

**COMMUNITY PRESERVATION FUNDING AGREEMENT between  
MYRTLE VILLAGE, LLC  
and the CITY of NEWTON to support the development of  
AFFORDABLE COMMUNITY HOUSING at 12 and 18-20 CURVE STREET**

This AGREEMENT made as of April 14, 2015 by and between Myrtle Village, LLC, a Massachusetts corporation, having a usual place of business located at 21 Curve Street, Newton, MA 02465 (hereinafter "Grantee") and the City of Newton, a municipal corporation organized and existing under the laws of the Commonwealth of Massachusetts, acting by and through its Acting Director of Planning and Development or his designated staff, but without personal liability to him, (hereinafter the "City"); collectively, the "parties."

WITNESSETH THAT:

WHEREAS, the Grantee owns or shall acquire the real property with buildings thereon known and numbered 12 and 18-20 Curve Street, Newton, Massachusetts (hereinafter the "Property"); and

WHEREAS, the Grantee intends to reduce the principal of an existing mortgage, rehabilitate and expand the Property and create seven units of permanently affordable rental housing; and

WHEREAS the resulting project will include two (2) units rented to households whose gross annual household income does not exceed 50% of area median income, two (2) units rented to households whose gross annual household income do not exceed 70% of area median income, and three (3) units rented to households whose gross annual household income do not exceed 85% of area median income; and

WHEREAS, the Grantee applied for and received approval from the Community Preservation Committee ("CPC") and the Board of Aldermen, upon the Funding Recommendation of the CPC, for a grant in the amount of \$910,179, subject to certain conditions set forth herein; and

NOW THEREFORE, the parties do mutually agree to the following General Provisions:

**\*\*GENERAL PROVISIONS\*\***

1. **Subject Matter.** This Agreement sets forth the terms and conditions under which the Grantee shall receive funding from the City in the amount of Nine Hundred Ten Thousand One Hundred Seventy-Nine (\$910,179.00) Dollars. The Grantee agrees to use such funding to create seven units of permanently affordable rental housing in accordance with the terms and conditions of the approval of the Board of Aldermen (Attachment A) and the Funding Recommendation of the CPC (Attachment B) (the "Project").

2. **Conditions for Initial Release of Funds.**

Grantee agrees to meet the following conditions prior to requesting the initial release of grant funds:

(a) Grantee shall reasonably assist the City in publicizing the Project and shall provide progress reports as requested by the CPC or the Board of Aldermen.

(b) Grantee understands and agrees that it may not request payment from this grant for any costs already covered by or charged to any other funding source. Requests for payment should be addressed to:

Housing Programs Manager  
Department of Planning and Development  
City of Newton  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

(c) The seven rental units shall remain subject to a Declaration of Affordable Housing Covenants executed by Grantee in connection with funding received from the Community Development Block Grant Program, which meets the requirements in the Funding Recommendation of the CPC and shall be recorded with the Middlesex South Registry of Deeds. A copy is attached hereto as Exhibit C. A copy of the recorded Declaration shall be substituted for and replace Exhibit C.

(d) The deed evidencing the Grantee's ownership of the Property shall be recorded in the Middlesex South Registry of Deeds. A copy of said deed is attached hereto as Exhibit D. A copy of the recorded deed shall be substituted for and replace Exhibit D.

(e) The Grantee shall provide evidence that it has secured all other funding sources necessary to complete the Project, including rates and terms.

(f) The Grantee shall submit a Reasonable Accommodation/Reasonable Modification Plan and an Affirmative Fair Housing Marketing Plan in accordance with Paragraph 12 herein that have both been approved in writing by the City of Newton Housing Programs Manager.

### **3. Conditions for Subsequent Release of Funds.**

Once the conditions in paragraph 2 above have been met, Grantee may submit to the City at the address listed in 2(a) above requests for reimbursement of approved project costs as set forth in Grantee's proposal to the CPC and in the CPC's Funding Recommendation to the Board of Aldermen, as significant portions of the work are completed but no more often than monthly, subject to the following conditions:

#### **(a) Request for Payment of Construction Costs.**

Prior to requesting reimbursement of costs associated with construction, Grantee shall submit the following:

-final scope of work and specifications for construction and an executed construction contract, as approved by the City of Newton Purchasing Department, in compliance with the City's current procurement policy for private grantees receiving Newton CDBG and CPA funding, included here as Attachment I.

