



**BUYER SELECTION/DEVELOPER CONTRACT AGREEMENT  
The Village at Brick Kiln**

THIS AGREEMENT, dated as of May 19, 2020, by and between Housing Assistance Corporation (hereinafter "HAC") 460 West Main Street, Hyannis, MA 02601 and Village at Brick Kiln LLC, (hereinafter, the Developer") 1094 Blue Hill Avenue, Milton MA 02186

WHEREAS the Developer has received permits to construct 32 units for sale and of the 32, 8 will be affordable as regulated under Massachusetts General Laws and local regulations; and

WHEREAS the Developer is in need of marketing assistance to locate, certify and advise potential buyers with regard to 8 units in this phase of the project; and

WHEREAS the Developer is in need of a lottery for the fair selection of potential buyers of the three units in the project; and

WHEREAS HAC has the necessary personnel, experience and expertise to assist in the marketing of the units, certification and counseling of potential buyers; and to conduct a lottery for the selection of buyers

NOW THEREFORE, in mutual consideration of the covenants contained herein the parties hereby agree as follows:

**1. PROJECT SCOPE**

The project is presently known as The Village at Brick Kiln in Falmouth MA and consists of 32 units total and of the 32, 8 affordable, 2 and 3 bedroom single family homes will be reserved for households with an income not exceeding 80% of HUD AMI for Barnstable County.

**2. EXCLUSIVE LOTTERY AGENT**

HAC shall be the exclusive lottery agent for the Developer for 8 units in this phase. Lottery agent is defined as that person or body named to establish lottery eligibility according to regulations, interview prospective buyers and determine and formally certify their eligibility to participate in a lottery for units at The Village at Brick Kiln



### 3. HAC's RESPONSIBILITIES

HAC shall have the following responsibilities:

- a) Preparation of Affirmative Marketing Plan that specifically relates to the Town of Falmouth and other area cities and towns.
- b) Marketing to the existing HAC client database, advising the developer on appropriate methods and targets for marketing, setting up and conducting an Information Session regarding the development, providing counseling for prospective first time home buyers, developing materials and information for potential applicants and marketing to businesses and other interested community people, speaking to community groups as needed, recruiting applicants and receiving general inquiries. Nothing in this paragraph shall be construed as precluding the Developer from giving out project information. The HAC will act in an advisory role and supplement the efforts of the Developer.
- c) Marketing for Affirmative Action applicants: This includes steps outlined in "b)", plus direct marketing contacts to targeted affirmative action groups and individuals to comply with the Affirmative Fair Housing Marketing Plan, as developed by HAC. HAC shall advertise as necessary to assure compliance with Fair Housing Laws.
- d) Training: HAC shall have the responsibility for conducting an Information Session for prospective homebuyers concerning the application process and how the lottery (or alternative buyer program) is operated.
- e) Processing of Applications: HAC shall have the responsibility for processing all applications for the units. Employees of HAC shall conduct interviews as necessary to complete applications in final form and to ensure that all information and supporting material required by funding sources is contained in the applicant's file.
- f) Certification Process: HAC shall have responsibility for certifying applicants as to eligibility and qualification. It is hereby agreed and understood between the parties that HAC does not make the final determination concerning the granting of loans and that designated bank(s) accepting mortgage loan applications will have the right to either accept or deny such applications, within the bank's internal criteria and regulations as promulgated by the Commonwealth of Massachusetts.
- g) Lottery: HAC shall have the responsibility for conducting the lottery or alternative procedure for assignment of available units to qualified applicants. HAC will establish a sufficient number of alternative applicants to bring forward in the event other applicants fail to receive mortgage commitment after bank review or for any other reasons drop out of the applicant pool.



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h) HAC shall be the liaison with the bank during the bank's commitment process and shall inform the Developer of status of same. Time is of the essence and commitments must be obtained in the shortest time possible.

i) HAC may undertake to assist any applicant rejected by a bank in appealing the rejection and rehabilitating the applicant by providing or assisting the applicant with additional information which may result in an acceptance of the loan by the mortgagee bank. HAC shall continue to process applicants until purchase and sale agreements have been signed for all units.

j) Limit of Obligation: It is agreed by the parties that HAC's obligation is limited to reasonable efforts to produce buyers who qualify for mortgages based on the approved selling price.

