL PROPERTY from the Cornwall Sewer District including, without limitation, extension of mains, connection of laterals, excavation, grading, engineering and construction costs. Provided, however, that the DEVELOPER's obligation for infrastructure and capacity costs imposed district-wide shall be in all other respects the same as other property owner's within the Sewer District.
9. The DEVELOPER shall pay to the TOWN the sum of TWO HUNDRED THOUSAND DOLLARS (\$200,000) in consideration of which the Town shall reserve sewer treatment capacity for use at THE CORNWALL PROPERTY for a period of five (5) years from the date Cornwall Commons receives final approval for its first section or for seven and a half (7.5) years from the date of this agreement whichever is sooner based on the agreed estimate provided by the Town Engineer. The said reservation of capacity for the CORNWALL PROPERTY shall be non-assignable to any other property and shall be reduced by each connection based on the allocation established by the Town Engineer for each type of use. The said sum is payable one half at the time the DEVELOPER obtains its final land use approvals from the Town's Planning Board i.e., upon the Planning Board Chair's signing of the final plat. The other one half (\$100,000.00) shall be payable as follows: \$100,000.00 divided by the total number of units approved, payable on a per unit basis prior to the issuance of the

certificate of occupancy for each unit. It is expressly agreed that no connection charge or "tapping fee" or other such payment for connection of the PAC components on the Cornwall Property to the Town sewer system will be charged, provided however it is expressly understood and agreed that the DEVELOPER shall reimburse the TOWN for all costs of engineering review, inspection and approval.

10. The DEVELOPER shall forthwith commence proceedings under Article 17 of the General Municipal Law for annexation of the NEW WINDSOR PROPERTY to the TOWN and shall in good faith pursue such proceedings to conclusion.
11. The parties contemplate that the DEVELOPER will present a petition for annexation to the Towns of Cornwall and New Windsor on or before May 1, 2005, a public hearing thereon scheduled for June 15, 2005 and action upon the Petition taken on or before July 15, 2005.
12. In the event the petition for annexation is denied, or has not yet been approved by December 31, 2005, then within thirty (30) days from the date of the resolution denying the said petition or from December 31, 2005, (whichever is sooner) the TOWN shall have the right to tender to the DEVELOPER and the TOWN OF NEW WINDSOR, the Intermunicipal Agreement attached hereto as Schedule "B", executed by the TOWN. The DEVELOPER, on behalf of its successors and assigns hereby agrees to execute the said Intermunicipal Agreement under the aforesaid circumstances.
13. In the event that the aforesaid petition for annexation is not approved by December 31, 2005, as per the above paragraph, or the TOWN fails to timely

tender the said executed Intermunicipal Agreement to the TOWN OF NEW WINDSOR as per the above paragraph or the TOWN OF NEW WINDSOR fails or refuses to execute the aforesaid Intermunicipal Agreement within sixty (60) days after it has been tendered to it by the TOWN, then, in that event, the 2003 SEWER AGREEMENT shall be deemed valid and binding on the TOWN subject only to the following modifications:

(a) The payment of the sum of \$100,000 as required by paragraph 17 below.

14. A condition precedent to this agreement shall be that if the NEW WINDSOR PROPERTY is annexed to the TOWN, then the TOWN shall zone the NEW WINDSOR PROPERTY "CPD" and allow a PAC on the property as a special permit use. The Parties agree that in the event that the NEW WINDSOR PROPERTY is annexed to the TOWN and the TOWN does not zone the NEW WINDSOR PROPERTY to permit a PAC or change the Senior Housing regulations from 55 years of age to 62 years of age, then the development of the NEW WINDSOR PROPERTY may consist of either Sixty-Five (65) detached residential dwelling units or a senior citizen housing project at the current TOWN OF CORNWALL permitted maximum density of ten (10) units per acre.
15. If the said annexation proceedings result in annexation of the NEW WINDSOR PROPERTY to the TOWN, then, upon submission of an appropriate petition under Town Law §194, the TOWN shall take such action as is appropriate in regard to providing central sewer service to the NEW WINDSOR PROPERTY, such as enlarging the existing sewer district. Likewise, upon submission of an

appropriate petition under Town Law, the TOWN shall take such action as is appropriate in regard to extension of the water, fire and ambulance districts.

