



FIRST MODIFICATION OF DEVELOPMENT AGREEMENT

Whereas: The Town of Berlin and Riverbridge North, LLC entered into a certain Development Agreement dated December 2, 2009, which agreement is recorded at the Worcester Country Registry of Deeds at Book 45188, Page 343 (the agreement runs from page 343-381), and

Whereas: the parties have agreed to a series of amendments and wish to execute and record this First Modification of Development Agreement expressing those amendments, and

Whereas: at a Special Town Meeting held on November 12, 2013 the voters approved a series of warrant articles authorizing the Berlin Board of Selectmen to enter into the modifications of such Development Agreement set forth below.

Now Therefore, the undersigned, for themselves, their heirs, successors and permitted assigns, for good and valuable consideration in the form of the promises, provisos and covenants each party makes herein to the other, and for no payment of funds, hereby agree as follows:

1. A new sentence is added at the end of paragraph 1.5, as follows:

“The above notwithstanding, the Planning Board, during VO Site Plan Review, may permit the conversion of the 90 Independent Living Units or Assisted Living Units to Dwellings”.

2. The existing paragraph 1.6 is removed in its entirety and replaced with the following new paragraph 1.6

“If the 90 Independent Living Units or Assisted Living Units are converted during VO Site Plan Review to 90 Dwellings, as per the above paragraph 1.5, the Project’s two hundred and five (205) Dwellings shall include only one (1) and two (2) bedroom units and shall contain, in the aggregate, no more than three hundred and sixty five (365) bedrooms. If the 90 Independent Living Units or Assisted Living Units are not converted to Dwellings, but are developed as Independent Living Units or Assisted Living Units, the Project’s two hundred and five (205) Dwellings shall include only one (1) and two (2) bedroom units and shall contain, in the aggregate, no more than four hundred and ten (410) bedrooms. Under either of the above approaches (all Dwellings with a limit of 365 bedrooms or a mix of Dwellings and Independent Living Units or Assisted Living Units with a limit of 410 bedrooms), notwithstanding the limitation to one and two bedroom units only, up to a maximum of two units may have 3 bedrooms as long as two other units that could have otherwise had two bedrooms are limited to 1 bedroom units.”

3. The following new sentences are added at the end of paragraph 3.1 (a), as follows:

“The above and Exhibit B notwithstanding, the time frame for the completion of the contemplated widening of the travel deck of the bridge over North Brook and the other related work described in this paragraph 3.1 (a) shall be changed to the earlier of: (1) prior to the issuance of the certificate of occupancy for the 380,000th square foot of construction at Riverbridge, or (2) four (4) years from the date on which this amendment is approved by Town Meeting. In addition, if the Board of Selectmen and Riverbridge agree, this requirement may be replaced with a cash payment of an amount considered by the Board of Selectmen to be equivalent to the estimated cost of the travel deck widening and other related work as described in paragraph 3.1(a)”.

4. A new sentence is added at the end of paragraph 3.1 (f), a follows:

“The requirement to construct a connector road connecting River Road West and Whitney Road may be waived by the Planning Board in VO Site Plan Review”.

5. A new paragraph 4.5 is added, as follows:

“If the CCRC is not built by the Developer, the Developer shall, none the less, still be obligated to provide, procure, or arrange by contract primary and back up ambulance coverage not involving town services for the commercial space and Dwellings at Riverbridge, at no cost to the Town. In the event that no CCRC is constructed, the obligations of paragraph 4.4 above shall be assumed by The Riverbridge Association, Inc., the existing owner’s association at Riverbridge. In the event that Riverbridge constructs a Memory Care or Nursing facility at Riverbridge or elsewhere, the obligation to provide such ambulance coverage shall cover such facility, although Riverbridge may assign such obligation to any operator or purchaser of the Memory Care or Nursing Facility.”