-required demolition, building or other permits

**(b) Submissions Required with Requests for Reimbursement.**

With any request for reimbursement, Grantee shall submit the MassDocs Requisition Forms supplied by City staff to the City's Housing Programs Manager, for forwarding to the CPC, including:

- documentation of the approved reimbursable costs incurred (such as architect's or contractor's invoices, or copies of other paid bills)
- a status report showing current projected date of occupancy and percentage completion of tasks from the scope of work/ specifications in 3(b) above that are complete vs. remaining, as well as any changes made in that scope of work in response to site conditions or requests from City inspectors or departments; and expenditures to date, in a format based on the original approved project budget (to permit clear comparison of planned and actual expenditures).

After inspection of the work by the City of Newton's housing construction and rehabilitation coordinator, or a City employee with equivalent qualifications, and approval of Grantee's request for payment, the City shall make a periodic progress payment to Grantee in the amount of the invoice attributable to the completed portion of the work.

**(c) Conditions for Final Release of Funds**

Upon satisfactory completion of the Project, but prior to the release of the final \$91,000 (10%) of CPA grant funds, Grantee shall submit to the City in writing and present to the CPC in person a final project report, including

- a copy of the certificate of occupancy
- certification by the project architect that the project was completed in accordance with the final approved plans
- a table comparing the costs and sources in the original approved project budget to the actual costs and sources, with a short narrative explaining the differences
- analysis of project results, including some description of households served, [and while protecting tenants' privacy and following fair housing guidelines in 4(b) above] and suggestions, if any, for improving the funding and management process or final results of similar future projects
- If units have not been rented at the time of this final report, Grantee may omit the description of households served from the report but must submit that information to the City of Newton's Housing Program Manager as soon as the units are rented.

Once the final report has been presented and submitted, Grantee shall submit to the City a request for payment in full of any remaining balance of approved project costs, together with copies of invoices from Grantee's contractor(s). Payment of any remaining balance shall be made to Grantee within thirty days, subject to final inspection and approval of

the work by the City. In the event any dispute arises concerning the work, an equitable amount shall be retained pending resolution thereof.

**(d) Completion Deadline and Return of Unspent Funds**

All funds shall be spent within 18 months from the date of execution of this Agreement, or by any extension of this deadline granted in writing by the Director of Planning and Development.

Grantee shall return to the City's Community Preservation Fund any portion of the grant funds not used for the Project.

**4. Conditions Subsequent to Receipt of Funds.**

(a) Grantee shall manage the rehabilitated Property as affordable rental housing, with one 1-bedroom unit, two 3-bedroom units, and four 2-bedroom units, in accordance with the proposal submitted to the CPC and attached hereto as Attachment H.

(b) The rental units shall be marketed in accordance with the approved Affirmative Fair Housing Marketing Plan described in paragraph 2(f) above.

(c) Grantee shall cooperate with the City and do all things reasonably necessary to obtain from the Department of Housing and Community Development of the Commonwealth of Massachusetts (DHCD) approval of a perpetual Declaration of Affordable Housing Covenants executed by Grantee as described in 2(c) above, which meets the requirements in the Funding Recommendation of the CPC; and to apply to (DHCD) to have the rental units for this project included in the City's Subsidized Housing Inventory, including but not limited to, completing the necessary application and executing and recording in the Registry of Deeds, a Regulatory Agreement in a form approved by DHCD.

**5. Insurance Requirements** Grantee shall keep the Property insured at all times and in such amounts as deemed reasonable and prudent in accordance with standard construction practices and in compliance with Attachment G hereof.

**6. Initial Reporting Requirement.** Before a lease is signed and prior to initial occupancy of each affordable unit, Grantee shall submit a report to the Housing Program Manager as required in identifying the household composition (number in household) characteristics and income of the prospective tenant households.

**7. Recapture of Funds.** If the Grantee fails to comply with the requirements of this Agreement, the approval of the Board of Aldermen, or the Funding Recommendation of the CPC, then the funds shall revert back to the City's Community Preservation Fund, and the Grantee shall be liable to repay the entire amount of the funding to the City. The City may take such steps as necessary, including legal action, to recapture such funds.