16. DEVELOPER agrees that DEVELOPER shall be wholly and solely responsible for all costs and expenses attendant upon providing central sewer service to the NEW WINDSOR PROPERTY from the Cornwall Sewer District including, without limitation, extension of mains, connection of laterals, excavation, grading, engineering and construction. Provided, however, that the DEVELOPER's obligation for infrastructure and capacity costs imposed district-wide shall be in all other respects the same as other property owner's within the Sewer District.
17. The DEVELOPER shall also pay the TOWN the sum of \$100,000 in consideration of the TOWN's agreement to provide sewer service to the NEW WINDSOR PROPERTY as provided herein. Payment shall be made one-half at the time of execution of this agreement and one-half at the time of issuance of a building permit for connection to the TOWN's sewer system. No additional payment for connection of the PAC components on the NEW WINDSOR PROPERTY to the TOWN sewer system, such as a "tapping fee", will be charged by the TOWN, provided however it is expressly understood and agreed that the DEVELOPER shall reimburse the TOWN for all costs of engineering review, inspection and approval.
18. The TOWN shall provide authorization when necessary for the execution by the Town Supervisor of appropriate applications for sewer, water and/or access issues to New York State DEC, New York State Department of Health, Orange County Department of Health, New York City DEP, and New York State DOT, subject to

the application and plans being submitted to the Town's engineering consultant for review prior to execution.

19. The TOWN acknowledges that there is a pending Town application to the New York State DEC for the sewer main extension signed by the former Town Supervisor and reviewed by the Town Engineer, and the Town hereby confirms such authorization. The TOWN shall authorize the Town Supervisor to sign any further documents necessary for the same including, without limitation, a letter to DEC confirming the application, and if required by NYSDEC, a replacement application or other such materials.
20. Upon determination by the Planning Board that money in lieu of dedication of parkland (hereinafter "recreation fees") should be paid by the DEVELOPER, the recreation fees shall be set at no more than one third (33%) of the recreation fee for comparable dwelling units not in a PAC prevailing at the time of Planning Board approval. Provided, however, that based upon the anticipated impacts of the proposed residential development on the Town's recreational resources, and in light of the PAC providing its own recreational facilities, including a swimming pool, tennis courts, club house and walking trails, the TOWN and the DEVELOPER hereby agree and stipulate that the recreation fees herein shall not exceed \$1000.00 per unit nor be less than \$666.66 per unit. Congregate care and hotel/motel dwelling units shall be excluded from the number of dwelling units for which any fee shall be required.
21. This Developer's Agreement constitutes the entire agreement between the parties and supersedes any prior understandings, agreements, or representations by or

between the parties, written or oral, that may have related in any way to the subject matter hereof. Any modification or change to this Developer's Agreement or any waiver of the terms hereof must be made by a writing signed by both parties.


22. The language used in this Developer's Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction shall be applied against either party. This Developer's Agreement shall be governed by and construed in accordance with the laws of the State of New York.

23. The DEVELOPER agrees and undertakes that in the event that this Developer's Agreement is the subject of a legal challenge by a third-party the DEVELOPER shall indemnify and hold harmless the TOWN for all expenses and legal fees resulting from or arising out of such claim or legal proceeding by a third party.

THE PARTIES HERETO SHALL BE DEEMED TO HAVE EXECUTED THIS


DEVELOPER'S AGREEMENT UPON THE DATE AND YEAR SET FORTH ABOVE:

Cornwall Commons, LLC

By: 
Joseph A. Amato, Managing Member

Authorized by Resolution of the Cornwall Town Board
Dated: April 11, 2005

Town Of Cornwall

By: 
Richard Randazzo, Supervisor

STATE OF NEW YORK)
) SS:
COUNTY OF ORANGE)

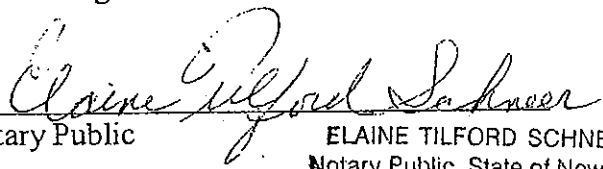
On the 12th day of April, 2005, before me personally came Joseph A. Amato, to me known to be the individual described in and who executed the foregoing instrument and acknowledged to me that he executed same.