#### 4. DEVELOPER'S RESPONSIBILITIES

The following obligations and payments are required of the Developer:

a) Advertising: The Developer shall work with HAC to create and compose all advertising for newspapers, radio, television, or other media advertising vehicle. HAC shall, at its own expense, advertise the project to comply with Affirmative Fair Housing Requirements. The Developer shall, at its own expense, be responsible for all other advertising as often as necessary to assure adequate dissemination of information to the potential applicant pool

b) Developer will be available during an Information Session to make a presentation to and answer questions from potential buyers.

c) Developer Assistance: Developer shall be available to HAC at all reasonable times, either personally or through a designated agent, to assist applicants seeking information regarding units. The Developer shall respond in a timely fashion to any and all questions concerning the project whether from HAC or from prospective applicants.



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460 West Main St. Hyannis, MA

02631

hac@hacconcapecod.org 508-771-5400 fax: 508-775-7434





**5. DEVELOPER'S PAYMENT SCHEDULE**

Cost of Services: The Developer agrees to pay three percent (3%) of the total selling prices of the 8 affordable homes for HAC services, as indicated under #3 above. This fee is earned and payable according to the payment schedule below.

PROJECT COST: 8 units @ 3% average price \$225,000 (\$6750, per unit) \$54,000

Payment Schedule: Developer shall compensate HAC as follows:

- |   |          |
|---|----------|
| 1) One Third due upon execution of this Agreement   | \$18,000 |
| 2) One third due at application deadline  | \$18,000 |
| 3) The remaining balance will be paid to Housing Assistance Corporation in the role as Real Estate Broker at the delivery of the deed (\$2250.00) | \$18,000 |

This payment schedule represents a firm total obligation of THREE PERCENT (3%) of the purchase price of 8 affordable units.

**5. DEVELOPER'S BREACH**

In the event that the Developer fails to make payment when due, and such failure continues for a period of ten (10) days following written notification, HAC shall have the right to terminate this Agreement without recourse from the Developer. Notwithstanding, the Developer will be responsible to HAC for any and all payments which are due at the time of terminations, pay any and all costs which HAC has incurred as a result of advertising or in performance of its obligations hereunder.

**6. CLOSINGS**

The Developer shall be solely responsible for preparing all necessary documents for final closing of units with approved applicants. The parties hereby agree and acknowledge that HAC is not providing any legal and/or technical assistance with regard to preparation of deeds, mortgages, certifications of title, title insurance, or any other documents normally related to the closing of units. HAC's responsibilities are in the marketing assistance, applicant approval process and conducting the lottery.





7. DEPOSITS ON UNITS

The Developer hereby acknowledges and agrees that any and all deposits paid by applicants pursuant to any purchase and sale agreements shall be held in an escrow account by HAC. The Developer agrees to indemnify and hold harmless HAC from any and all claims from applicants for the return of the deposits in the event of disputes with regard to the purchase and sale agreements, including but not limited to any judgments, awards, out-of-pocket expenses and attorney's fees necessitated by such actions by such applicants.

8. HOLD HARMLESS

The Developer hereby agrees to indemnify and hold harmless HAC from any and all actions or inactions by the Developer, its agents, servants or employees which result in claims made against HAC, including but not limited to awards, judgments, out-of-pocket expenses and attorney's fees necessitated by such actions.

9. ENTIRE UNDERSTANDING

This Agreement shall constitute the entire understanding between the parties and any amendments or changes hereto must be in writing, executed by the parties, and appended to this document.

10. GOVERNING LAW

This Agreement shall be controlled under the laws of the Commonwealth of Massachusetts. IN WITNESS WHEREOF, we hereunto set our hands and seals this 23rd day of April 2019

HOUSING ASSISTANCE CORPORATION

BY: Walter Henry

DATE: 8/20/20

THE DEVELOPER

BY: Michael P. Chujando

DATE: 8/17/2020



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