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MERRIAM VILLAGE  
AMENDED AND RESTATED AGREEMENT WITH TOWN

This Amended and Restated Agreement (the "Agreement") made this 12<sup>th</sup> day of February, 2008 between the Town of Weston, Massachusetts (the "Town") and Weston Community Housing, Inc., a Massachusetts Corporation organized under General Laws Chapter 180 ("WCH").

WHEREAS, pursuant to Chapter 147 of the Acts and Resolves of 1977 of the General Court of the Commonwealth of Massachusetts, the Town conveyed a certain parcel of land on Merriam Street in Weston comprising fifteen and fifty-one hundredths (15.51) acres, all as shown on a "Plan of land in Weston to be conveyed to Weston Community Housing, Inc." dated April, 1977, Roland H. Barnes & Company Registered Surveyors, by deed recorded with the Middlesex South Registry of Deeds in Book **13186**, Page **250** (herein, the "Property"), for the sum of one hundred dollars (\$100) for the purpose of erecting and operating housing for the elderly;

WHEREAS, the Town and WCH entered into an agreement dated May 9, 1977 and recorded with the Middlesex South Registry of Deeds in Book **13186**, Page **242**, as amended by Amendment dated December 19, 1978 and recorded in Book **23678**, Page **273**, Amendment dated June 18, 1991 and recorded in Book **23678**, Page **275**, Amendment dated January 26, 1993 and recorded in Book **23678**, Page **279**, Memorandum of Understanding dated March 18, 1993, Amendment dated July 20, 1993 and recorded in Book **23678**, Page **282**, Amendment dated April 11, 1995 and recorded in Book **25304**, Page **142**, Amendment dated March 13, 1997 and Amendment dated 1999 (herein, as amended, the "Original Agreement");

WHEREAS, pursuant to the terms of the Original Agreement, WCH has erected sixty-two (62) units of housing for the elderly on the Property ("Merriam Village"); and

WHEREAS, the parties now wish to amend and restate the Original Agreement, as provided herein;

NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which each of the parties hereto hereby acknowledge to the other, WCH and the Town hereby agree as follows:

1. Original Agreement. The parties hereby irrevocably agree to terminate their respective rights and obligations under the Original Agreement, effective as of the date of this Agreement. All prior understandings and agreements between the parties with respect to the subject matter of this Agreement are merged within this Agreement, which alone fully and

Record and return to:  
Sheryl A. Howard, Esq.  
Foley Hoag LLP  
155 Seaport Boulevard  
Boston, MA 02210

Merriam Street, Weston, Massachusetts

completely sets forth the understanding of the parties with respect to the subject matter hereof. This Agreement may not be modified or terminated except as provided herein or by another written agreement between the parties.

2. Merriam Village. The parties acknowledge that WCH has built sixty-two units of elderly housing on the Property, all in accordance with a site plan as approved by the Board of Appeals under Zoning By-Law sec. VIII D, and that the architectural design features of Merriam Village were approved in writing by the Selectmen or an Architectural Design Review Committee appointed by the Selectmen for this purpose. WCH agrees that a maximum of sixty-two units of housing may be constructed on the Property, and that any external modifications to the approved architectural design will be approved in writing by the Selectmen or an Architectural Design Review Committee appointed by the Selectmen for this purpose.
3. Rent. Monthly rents to be charged to tenants of Merriam Village by WCH will be the minimum necessary to cover WCH's expenses of owning and operating Merriam Village, including but not limited to mortgage interest and principal, reasonable management expenses for Merriam Village or the Fund (as hereinafter defined), litigation expenses, reasonable legal fees, costs of capital improvements, maintenance and repair costs, costs of refinancing or obtaining financing (including bank fees or legal fees), utilities not separately metered to the tenants, insurance, taxes and/or payments in lieu of taxes, and the costs of contributions to the Fund. The "Fund" shall mean the fund established by WCH for the purpose of providing rent assistance to needy tenants of Merriam Village, as determined by WCH. WCH has authority to provide for contributions to the Fund in such amount as WCH shall from time to time determine, such contributions to be provided for in WCH's annual operating budget. The Town, acting through its Board of Selectmen, shall have right to review books and records of WCH related to its operating costs for Merriam Village during normal business hours to determine compliance with this Section 3.
4. Eviction of Tenants. Tenants of Merriam Village may be evicted by WCH for: (a) non-payment of rent; (b) inability to care for the tenant's apartment because of physical or mental incapacity, in which case WCH will cooperate with those responsible for the tenant to find and make a placement for the tenant in an appropriate nursing home or hospital; (c) failure to comply with any lawful term, condition, covenant, obligation, or agreement expressed in the leases for Merriam Village; (d) if the tenant is declared bankrupt, or insolvent according to law or if any assignment of the tenant's property is made for the benefit of creditors; or (e) if the apartment appears to be abandoned or the tenant has ceased using the apartment as his/her primary residence. Upon the occurrence of any of the foregoing, WCH may terminate such tenant's lease (subject to the tenant's rights under applicable law) by 120 days' written notice to the tenant.
5. Deposits. For purposes of this Section 5, "Current Tenants" shall mean any tenants of Merriam Village prior to the date of this Agreement. Current Tenants who vacate their apartment within 7 years and 2 months of commencing their occupancy may have any entry fee paid by such tenant refunded, less fifteen (15%) percent during the first month of occupancy; and thereafter one (1%) percent per month until the Current Tenant's (or the Current Tenant's estate's) obligations under the terms of the lease have ended. In the event