Notary Public

HOWARD PROTTER 4731994
NOTARY PUBLIC, State of New York
Qualified in Orange County
Commission Expires May 31, 2006

STATE OF NEW YORK)
) SS:
COUNTY OF ORANGE)

On the 12th day of April, 2005, before me personally came Richard Randazzo, to me known to be the individual described in and who executed the foregoing instrument and acknowledged to me that he executed same.


Notary Public

ELAINE TILFORD SCHNEER
Notary Public, State of New York
Qualified in Orange County
Commission Expires February 28, 2007

Tuesday, April 12, 2005 W:\203\123\HP8343.DOC

SCHEDULE "A"

I. General.

The use of Planned Adult Communities (PAC) shall be permitted under the Town Zoning Code for the purpose of establishing pleasant living arrangements for persons Fifty-Five (55) years of age and older in a residential development which contemplates the desires and needs of such persons for privacy, participation in social and community activities as well as convenient access to local community facilities.

PACs shall be allowed uses in designated districts subject to grant of a special permit issued by the Planning Board and site plan approval.

PACs shall be permitted on sites containing a minimum of approximately thirty-five usable acres of land. PACs may utilize cluster design or Traditional Neighborhood Development (TND) features.

All PACs shall be required to create a Homeowners Association which shall have dominion over the common areas within the development.

II. Use Provisions.

The following substantive use provisions are anticipated:

(1) Age Restrictions.

The PAC shall comply with applicable New York and Federal Law, as the same may be amended, so that at all times the PAC qualifies as housing for older persons, intended and operated for occupancy by persons fifty-five (55) years of age or older. Certain exceptions to the rule likely will be provided for, such as, for example, where one spouse is under the age of fifty-five (55) or a resident caretaker or administrator employed by the HOA.

Age restrictions will be enforced through a declaration of restrictions and/or individual deed restrictions.

(2) Principal Permitted Uses.

In PACs, a mixture of detached single family dwellings, attached single family dwellings, multiple dwellings and accessory structures and facilities (such as congregate care and or assisted living dwelling units) will be permitted though not required.

In addition, Compatible Non-Residential Uses, defined to include such uses as Commercial, Retail, Office, Hotel/Motel, Medical/Dental clinics, Personal Service and Food Service, Restaurant buildings and/or sites, recreational facilities such as Club Houses, Golf Courses, and ancillary facilities, intended to provide convenient services to residents of the PAC will be

permitted on a certain percentage of the property.

III. Bulk Provisions.

The bulk requirements for PACs shall be consistent with the achieving the specified purpose of PACs as set forth above. Further, to create a cohesive project and as part of the overall site development plan, the Planning Board shall have flexibility in design to vary certain dimensional requirements within the PAC. Although the substantive bulk provisions have not yet been finally determined, an approximation of the main bulk requirements is set forth below:

(1) Minimum Lot Area.

The minimum area shall be approximately thirty-five (35) usable acres.

(2) Density.

A maximum overall density of three (3) dwelling units per gross acre of the total project area is anticipated. In calculating gross acre of project area Compatible Non-Residential Uses will not be deducted from the acreage used to determine the total number of dwelling.

Congregate care dwellings consisting of Senior Assisted Care Facility and/or Nursing Home facility may be developed at a maximum of approximately twenty (20) units per acre with a project maximum of approximately one hundred (100) units.

(3) Lot Coverage.

Lot coverage for all buildings shall not exceed approximately 35% of the site area.

(4) Building Height.

Maximum building height shall be approximately 35 feet, except that the maximum building height for congregate care, multiple dwelling, office, hotel/motel buildings will be approximately forty-five (45) feet.

(5) Set-Back Requirements.

It is anticipated that a set back of approximately 50 feet of the outside perimeter line of the overall site and approximately one hundred (100) feet of a state, town or county road right-of-way (excepting internal roadways) will be required for all buildings and structure other than entrance gatehouses, walls, fences or signs.

(6) Off-Street Parking.

It is anticipated that two (2) parking spaces for each single family dwelling unit, one and one-half (1.5) parking space for each multiple family dwelling unit, and one (1) parking space for

each congregate care dwelling unit plus one parking space for each two employees of the congregate care facility, shall be required. All non-residential uses shall provide off-street parking in accordance the requirement set forth in §158-16

(7) Habitable Area.