6. New sentences are added at the end of the second full paragraph of paragraph 14.2, as follows:

“If Riverbridge does not construct a CCRC or Assisted Living Facility, but does construct a State-licensed Memory Care or Nursing facility with at least 50 beds, either at Riverbridge or elsewhere in Berlin, , it shall no longer be liable for the above-mentioned annual fee of \$51,200. This shall be considered accomplished if Riverbridge has obtained a Certificate of Occupancy for said State-licensed Memory Care or Nursing Facility. The PILOT requirements set forth in paragraph 1.8 shall apply to any such State-licensed Memory Care or Nursing facility. In recognition of the above, the Option Exercise Period, during which the Town may exercise the option to purchase the so-called Parcel 6B, as set forth in paragraph 14.7 (b) shall be extended to four (4) years from the date on which this

First Modification of Development Agreement is effective, or until November 12, 2017, whichever date is later.

All terms and conditions of the Development Agreement not altered by this First Modification of Development Agreement remain in full force and effect. In the event of any conflict between this First Modification and the Development Agreement, the terms and conditions of this First Modification of Development Agreement shall control.

EXECUTED under seal on and effective as of this 25th day of November, 2013.

RIVERBRIDGE NORTH, LLC

By: 

Name: Christopher G. Senie
Its: President and Member
Hereunto Duly Authorized

By: W. Matthew Senie
Name: W. Matthew Senie
Its: General Manager and Member
Hereunto Duly Authorized

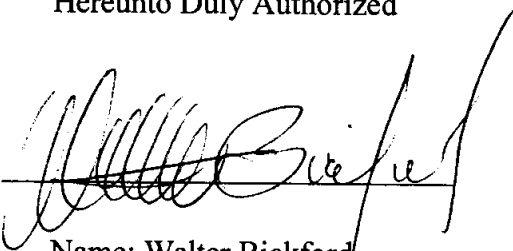
TOWN OF BERLIN
BOARD OF SELECTMEN

By: Judith Booman

Name: Judith Booman, Selectman
Hereunto Duly Authorized

By: 

Name: Thomas Andrew, Selectman
Hereunto Duly Authorized

By: 

Name: Walter Bickford
Hereunto Duly Authorized

COMMONWEALTH OF MASSACHUSETTS

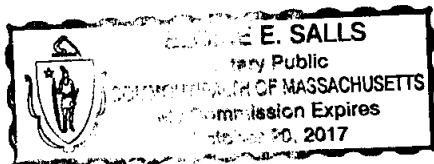
Worcester, ss.

On this 25th day of November, 2013 before me, the undersigned notary public, personally appeared Christopher G. Senie, proved to me through satisfactory evidence of identification, which was a Massachusetts Driver's License, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose.



Notary Public

My Commission expires:



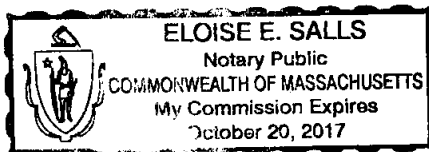
COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

On this 25th day of November, 2013 before me, the undersigned notary public, personally appeared W. Matthew Senie, proved to me through satisfactory evidence of identification, which was a Massachusetts Driver's License, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose.



Notary Public



My Commission expires:

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

On this 25th day of November, 2013 before me, the undersigned notary public, personally appeared Judith Booman, proved to me through satisfactory evidence of identification, which was a Massachusetts Driver's License, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Eloise E. Salls

Notary Public

My Commission expires:

COMMONWEALTH OF MASSACHUSETTS

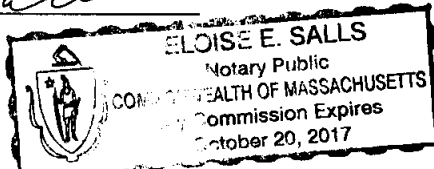
Worcester, ss.

On this 25th day of November, 2013 before me, the undersigned notary public, personally appeared Thomas Andrew, proved to me through satisfactory evidence of identification, which was a Massachusetts Driver's License, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Eloise E. Salls

Notary Public

My Commission expires:



COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

On this 25th day of November, 2013 before me, the undersigned notary public, personally appeared Walter Bickford, proved to me through satisfactory evidence of identification, which was a Massachusetts Driver's License, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Eloise E. Salls

Notary Public

My Commission expires:

