

EFFECTIVE DATE: _____

AN ORDINANCE concerning

THE GRANTING OF A FEE SIMPLE DEED OF TRUST OR
SIMILAR INSTRUMENT ON THE PROJECT SITE OF
THE RESORT AT BRETON BAY PROJECT

FOR the purpose of authorizing the approval of, and the execution and delivery on behalf of the Town of, a fee simple deed of trust or similar instrument to be placed by the Town and Leonardtown Recreation, Inc. on the project site of The Resort at Breton Bay project and the improvements and collateral located thereon or therein, which project site is to be acquired by the Town and leased to Leonardtown Recreation, Inc. in connection with the financing of such project, such fee simple deed of trust or similar instrument to be granted in order to secure Leonardtown Recreation, Inc.'s obligations with respect to certain bonds to be issued by the Maryland Economic Development Corporation to finance a portion of the costs of the project, subject to certain conditions enumerated herein; authorizing Leonardtown Recreation, Inc. to execute and deliver any such fee simple deed of trust or similar instrument with respect to its interests in the project site and the improvements and collateral located thereon or therein; authorizing and empowering officials, officers and employees of the Town to take any and all actions necessary or appropriate in connection with any fee simple deed of trust or similar instrument placed upon the project site and the improvements and collateral located thereon or therein; providing that this title, or a condensed version thereof prepared in accordance with Section 209 of the Charter, shall be deemed a fair summary of this ordinance for all purposes; and generally providing for and determining various matters and details in connection with the granting of a fee simple deed of trust or similar instrument on the project site of The Resort at Breton Bay project and the improvements and collateral located thereon or therein.

RECITALS

The Commissioners of Leonardtown (the "Town") has created Leonardtown Recreation, Inc., a Maryland non-profit, non-stock corporation and an instrumentality of the Town (the "Corporation"), in order to facilitate the design, development, acquisition, construction, improvement, furnishing and equipping, and the operation, of (i) an 18-hole public golf course, with a clubhouse and related amenities, and (ii) a hotel and conference center containing approximately 255 guest rooms and 25,000 square feet of meeting space, with related amenities and recreational facilities (collectively, the "Project"). The Project will be located on approximately 238.95 acres of land within the corporate boundaries of the Town (the "Project Site"). The Project Site consists of Parcels A through F identified on the plat of subdivision for Tudor Hall Farm recorded among the Land Records of St. Mary's County, Maryland in Liber E.W.A. 49, Folio 15. The Project, together with the Project Site, is hereinafter referred to as the "Property". The Property will be open to the public and will serve the public purpose of (i) relieving conditions of unemployment in the State and the Town, (ii) encouraging the increase of industry and commerce and a balanced economy in the State and the Town, (iii) retaining existing industry and commerce and attracting new industry and commerce in the State and the Town, (iv) promoting economic development in the State and the Town, and (v) generally promoting the health, recreation, welfare and safety of the residents of the State and the Town.

The Property will be financed as follows: the State of Maryland (the "State"), acting through the Department of Natural Resources, will appropriate approximately \$2,500,000 in order to acquire the Project Site. The Maryland Economic Development Corporation, a body politic and corporate and a public instrumentality of the State ("MEDCO"), has agreed to issue two series of its senior revenue bonds, one tax-exempt and the other taxable, and a series of its subordinate revenue bonds (collectively, the "MEDCO Bonds"), in order to finance a portion of the costs of the Project, including the establishment of debt service reserve funds for the two series of senior revenue bonds, capitalized interest on the two series of senior revenue bonds, an operating reserve fund, start-up working capital and costs of issuance. The State, through the Department of Business and Economic Development ("DBED"), will provide to the Corporation a \$2,000,000 grant and a \$1,000,000 loan from the Maryland Industrial and Commercial Redevelopment Fund ("MICRF") to finance project costs. The \$1,000,000 MICRF loan will be evidenced by the subordinate revenue bond to be issued by MEDCO. The Town, pursuant to Resolution No. 99-3, adopted by the Council and approved by the Mayor on December 13, 1999 ("Resolution No. 99-3"), has agreed to issue a general obligation bond anticipation note in aggregate principal amount not to exceed \$3,250,000 in order to provide a \$3,000,000 contribution to the costs of the Project, to pay capitalized interest on the note and to pay costs of issuance of the note. The two series of senior revenue bonds will be underwritten by Ferris, Baker Watts, Incorporated and will be offered only to institutional investors.