It is anticipated that the requirements for habitable area of PAC dwelling units shall be approximately as follows:

- (i) Single family detached units shall be at least 1,200 square feet with no more than three bedrooms.
- (ii) Single family attached units shall be at least 1,000 square feet per dwelling unit with no more than two bedrooms.
- (iii) Multiple family residences shall be at least 900 square feet per dwelling unit with no more than two bedrooms.
- (iv) A resident manager's dwelling unit not subject to age restrictions containing not more than three bedrooms and 1,500 square feet of habitable area per PAC site.

(8) Usable and Net lot area.

For the purpose of this regulation usable or net lot area shall exclude: federal wetlands, state wetlands and their buffers.

(9) Approval in Sections. The site plan may, at the discretion of the Planning Board, be approved in sections.

(10) Open Development Area - PRD zones shall be designed as an "open development area." so as to permit but not require private roadways.

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B

INTER-MUNICIPAL SEWER AGREEMENT

THIS AGREEMENT made as of the ____ day of _____, 2005 by and between the TOWN OF NEW WINDSOR, a municipal corporation having an office at 555 Union Avenue, New Windsor, N.Y. 12553, and the TOWN OF CORNWALL, a municipal corporation having an office at 183 Main Street, Cornwall, New York 12518 and CORNWALL COMMONS, LLC, 615 Route 32, P.O. Box 503, Highland Mills, New York, 10930.

WITNESSETH:

WHEREAS, the TOWN OF CORNWALL has a sewer district within in the Town known as the Town of Cornwall Sewer District; and

WHEREAS, CORNWALL COMMONS, LLC (hereinafter the "DEVELOPER") is the owner of a parcel of real property located in the Town of New Windsor which property is designated on the Town of New Windsor Tax Map as Section 37, Block 1, Lot 45.1 (hereinafter referred to as the "NEW WINDSOR PROPERTY"), consisting of approximately 53.862 +/- acres as is more fully described in Schedule "A" annexed hereto; and

WHEREAS, the DEVELOPER intends to develop the NEW WINDSOR PROPERTY for residential uses as permitted by the Town of New Windsor Zoning Code and, for such purpose wishes to utilize central sewer services; and

WHEREAS, the TOWN OF CORNWALL sewer district is an operational sewer district which has adequate capacity to serve the NEW WINDSOR PROPERTY; and

WHEREAS, the TOWN OF CORWALL is willing to provide sewer capacity and service for the NEW WINDSOR property as is more fully set forth herein;

WHEREAS, both the TOWN OF CORNWALL and the TOWN OF NEW WINDSOR agree that such an arrangement for provision of sewer service is in the public interest;

NOW, THEREFORE, in consideration of the mutual promises exchanged herein, the parties agree as follows:

1. The TOWN OF CORNWALL shall provide sewer capacity for service of the NEW WINDSOR PROPERTY in an amount not to exceed a total of 22,750 gallons per day. The capacity to be provided will be allocated from Cornwall resources and not New Windsor resources.

2. The DEVELOPER will install or cause to be installed at its expense, the necessary sewer main and interconnection from the TOWN OF CORNWALL sewer system to the sewer system improvements at the NEW WINDSOR PROPERTY.

3. All plans and construction specification must be approved by the TOWN OF CORNWALL Engineer and the TOWN OF NEW WINDSOR Engineer prior to construction. The DEVELOPER shall pay the costs of such engineering review.

4. Such lines and improvements as the DEVELOPER shall construct within the TOWN OF CORNWALL sewer district shall, upon completion, be turned over to and owned by the TOWN OF CORNWALL sewer district. Such lines and improvements as the DEVELOPER shall construct within TOWN OF NEW WINDSOR shall, upon completion, be turned over to and owned by the TOWN OF NEW WINDSOR. Any costs associated with the installation of a magnetic flow meter or meters in regard to the NEW WINDSOR PROPERTY, if needed, will be paid for by the DEVELOPER.

5. The DEVELOPER shall provide all necessary easements without cost to the TOWN OF CORNWALL and the TOWN OF NEW WINDSOR in regard to the aforesaid construction of sewer lines and improvements. All easements and other legal documents shall be reviewed and approved by the attorneys for the TOWN OF CORNWALL and the TOWN OF NEW WINDSOR prior to initiation of sewer service. All costs and legal expenses of review and recording of the said easements and other legal documents shall be paid by the DEVELOPER.

