

## MEMORANDUM OF AGREEMENT

MEMORANDUM OF AGREEMENT (the “Agreement”) dated as of July 31, 2007, by and among the MASSACHUSETTS HISTORICAL COMMISSION (“MHC”), having a place of business at 220 Morrissey Boulevard, Boston, Massachusetts, 02125, and KCLS CONSTRUCTION HOLDING COMPANY LLC (“Owner”), having a place of business at 10 Owl Drive, Sharon, Massachusetts 02067, and MASSACHUSETTS HOUSING FINANCE AGENCY (“MassHousing”), having a place of business at One Beacon Street, Boston, Massachusetts, 02108.

### RECITALS

WHEREAS the Owner is planning to construct a 204 unit multi-family residential housing development known as “Kensington Court at Lakeville Station” (the “Project”) on five (5) parcels of land located in Lakeville, Massachusetts, more particularly described in Exhibit A annexed hereto (the “Property”);

WHEREAS the Owner has received a commitment for permanent mortgage loan financing for the Project from the MassHousing;

WHEREAS the MassHousing loan will be insured by the U.S. Department of Housing and Urban Development (“HUD”) under the HUD HFA Risk Sharing Program, and is subject to a review of environmental and related laws as specified in 24 CFR Part 58, including the National Historic Preservation Act, as amended (16 U.S.C. 470 et seq) and regulations promulgated in accordance therewith (36 CFR Part 800);

WHEREAS MassHousing, as the entity assuming responsibility for HUD under the environmental and related laws specified in 24 CFR Part 58, has completed the required environmental review of the Project, including compliance with the National Historic Preservation Act;

WHEREAS MassHousing, following consultation with MHC, as the State Historic Preservation Officer, and the Tribal Historic Preservation Officer (“THPO”) of the Wampanoag Tribe of Gay Head (“Aquinnah”) and of the Mashpee Wampanoag Tribe (“Mashpee Wampanoag”) (collectively referred to as the THPO), has determined that a Memorandum of Agreement among the Owner, MHC and MassHousing should be executed to ensure that appropriate measures are taken by the Owner in the event that unexpected discoveries occur during the construction phase of the Project and to fulfill commitments to provide broader dissemination to the interested public of the results of the programs of archaeological data recovery conducted for the Project.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants and agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

## STIPULATIONS

MassHousing shall condition its approval of the loan upon implementation of the following measures by the Owner:

1. Prior to commencing the site preparation and construction phase of the Project, the Owner shall retain a professional archeological consultant meeting the Secretary of the Interior's Professional Qualifications Standards (36 CRF 61 Appendix A) and the Massachusetts State Archaeologist's Professional Qualifications standards (950 CMR 70.10), with additional field experience in successfully identifying unmarked Native American burial features in Massachusetts. The consultant shall develop a research design and methodology to undertake archeological monitoring and recording during excavation within the project impact areas, with a proposed procedure of notification consistent with the Massachusetts Unmarked Burial Law (Massachusetts General Laws, Chapter 38, Section 6; Chapter 9, Section 26A and 27C; and, Chapter 7, Section 38A; all as amended). The consultant shall submit the research design and methodology and notification procedure to the State Archaeologist for approval under the regulations at 950 CMR 70.00 et seq.
2. In the event that a probable unmarked grave is identified, then the activities that caused the probable grave to be discovered shall cease immediately, the Massachusetts State Archaeologist shall be notified immediately, and the procedures under the Massachusetts Unmarked Burial Law (Massachusetts General Laws, Chapter 38, Section 6; Chapter 9, Section 26A and 27C; and, Chapter 7, Section 38A; all as amended), shall be implemented.
3. The Owner shall notify MHC and the THPO if any other unexpected historic or archaeological property is discovered during construction activities. After receiving a timely response from MassHousing, MHC or the THPO, the Owner shall consult with such responsive parties to identify and evaluate measures to avoid, minimize, or mitigate any adverse effect to, the historic or archaeological property, consistent with 36 CFR 800.
4. Within three (3) years of the date of this Memorandum of Agreement, the Owner shall cause a professionally designed exhibit in a display case developed and installed, at the Lakeville Public Library or at another location agreed to by the Town of Lakeville and the Owner, that conveys the significant results of the archaeological investigations conducted at the Property. Consultation shall occur among the Owner, the Town of Lakeville, MHC, and the THPO as to the design and content of the exhibit contained within the display case, by the Owner submitting conceptual, draft, and final exhibit design plans and specifications to the Town of Lakeville and MHC for review and comment. The Owner and its exhibit designer shall take into account these comments prior to installation of the exhibit. The Owner shall notify MassHousing, MHC, and the THPO in writing of the completed display case installation. Furthermore, the Owner shall have a brochure prepared that discusses the archaeological findings at the Property in the context of Native American lifeways in southeastern Massachusetts. The brochure/report shall not include any archaeological site locational information. The

brochure/report shall be written to be comprehensible to a readership of 12 to 16 years of age. Subject to the final determination by the archaeological consultant, the brochure/report shall be the equivalent of approximately five pages of text and approximately ten pages of maps and photographs. The MHC and THPO shall be provided the opportunity to review and comment on a draft, and these comments shall be taken into account to finalize and print the brochure/report. Twenty-five copies of the final brochure shall be provided to MHC for its archive and for distribution to other libraries, archives, and other interested groups. In no event shall the Owner's commitments set forth in this paragraph 4 exceed five thousand dollars (\$5,000.00) to be incurred by the Owner.

5. In the event that a dispute arises during implementation of the Project or these stipulations, the objecting parties shall meet and consult to resolve the dispute.

Execution and acceptance of this Memorandum of Agreement and compliance with its terms shall constitute evidence of compliance with the requirements of 36 CFR 800.

MASSACHUSETTS HISTORICAL COMMISSION

By: Brona Simon  
Brona Simon  
Executive Director  
State Historic Preservation Officer  
State Archaeologist

KCLS CONSTRUCTION HOLDING COMPANY LLC,  
a Massachusetts limited liability

By: KCLS Manager LLC, a Massachusetts limited  
liability company, its Managing Member

By: Jonathan White  
Name: Jonathan White  
Title: Manager

MASSACHUSETTS HOUSING FINANCE AGENCY

By: Laurie R. Wallach <sup>GLL</sup>  
Laurie R. Wallach  
General Counsel