

MASHPEE SENIOR HOUSING LLC
RENTAL MONITORING SERVICES AGREEMENT

This Rental Monitoring Services Agreement ("Agreement") is made as of the ____ day of March 2015, by and between Mashpee Senior Housing LLC (hereinafter, the "Developer") having an address of c/o National Development, 2310 Washington Street, Newton Lower Falls, Newton, MA 02462 and its successors and assigns and the Mashpee Housing Authority (hereinafter "the Administering Agency").

RECITALS

WHEREAS, the Developer has commenced construction of a fifty four 54 unit (60 beds) memory care assisted living community which will be constructed pursuant to a continuous buildout, consisting of one building and certain accessory structures, on a property which is located at 462 Old Barnstable Road in Mashpee, Massachusetts, as such property ("Property") is more particularly described in Exhibit A attached hereto, and as such Property and the proposed improvements thereon is referred to herein collectively as the "Project"; and

WHEREAS, the Project has been approved by the Cape Cod Commission ("CCC") in its Development of Regional Impact Decision, which Decision is recorded with the Barnstable County Registry of Deeds in Book 28043 Page 1, and as a condition of the Decision, 10% of the total number of beds in the Project shall be restricted in perpetuity as affordable beds (hereinafter, the "Affordable Housing Beds") subject to a certain Affordable Housing Restriction, pursuant to General Laws Chapter 184 ss. 31-33, inclusive, dated March 4, 2015, recorded at the Barnstable Registry of Deeds in Book 28729, Page 30, and entered into by and among the Developer and the CCC (hereinafter, the "Master Agreement") to restrict the rental of certain Affordable Housing Beds to income eligible households; and

WHEREAS, pursuant to the terms of the Master Agreement, each of the Affordable Housing Beds will be rented to an Eligible Tenant satisfying the Regulations (as defined in the Master Agreement) which, as of this date, means an individual 62 years of age or older whose annual gross income does not exceed eighty percent (80%) of the most current Area (as hereafter defined) median income (the "Maximum Income") as determined by the U.S. Department of Housing and Urban Development ("HUD"). The "Area" is defined as Barnstable Town MSA; and

WHEREAS, pursuant to the requirements of the Master Agreement, the Developer has agreed to retain an Administering Agency to perform monitoring and enforcement services regarding compliance of the Project with the Affordability Requirement (defined below); and

WHEREAS, the Affordable Housing Beds shall be identified by individual unit numbers for each phase of the Project prior to the issuance of a certificate of occupancy for such phase.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

1. Monitoring Services. The Administering Agency shall monitor the compliance of the Project with the Affordability Requirement as more fully described herein.
 - a. Bed Designation. The distribution of the Affordable Housing Beds by unit size shall be as set forth on Schedule "A" attached hereto.
 - b. Bed Pricing. The initial Monthly Rents for each Affordable Housing Bed shall be as set forth in Schedule "B" attached hereto.
 - c. Affordability Requirement. Throughout the term of this Agreement, the Affordable Housing Beds constructed as part of the Project shall be rented for no more than the rental rates set forth herein to an Eligible Tenant. An Eligible Tenant is a an individual who is 62 years of age or older whose annual gross income does not exceed eighty percent (80%) of the most current Area (as hereafter defined) median income (the "Maximum Income") as determined by the U.S. Department of Housing and Urban Development ("HUD"). The "Area" is defined as Barnstable TownMSA.

The monthly rent charged to Eligible Tenants of the Affordable Beds, inclusive of certain service charges but exclusive of private cable television and telephone services, shall not exceed seventy-five percent (75%) of the income of a household whose annual gross income is less than eighty percent (80%) of the median income for the Area (the "Maximum Monthly Rents"). For the Affordable Beds, the Maximum Monthly Rents shall be determined by using the income of a one person household whose annual income is less than eighty percent (80%) of the median income for the Area.

- d. Annual Reports. Throughout the term of this Agreement, as defined below, the Administering Agency agrees to prepare and deliver annually a report (the "Annual Compliance Report") to an officer of the CCC on the compliance of the Developer with the reporting requirements required under the Master Agreement and of compliance of the Project with the Affordability Requirement set forth in Section 1(c), above. The Annual Compliance Report shall indicate the extent of noncompliance with the relevant reporting and/or substantive requirements, describe efforts being made by the Developer to remedy such noncompliance and, if appropriate, recommend possible enforcement action by the CCC against the Developer. The Administering Agency shall deliver the Annual Compliance Report within 120 days of the end of each calendar year during the term of this Agreement.

- e. Supplemental Monitoring Services. The Administering Agency shall provide reasonable supplemental monitoring on its own initiative in order to ensure to the extent practicable the compliance of the Project and the Developer with the Affordability Requirement. The services hereunder shall not include any construction period monitoring. The services hereunder shall include follow-up discussions with the Developer, if appropriate, after an event of noncompliance.

- f. Monitoring Services Fee. The Administering Agency shall receive a fee of \$100.00 per Affordable Housing Bed from the Developer at the time of execution of this Agreement to be used, inter alia, for its monitoring services hereunder. In addition, the Developer shall pay the Administering Agency an additional fee in the amount of \$100.00 plus 3% per Affordable Housing Bed for each subsequent year thereafter, payable within thirty (30) days after receipt by the Developer of the Annual Compliance Report. Such annual fee shall constitute payment in full for the services of the Administering Agency for the period covered by the applicable Annual Compliance Report. If this Agreement is terminated pursuant to Section 1(k) herein, then the annual fee payable hereunder shall be pro rated based on the number of days from the beginning of the applicable year through the termination date. If during the term of this Agreement an Affordable Housing Bed is vacated, the Administering Agency shall also receive a fee of \$100 for a new qualification and such fee shall be increased by 3% annually in keeping with the annual increase previously mentioned in this paragraph.

- g. Enforcement Services. In the event of serious or repeated violations of the substantive or reporting requirements of the Master Agreement or a failure by the Developer to take appropriate actions to cure a default under the Master Agreement, the Administering Agency shall have the right, with the prior consent of the CCC, to take appropriate enforcement action against the Developer including, without limitation, legal action to compel the Developer to comply with the requirements of the Master Agreement. Prior to taking appropriate enforcement actions and exercising remedies, the Administering Agency shall provide a first mortgagee with reasonable notice and an opportunity to cure.

- h. Default. If any default, violation or breach by the Developer under this Agreement with respect to the Affordable Housing Beds is not cured to the satisfaction of the Administering Agency within sixty (60) days after notice to the Developer thereof, then the Administering Agency or the CCC may exercise any remedy at law or in equity available. No such failure to cure a default, however, will be deemed to exist if the Developer has commenced to cure the default within such period and provided such efforts are prosecuted to completion with reasonable diligence. Delay in

curing a default will be excused if due to causes beyond the reasonable control of the Developer.

- i. Term. The term of this Agreement shall be the longest period customarily allowed by law but shall be no less than thirty (30) years.
- j. Responsibility of Administering Agency. The Administering Agency shall not be held liable for any action taken or omitted under this Agreement so long as it shall have acted in good faith and without gross negligence.
- k. Successor Administering Agency. Should the Administering Agency be dissolved or become incapable of fulfilling its obligations during the term of this Agreement, the CCC shall have the right to appoint a successor to serve as the Administering Agency for the remaining term of this Agreement. The Administering Agency shall give the CCC and the Developer at least six (6) months written notice prior to any such dissolution or incapacity in order to allow the CCC to locate a successor to assume the rights and obligations of the Administering Agency under this Agreement and the Master Agreement. The Developer may request the CCC to terminate the Administering Agency for cause.
- l. Indemnity. The Developer agrees to indemnify and hold harmless the Administering Agency and the CCC against all damages, costs and liabilities, including reasonable attorney's fees, asserted against the Administering Agency or the CCC by reason of its relationship with the Project under this Agreement and not involving the Administering Agency or the CCC acting in bad faith or with gross negligence.
- m. Applicable Law. This Agreement, and the application or interpretation hereof, shall be governed by the laws of the Commonwealth of Massachusetts.
- n. Binding Agreement. This Agreement shall be binding on the parties hereto, their heirs, executors, personal representatives, successors and assigns.
- o. Headings. All paragraph headings in this Agreement are for the convenience of reference only and are not intended to qualify the meaning of the paragraph.
- p. Third-Party Beneficiaries. The CCC shall be entitled to enforce this Agreement and may rely on the benefits of this Agreement.
- q. Entire Agreement. This Agreement supersedes all prior agreements between the parties with respect to the Project, whether oral or written including, without limitation, all correspondence between the parties and between counsels for their respective parties. This Agreement, together

with the Master Agreement, constitutes the sole and entire agreement between the parties hereto with respect to the subject matter thereof, and the rights, duties, and obligations of the parties with respect thereto. In executing this Agreement, the Administering Agency acknowledges that the Administering Agency is not relying on any statement, representation, warranty, covenant or agreement of any kind made by the Developer or the CCC or any employee or agent of any of the foregoing, except for the agreements set forth herein. However, to the extent there are conflicts between the terms and provision of this Agreement and the Master Agreement, those terms and provisions of the Master Agreement shall control.

****Signatures Continue on Following Page****

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

DEVELOPER:

Mashpee Senior Housing LLC,

By: *Debra A. Pfaff*
Name: *Debra A. Pfaff*
Title: *Manager*

Cape Cod Commission,

By: *Richard E. Roy*
Name: *RICHARD E. ROY*
Title: *CHAIR*

ADMINISTERING AGENCY:

Mashpee Housing Authority,

By: _____
Name:
Title:

COMMONWEALTH OF MASSACHUSETTS

Middlesex ss.

On this *11th* day of *March*, 20*15*, before me, the undersigned notary public, personally appeared *Debra A. Pfaff*, as *Manager* of *Mashpee Senior Housing, LLC*, proved to me through satisfactory evidence of identification, which was *Personal Knowledge* 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.

Barbara Vindalant
Notary Public
My Commission Expires: *04/07/2017*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

DEVELOPER:

Mashpee Senior Housing LLC,

By: *Debra A. Plaff*
Name: Debra A. Plaff
Title: Manager

Cape Cod Commission,

By: _____
Name:
Title:

ADMINISTERING AGENCY:

Mashpee Housing Authority,

By: *Leila Botsford*
Name: Leila Botsford
Title: Executive Director

COMMONWEALTH OF MASSACHUSETTS

Middlesex ss.

On this 11th day of March, 2015, before me, the undersigned notary public, personally appeared Debra A. Plaff, as Manager of Mashpee Senior Housing LLC, proved to me through satisfactory evidence of identification, which was Personal Knowledge 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.

Barbara Vandalant
Notary Public
My Commission Expires: 4/7/2017

COMMONWEALTH OF MASSACHUSETTS

_____ ss.

On this _____ day of _____, 20____, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____ to be the ~~Executive Director~~ of the ~~Mashpee Housing Authority~~, and acknowledged to me that (he)(she) signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires: _____

COMMONWEALTH OF MASSACHUSETTS

Barnstable ss.

On this 17 day of March, 2015, before me, the undersigned notary public, personally appeared Leila Botsford, Exec. Dir. MHA of, proved to me through satisfactory evidence of identification, which was personally known 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.

Deborah Dami

Notary Public
My Commission Expires: _____

 **Deborah Dami**
NOTARY PUBLIC
Commonwealth of Massachusetts
My Commission Expires July 29, 2016

EXHIBIT A

Property Description

LEGAL DESCRIPTION

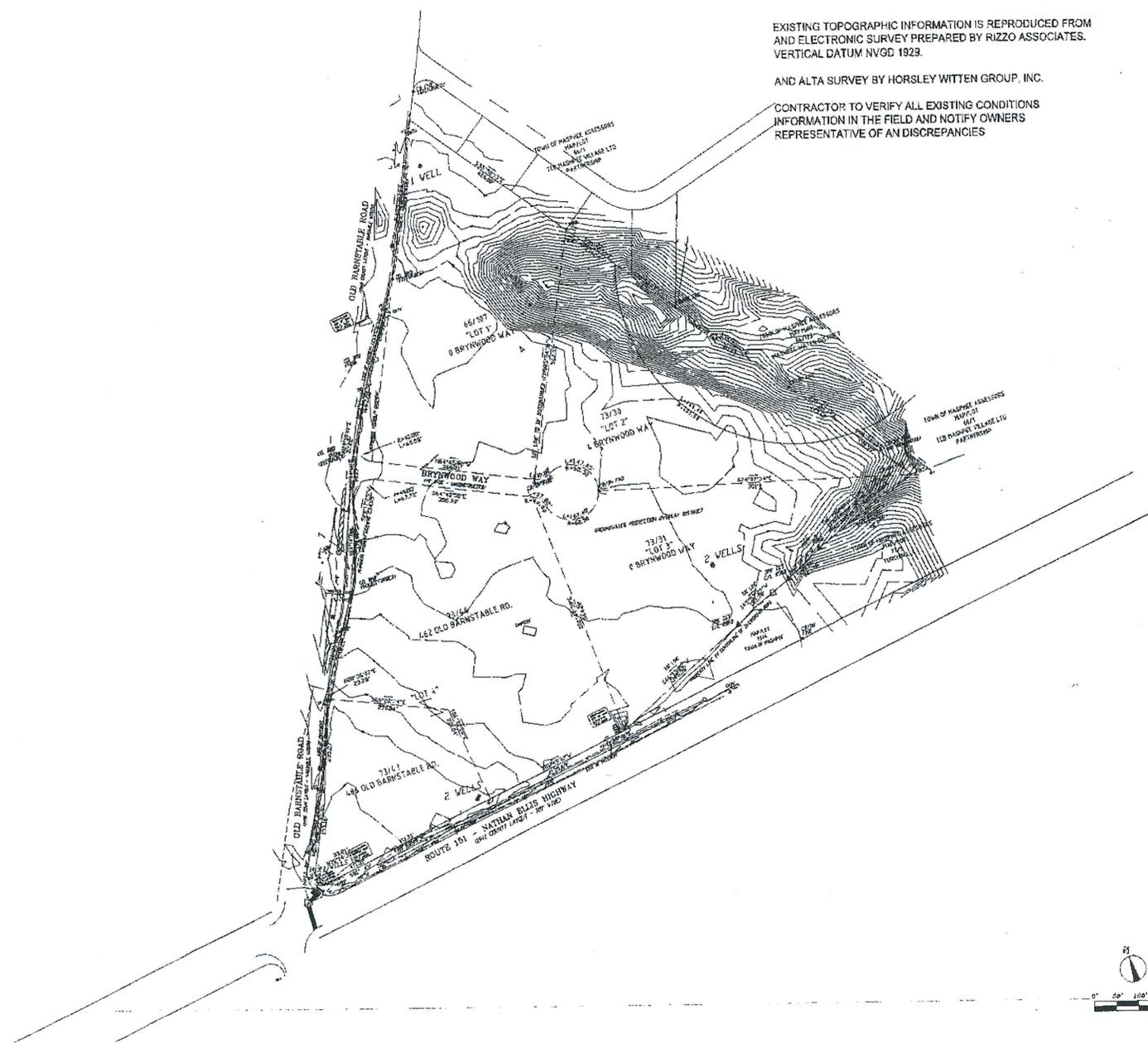
The land in Mashpee, Barnstable County, Massachusetts, more particularly described as follows:

Lot A on the plan entitled "Mashpee Assessors Map/Lot 73/46, 73/47, 73/31, 73/30 & 66/107, Old Barnstable Rd & Nathan Ellis Hgwy. (Route 151), Mashpee, MA Approval Not Required Plan" dated February 10, 2014, prepared by Horsley Witten Group recorded with the Barnstable County Registry of Deeds herewith.

EXISTING TOPOGRAPHIC INFORMATION IS REPRODUCED FROM
AND ELECTRONIC SURVEY PREPARED BY RIZZO ASSOCIATES,
VERTICAL DATUM NVGD. 1929.

AND ALTA SURVEY BY HORSLEY WITTEN GROUP, INC.

CONTRACTOR TO VERIFY ALL EXISTING CONDITIONS
INFORMATION IN THE FIELD AND NOTIFY OWNERS
REPRESENTATIVE OF AN DISCREPANCIES



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INTERIORS
PLANNERS

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INC.
MECHANICAL, ELECTRICAL AND
FIRE PROTECTION ENGINEERING
HAMMOR, MASSACHUSETTS

JSH ASSOCIATES, INC.
STRUCTURAL ENGINEERING
PORTSMOUTH, NEW HAMPSHIRE

CHARLES MCDONATH
FOOD SERVICE CONSULTANT
GEORGETOWN, MASSACHUSETTS

BRIDGES AT MASHPEE
MASHPEE, MA



Scale:
Project Number: 210811053
Date: 04/15/2014
Revision:

CONSTRUCTION
DOCUMENTS

EXISTING CONDITIONS
PLAN

EX-101

2014/04/15 10:00 AM 210811053.dwg (210811053) - 210811053.dwg (210811053) - 210811053.dwg (210811053) - 210811053.dwg (210811053)

SCHEDULE "A"

AFFORDABLE HOUSING BED DESIGNATION

Affordable Beds

Apartment Number	Bedrooms	Approx. Square Feet
102*	Studio	320
115	Studio	256
216	Studio	256
315	Studio	256
317	Studio	322
219	Companion	260

Number of Affordable Beds 6

*Handicap Accessible Unit

OR in the sole event that a couple will be occupying the companion units:

Apartment Number	Bedrooms	Approx. Square Feet
102*	Studio	320
115	Studio	256
216	Studio	256
315	Studio	256
218	Companion	301
219	Companion	260

Number of Affordable Beds 6

*Handicap Accessible Unit

SCHEDULE "B"
MONTHLY RENTS

Initial Maximum Monthly Rents for Affordable Beds*

	<u>Rent</u>
Studio	\$2,881.25*
Companion	\$2,881.25*

*Subject to change based on HUD published updates to the 80% Area Median Income (AMI) Limits for Barnstable County