6. Prior to granting final subdivision and/or site plan approval for any use on the NEW WINDSOR PROPERTY, the TOWN OF NEW WINDSOR will forward such plan to the TOWN OF CORNWALL to provide an opportunity for the TOWN'S Engineer to review the location, type, design, size and other specifications of the sewer lines and appurtenances to be installed, to insure that

they are compatible with and will not create any adverse impacts to the TOWN OF CORNWALL sewer facilities. The DEVELOPER shall pay the costs of such engineering review.

7. This agreement is executed by the DEVELOPER as its agreement that it will indemnify and hold harmless the TOWN OF CORNWALL and the TOWN OF NEW WINDSOR for all engineering expenses, legal fees and any other costs and claims arising in connection with this agreement or performance hereunder until the sewer lines have been accepted by the Towns of Cornwall and New Windsor. It is understood and agreed that after the sewer lines have been accepted by the Towns of Cornwall and New Windsor, the payment for or recapture of future expenses, costs and claims shall be made through imposition of sewer service charges against the NEW WINDSOR PROPERTY.

8. Charges for sewer service to the NEW WINDSOR PROPERTY shall be due on the same ad valorem basis as applies to users within the Cornwall Sewer District. That is, annually, on or before July 1st of every calendar year commencing in 2006, the assessor of the TOWN OF NEW WINDSOR shall provide the assessor of the TOWN OF CORNWALL with a statement of (1) the names and addresses of the owners of the NEW WINDSOR PROPERTY, (2) the assessed value of the NEW WINDSOR PROPERTY and (3) a statement of the assessed value of the NEW WINDSOR PROPERTY equalized to full value under the applicable TOWN OF NEW WINDSOR equalization

rate. The TOWN OF CORNWALL assessor shall then calculate the annual amount due for sewer service. It is understood and acknowledged that the assessment of the NEW WINDSOR PROPERTY and the concomitant charges for sewer service may increase in the future.

9. The TOWN OF NEW WINDSOR assumes direct responsibility to the TOWN OF CORNWALL for the payments due for the said sewer charges under the terms and conditions set forth below. That is, the TOWN OF CORNWALL shall issue bills for sewer service to the record owner(s) of the NEW WINDSOR PROPERTY as set forth above. Thereafter, on or before November 30th of the calendar year, the TOWN OF CORNWALL shall render a statement to the TOWN OF NEW WINDSOR, setting forth the payment status of the said bills. For any unpaid charges, the TOWN OF NEW WINDSOR shall relevee the charges against the real property on the succeeding January tax bill for the NEW WINDSOR PROPERTY in addition to such costs for relevee, interest and penalties as would otherwise be applicable to unpaid taxes within the Cornwall Sewer District. The TOWN OF NEW WINDSOR shall pay over to the TOWN OF CORNWALL all amounts received upon such relevee within thirty (30) days of receipt of payment.

10. The initial term of this Intermunicipal Agreement shall be Forty (40) years, as provided by New York State General Municipal Law. Unless otherwise specifically agreed upon in

writing by the parties, this Intermunicipal Agreement shall automatically renew for an additional term of Forty (40) years if the NEW WINDSOR PROPERTY has been connected to and is utility capacity provided by the TOWN OF CORNWALL sewer district.

11. This agreement, and all of its provisions, are binding upon and shall inure to the benefit of all signatories to this Agreement and upon each signatory's successors and assigns.

Town Of New Windsor

By: _____

Authorized by Resolution Of
 The New Windsor Town Board
 Dated , 2005

STATE OF NEW YORK)
) SS:
 COUNTY OF ORANGE)

On the ____ day of _____, 2005, before me personally came _____, to me known to be the individual described in and who executed the foregoing instrument and acknowledged to me that he executed same.

 Notary Public

Cornwall Commons, LLC

Town Of Cornwall

By: _____

By: _____

Authorized by Resolution Of
 The Cornwall Town Board

Dated , 2005

()
STATE OF NEW YORK)
) SS:
COUNTY OF ORANGE)

On the _____ day of _____, 2005, before me personally came Richard Randazzo, to me known to be the individual described in and who executed the foregoing instrument and acknowledged to me that he executed same.

Notary Public

STATE OF NEW YORK)
) SS:
COUNTY OF ORANGE)

() On the _____ day of _____, 2005, before me personally came _____ to me known to be the individual described in and who executed the foregoing instrument and acknowledged to me that he executed same.

Notary Public