of death of a Current Tenant, the lease will be treated as terminated upon a vacating by the decedent's estate. However, after any termination, added monthly payments, in an amount equal to the former monthly rent, may be charged for up to four (4) months to defray the burden of renovation costs and vacancy expense. For any tenants who become tenants of Merriam Village after the date of this Agreement, WCH may charge such tenants a security deposit, in an amount to be determined by WCH, in WCH's reasonable judgment and in compliance with applicable law.

6. Eligibility Standards. Single tenants and at least one of a married couple must be sixty years of age or older. However, the surviving spouse of a deceased tenant may continue to occupy the couple's apartment regardless of age. WCH will attempt to give preference to the Federal and State subsidy eligibility rule wherein that person should not be expected to pay more than thirty percent (30%) of his income as rent, including an allowance for any utilities and services (excluding telephone) to be paid by the tenant, and with adjustment for the number of bedrooms in the apartment, as provided by HUD, as that rule may be altered from time to time. Use of this rule is a preference and not intended to preclude the admittance of persons whose income is so low as to offend this rule of preference, so long as there exists a reasonable belief that admittance will not cause undue or increased hardship to the prospective tenant. No family whose income exceeds four (4) times the then current market rent available in Weston shall be eligible. Furthermore, it is expected that a significantly lower income level shall be used by WCH as its maximum income eligibility standard.
  
7. Local Preference. Preference will be given, consistent with applicable law, to persons who are in greatest need of housing and are (a) current or previous Weston residents, (b) current, previous or retired employees of Weston, (c) previous public school students in Weston, (d) parents or grandparents of current Weston residents, or (e) parents or grandparents of public school students in Weston, all as determined in good faith by WCH.
  
8. Maintenance. WCH agrees to maintain all buildings and the Property in good and tenable condition throughout the life of this Agreement.
  
9. Payment in Lieu of Taxes. For the period commencing July 1, 1997, the Town will accept and WCH shall pay to the Town on or before June 1 of each fiscal year, in lieu of taxes the following amounts for each fiscal year ending June 30 of:

1998	\$8,000.00
1999	9,000.00
2000	10,000.00
2001	11,000.00
2002	12,000.00
2003	13,000.00
2004	14,000.00
2005	15,000.00
2006	16,000.00
2007	17,000.00
2008	18,000.00

The parties to this Agreement shall meet during fiscal year 2000 and not more often than every other fiscal year thereafter to review the financial status of Merriam Village operations for the purpose of amending the foregoing schedule of payments as may be warranted.

For fiscal years following June 30, 2008, the payment in lieu of taxes shall be at the annual rate in effect during the prior fiscal year increased by the percent used to adjust payments of social security benefits at January in the fiscal year for which the annual rate is to be calculated. In the event that the practice of adjusting social security benefit payments is discontinued on such a basis, the Town and WCH shall negotiate a mutually satisfactory change in the Agreement with respect to payments in lieu of taxes. Should no agreement be reached, the Town may adjust the annual rate for payment in lieu of taxes by applying to the annual rate in effect during the preceding fiscal year the percent of any increase recorded by U.S. Bureau of Labor Statistics in the consumer price index for all-urban consumers, Boston Metropolitan Area, from January of the preceding year to January of the fiscal year for which the annual rate is to be determined.

10. Term. This Agreement shall remain in full force and effect for a period of twenty (20) years and continue in effect from year to year thereafter, or for such period as the parties shall agree to, as long as Merriam Village is operated by a non-profit or charitable corporation for the benefit of persons sixty (60) years old and over who have low to moderate income as defined in Section 6, unless this Agreement is earlier terminated pursuant to Section 11.
11. Mortgages on the Property. WCH shall have the right to mortgage the Property, as necessary in WCH's reasonable judgment, in order for WCH to comply with this Agreement and to maintain and operate the Property; provided, however, that WCH shall deliver notice to the Town of any mortgage on the Property and provided further that such mortgage is consistent with this Agreement. The mortgagee under any such mortgage shall herein be referred to as the "Bank", which term shall include any such Bank's successors or assigns. The parties acknowledge that, as of the date hereof, the Property is subject to a mortgage held by Citizens Bank of Massachusetts (the successor to the Federal Savings Bank), which mortgage was recorded with the Middlesex South Registry of Deeds in Book 25304, Page 158 and Amendment to Security Documents recorded with said Registry in Book 35830, Page 610.
12. Default; Reconveyance to Town. In the event of a breach of this Agreement by WCH (including but not limited to if WCH ceases to use the Property for elderly housing), the Selectmen, on behalf of the Town, shall have the right to (a) require the Property be reconveyed to the Town, at its election, subject only to the balance due on any mortgage then outstanding; or (b) compel compliance with the Agreement by legal or equitable action.
13. Foreclosure. Should WCH, or any successor in title, default on a mortgage on the Property, the Town shall have the right, after default, by election of the Selectmen, to demand and receive conveyance of the Property, subject to such mortgage, and henceforth to make payment or otherwise satisfy such mortgage. At the time WCH enters any mortgage of the Property, the Bank shall agree to notify the Town of any default, shall agree to accept the