It is anticipated that the two senior series of MEDCO Bonds will be issued in the approximate principal amounts of \$60,060,000 (Series A) and \$4,740,000 (Series B), respectively. It is anticipated that the Series A MEDCO Bonds will mature approximately 30 years from their date of issuance and that the Series B MEDCO Bonds will mature approximately 10 years from their date of issuance.

The State will transfer fee simple title to the Project Site to the Town by gift or for nominal consideration. Certain areas of the Property have substantial historic, aesthetic, scenic and cultural character, and the Maryland Historical Trust, an instrumentality of the State ("MHT"), has required that the Town enter into a Deed of Easement with MHT in order to provide for the preservation and maintenance of such areas and the Property's historic, aesthetic, scenic and cultural character.

Pursuant to a Ground Lease, the Town will lease the Project Site to the Corporation for a term extending five years beyond the latest maturity of the MEDCO Bonds, subject to certain extension rights contained therein upon a default relating to the MEDCO Bonds, and subject to earlier termination upon the discharge of the MEDCO Bonds. The leasing of the Project Site to the Corporation is for a public purpose. MEDCO and the Corporation will enter into a Loan Agreement pursuant to which MEDCO will loan the proceeds of the MEDCO Bonds to the Corporation; pursuant to the Loan Agreement, the Corporation will execute and deliver certain notes to the Trustee (defined below) as the assignee of MEDCO in order to evidence its obligations to make payments with respect to the MEDCO Bonds. The MEDCO Bonds will be issued pursuant to a Trust Indenture between MEDCO and Allfirst Trust Company, National Association, as trustee (the "Trustee").

In order to secure the Corporation's obligations under the Loan Agreement, it was originally anticipated that the Corporation would grant a Leasehold Deed of Trust on its leasehold interest in the Project Site and its fee simple interest in the improvements located thereon and a security interest in the personal property located thereon or therein to MEDCO and its assigns, including the Trustee, for the benefit of the holders of the MEDCO Bonds. In the event the Corporation were to grant a Leasehold Deed of Trust on the Project Site and the improvements and collateral located thereon or therein as described in the preceding sentence, it was intended that the Ground Lease

might contain certain limitations on the purchasers qualified to acquire the Corporation's interest in the Project Site and the Project at foreclosure sale. If a Leasehold Deed of Trust were placed upon the Project Site, then upon expiration or termination of the Ground Lease, the Town would receive unencumbered fee simple title to the Project Site and all improvements located thereon, as well as all personal property of the Corporation located thereon or therein. In the event of a default under the Loan Agreement, the Trust Indenture or the Leasehold Deed of Trust, the Corporation (as determined by the Trustee and the MEDCO Bond holders) might lose the right to continue to occupy the Property for the remaining term of the Ground Lease.

As a condition to its participation in the financing of the Property, the State has required that upon discharge of the MEDCO Bonds and any Additional Bonds issued pursuant to the Trust Indenture, MEDCO shall have the option to acquire a 50% undivided interest in (i) the Project Site and all improvements located thereon and (ii) all personal property of the Corporation located thereon or therein (the "Option").

Potential purchasers of the MEDCO Bonds have indicated that they want a fee simple deed of trust placed upon the Project Site and the improvements and collateral located thereon or therein in order to secure payment of the MEDCO Bonds. The placing of a fee simple deed of trust or similar instrument on the Project Site and the improvements and collateral located thereon or therein (a "Mortgage") would require the consent of the Town, MEDCO and the State. If the Project Site and the improvements and collateral located thereon or therein were to be sold at foreclosure sale pursuant to a Mortgage, neither the Town nor MEDCO (pursuant to the Option) would be entitled to receive any interest therein upon discharge of the MEDCO Bonds.

THE MEDCO BONDS, TOGETHER WITH INTEREST THEREON, SHALL BE LIMITED OBLIGATIONS OF MEDCO GIVING RISE TO NO PECUNIARY LIABILITY OF MEDCO, SHALL BE SOLELY PAYABLE FROM THE TRUST ESTATE PROVIDED FOR IN THE TRUST INDENTURE, AND SHALL BE A VALID CLAIM OF THE RESPECTIVE HOLDERS THEREOF ONLY AGAINST THE TRUST ESTATE. NEITHER THE MEDCO BONDS NOR THE INTEREST THEREON NOR THE REDEMPTION PRICE THEREOF SHALL EVER (I) CONSTITUTE AN INDEBTEDNESS OR A CHARGE AGAINST THE GENERAL FAITH OR CREDIT OR TAXING POWERS OF THE STATE, ANY POLITICAL SUBDIVISION OR AGENCY THEREOF, INCLUDING THE TOWN, MEDCO OR ANY OTHER PUBLIC BODY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR CHARTER PROVISION OR STATUTORY LIMITATION (MEDCO HAS NO TAXING POWER) OR (II) GIVE RISE TO ANY PECUNIARY LIABILITY OF THE STATE, ANY POLITICAL SUBDIVISION OR AGENCY THEREOF, INCLUDING THE TOWN, OR ANY OTHER PUBLIC BODY (OTHER THAN MEDCO). THE PECUNIARY LIABILITY OF MEDCO FOR THE PRINCIPAL AND REDEMPTION PRICE OF AND INTEREST ON THE MEDCO BONDS IS LIMITED SOLELY TO THE TRUST ESTATE. THE FULL FAITH AND CREDIT AND UNLIMITED TAXING POWER OF THE TOWN ARE NOT PLEDGED TO THE PAYMENT OF THE PRINCIPAL OR REDEMPTION PRICE OF OR INTEREST ON THE MEDCO BONDS. THE OBLIGATIONS OF THE CORPORATION UNDER THE LOAN AGREEMENT ARE PAYABLE SOLELY FROM THE TRUST ESTATE. THE ISSUANCE OF THE MEDCO BONDS IS NOT DIRECTLY, INDIRECTLY OR CONTINGENTLY AN OBLIGATION, MORAL OR OTHER, OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE TOWN, TO LEVY OR PLEDGE ANY FORM OF TAXATION OR TO MAKE ANY APPROPRIATION FOR THEIR PAYMENT.

Pursuant to a separate Resolution, the Mayor and Council have approved the acquisition by the Town from the State of the Project Site, the placing of the Deed of Easement on the Project

Site, the leasing of the Project Site by the Town to the Corporation pursuant to the Ground Lease, the placing by the Corporation of a Leasehold Deed of Trust on its interest in the Project Site and the improvements or collateral located thereon or therein and the granting of the Option.

By passage of this Ordinance, the Council desires to approve the placing of a fee simple Mortgage on the Project Site and the improvements and collateral located thereon or therein, if so required by the institutional purchasers of the Series A and Series B MEDCO Bonds, and if so consented to by MEDCO and the State (acting through DBED or any other appropriate State department or agency).

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE COMMISSIONERS OF LEONARDTOWN, THAT:

SECTION 1. In accordance with the provisions of the Charter of the Town of Leonardtown, as published in Municipal Charters of Maryland, Volume 5, 1990 Replacement Edition, as replaced, supplemented or amended, and pursuant to applicable Maryland law, the Council hereby approves and authorizes the placing of a fee simple Mortgage on the Project Site and the improvements and collateral located thereon or therein, if the institutional investors purchasing the Series A MEDCO Bonds and the Series B MEDCO Bonds require that a fee simple Mortgage be placed thereon as a condition to their purchasing such MEDCO Bonds, and provided that MEDCO and the State (acting through DBED or any other appropriate State department or agency) consent to the granting of the Mortgage, which consent of MEDCO and the State (acting through DBED or any other appropriate State department or agency) may be oral or in writing. References in this Ordinance to a fee simple Mortgage are intended to mean an instrument by which the Town and the Corporation grant to MEDCO and its assigns for the benefit of the holders of the MEDCO Bonds the full extent of their fee simple, leasehold or residual interests, as applicable, in the Project Site and the improvements and collateral located thereon and therein so that, in the event of a default with respect to the MEDCO Bonds, all or any portion of the Property may be sold at foreclosure sale free and clear of any interest of the Town or the Corporation therein. The Council hereby finds and determines that placing a fee simple Mortgage on the Project Site and the improvements and collateral located thereon or therein will serve the public purpose of assisting in financing the Property as described in the recitals to this Ordinance and thereby (a) relieving conditions of unemployment in the State and the Town; (b) encouraging the increase of industry and commerce and a balanced economy in the State and the Town; (c) retaining existing industry and commerce and attracting new industry and commerce in the State and the Town; (d) promoting economic development in the State and the Town; and (e) generally promoting the health, recreation, welfare and safety of the residents of the State and the Town. The Corporation is an instrumentality of the Town and the Town's and the Corporation's granting of a fee simple Mortgage on the Project Site and the improvements and collateral located thereon or therein is for a public purpose and a public use. Any such Mortgage would be executed and delivered in lieu of the Leasehold Deed of Trust described in the recitals to this Ordinance.

SECTION 2. Subject to compliance with the provisions of Section 1 of this Ordinance, the Mayor, on behalf of the Town, is hereby authorized to negotiate, approve, execute and deliver a fee simple Mortgage with respect to the Project Site and the improvements and collateral located thereon or therein, in whatever form is appropriate as advised by legal counsel, with such provisions not inconsistent with the provisions of this Ordinance as the Mayor shall approve with the advice of the Town Administrator and legal counsel, such approval to be evidenced conclusively by the Mayor's execution and delivery of the Mortgage. Subject to compliance with the provisions of Section 1 of this Ordinance, the Corporation is hereby authorized and directed to execute and deliver any Mortgage approved by the Mayor in accordance with the preceding sentence with respect to the conveyance of its interests in the Property. Any such Mortgage so

authorized in accordance with the provisions of this Ordinance may contain any provisions which are required by MEDCO or the State (acting through DBED or any other appropriate State agency), or which are required by applicable law or recommended by legal counsel, including, without limitation, restrictions on the use of the Property if sold at foreclosure sale.

SECTION 3. The Mayor, the Town Administrator, the Clerk-Treasurer and all other officials, officers and employees of the Town are hereby authorized and empowered to take any and all actions necessary or appropriate (including, without limitation, expending municipal funds in connection with the land transactions described herein and providing for the recordation of any documents, certificates or instruments authorized by this Ordinance) and to negotiate, approve, execute and deliver, as applicable, on behalf of the Town, all documents, certificates or instruments deemed necessary or appropriate in connection with any Mortgage placed upon the Project Site and the improvements and collateral located thereon or therein.

SECTION 4. The title of this Ordinance, or a condensed version thereof prepared in accordance with Section 209 of the Charter, shall be deemed to be, and is, a fair summary of this Ordinance for publication and all other purposes.

[SIGNATURES CONTAINED ON NEXT PAGE]

SECTION 5. This Ordinance shall become effective at the expiration of twenty (20) calendar days following approval by the Mayor or passage by the Council over the Mayor's veto.

THE COMMISSIONERS OF LEONARDTOWN

(SEAL)

Ruth W. Proffitt
Ruth W. Proffitt, Vice-President

ATTEST:

Susan H. Erichsen
Susan H. Erichsen, Councilmember

Teresa A. Saulen
Teresa A. Saulen
Town Secretary

Charles R. Faunce
Charles R. Faunce, Councilmember

Walter R. Gillette
Walter R. Gillette, Councilmember

ABSENT
Walter Wise, Councilmember

Introduced: 12/17/99, _____

Enacted: 12/17/99, _____

Approved by the Mayor this 17th day of DECEMBER, 1999

J. Harry Norris, III
J. Harry Norris, III, Mayor

Effective: 1/7/00, _____

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