Town as successor mortgagor and shall agree to withhold foreclosure for a period of six (6) months if the Town, by its Selectmen, exercises its right to take conveyance of the Property.

14. Notice to Bank and Further Amendments.

A. In the event that WCH has failed to:

(a) perform, fulfill, observe or carry out any of the terms, provisions or conditions of this Agreement, the Town shall give written notice of such failure to the Bank, or

(b) use Merriam Village for elderly housing as provided for in the Agreement and the Town intends therefore to demand WCH to convey the Property to the Town, in accordance with the terms of the Agreement, then the Town shall give written notice of such failure to the Bank.

Upon written notice by the Town to the Bank, as aforesaid, the Town agrees to allow the Bank a reasonable period of time to cure such failure before enforcing its remedies for breach of this Agreement. Such reasonable period of time shall include the time necessary for the Bank to obtain good and clear record and marketable title to the Property, whether by foreclosure, deed in lieu of foreclosure or otherwise, as deemed necessary by the Bank to cure such failure.

Nothing contained herein shall be deemed to impose any obligation on the Bank to correct or cure any such breach or failure.

B. The Town and WCH agree that, so long as the Bank shall hold any mortgage on the Property, the Town and WCH will not amend, modify or terminate the Agreement without the prior written consent of the Bank.

[Signature Pages Follow]

Merriam Draft - February 11, 2008

WITNESS the execution hereof as a sealed instrument as of the date first above written.

TOWN OF WESTON ✓  
Board of Selectmen

By \_\_\_\_\_  
Steven L. Charlip, Chair

By [Signature]  
Douglas P. Gillespie

By [Signature]  
Michael H. Harrity

WESTON COMMUNITY HOUSING, INC. ✓

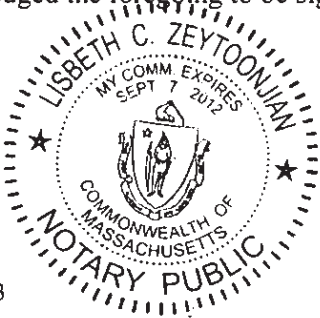
By [Signature]  
President

By [Signature]  
Treasurer VICE PRESIDENT

COMMONWEALTH OF MASSACHUSETTS

Middlesex County, ss.

On this 12<sup>th</sup> day of February, 2008, before me, the undersigned Notary Public, personally appeared the above-named Douglas P. Gillespie, Michael H. Harrity, the Selectmen of the Town of Weston, proved to me by satisfactory evidence of identification, being (check whichever applies):  driver's license or other state or federal governmental document bearing a photographic image,  oath or affirmation of a credible witness known to me who knows the above signatory, or  my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by him/her voluntarily for its stated purpose.

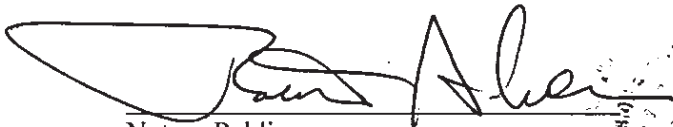


Lisbeth P. Zeytoonjian  
Notary Public  
Printed Name: Lisbeth C. Zeytoonjian  
My commission expires: September 7, 2012

COMMONWEALTH OF MASSACHUSETTS

Middlesex County, ss.

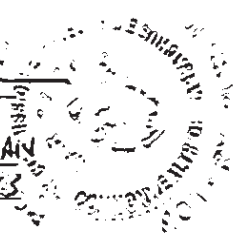
On this 19 day of February, 2008, before me, the undersigned Notary Public, personally appeared the above-named William H. Rousseau + Charles Fouts the President + VICE PRESIDENT of Weston Community Housing, Inc., proved to me by satisfactory evidence of identification, being (check whichever applies):  driver's license or other state or federal governmental document bearing a photographic image,  oath or affirmation of a credible witness known to me who knows the above signatory, or  my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by him/her voluntarily for its stated purpose.



Notary Public

Printed Name: Robert A. Notary

My commission expires: 3/22/13



Eugene C. Brina  
Attest Middlesex S. Register