**8. Record Keeping** The Grantee agrees to keep such records as are kept in the normal course of business and as may be required by the City. Upon reasonable notice, Grantee

shall provide the City with full and free access to such records with respect to utilization of the proceeds of this Agreement.

9. **Termination.** In the event the Grantee fails to fulfill all obligations under the terms of this Agreement, the approval of the Board of Aldermen, or the Funding Recommendation of the CPC, then the City shall have the right, in its sole discretion, to terminate this Agreement upon written notice to the Grantee. Upon such termination, the City shall be free to pursue any rights or remedies available at law or in equity, including without limitation, recapture of funds under paragraph 7.
10. **Compliance with Applicable Laws.** The Grantee shall comply with all applicable local, state and federal laws, ordinances, regulations or codes during the term of the Project.
11. **Equal Opportunity.** The Grantee shall comply with all applicable local, federal and state laws governing discrimination and equal opportunity.
12. **Fair Housing Marketing.** The Grantee and its assigns shall adopt and implement affirmative marketing procedures for the Property consistent with the City of Newton's requirements under the Community Development Block Grant Program, to affirmatively further fair housing.
13. **Monitoring.** The City shall annually evaluate the performance of the Grantee and may make a determination as to whether the Grantee has conformed with this Agreement and has a continuing capacity to carry out the funded activities in the manner required pursuant to this Agreement. With reasonable notice and during normal business hours and as often as the City may deem necessary, Grantee shall make available all such records and documents as requested by said parties for audit and/or monitoring. The City may examine and make copies of such records and may audit all contracts, procurement records, invoices, materials, payrolls, personnel records, conditions of employment, and all documents relating to all matters covered by this Agreement.
14. **Successors and assigns.** The terms of this Agreement, including, but not limited to the Reporting Requirements in paragraph 6, shall be binding on the Grantee's successors and assigns. The Grantee shall promptly provide notice of any change in ownership of the Property to the City.
15. **Conflict of Interest; Bonus and Benefit Prohibited.**
  - (a) No member, officer, or employee of the City or its designees or agents, no member of the governing body of the City of Newton or the Commonwealth of Massachusetts, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the subject funding programs during his or her tenure or for one year thereafter, shall have any interest or benefit, direct or indirect, in any contract or subcontract, or in the proceeds thereof, in connection with this Agreement, including work to be performed.



(b) Grantee shall not pay bonus, commission, or fee for the purpose of obtaining the City's approval of or concurrence to complete the work financed in whole or in part by this Agreement.

16. **Indemnification.** The Grantee shall indemnify, hold harmless, and defend the City and its departments, officers, employees, servants, and agents from and against all actions, causes of actions, claims, demands, damages, costs, loss of services, expenses, and compensation, including attorneys' fees and interest arising out of or resulting directly from the services rendered pursuant to this Agreement, provided that any such action, cause of action, claim, demand, damage costs, loss of service, expense, compensation (1) in any way grows out of bodily injury, sickness, disease or death, or to injury to or destruction of tangible property which (2) is caused in whole or in part by any act or omission of the Grantee, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.
17. **Notice.** Any notice, demand, request, consent, approval, communication either party is required to give to the other party or any person shall be in writing and either served personally or sent by prepaid, first class mail to the respective addresses set forth below. Either party may change its address by notifying the other party of the change of address in writing.

To the City:

Director of Planning and Development  
Planning and Development Department  
Newton City Hall,  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

To Grantee:

Myrtle Village, LLC  
21 Curve Street  
West Newton, MA 02465

18. **Changes.** In the event that changes in the Project become necessary, including but not limited to changes in funding, scope, or duration, the Grantee shall request the change in writing. If the City agrees to such changes, they must be approved in writing by the City and incorporated into this Agreement as amendments.
19. **Other Provisions.** All other provisions, if any, are set forth within the following SCHEDULES attached hereto and made a part hereof as listed below:

Attachment A, Approval of the Board of Aldermen  
Attachment B, Approval and Funding Recommendation of the CPC  
Attachment C, Declaration of Affordable Housing Covenants  
Attachment D, Deed of property to Myrtle Village, LLC


Attachment E, Tax Attestation  
Attachment F, LLC Certificate  
Attachment G, Insurance Requirements  
Attachment H, Grantee's CPC Proposal  
Attachment I, Procurement Procedure Required by City of Newton

\*\*\*\* SIGNATORIES \*\*\*\*

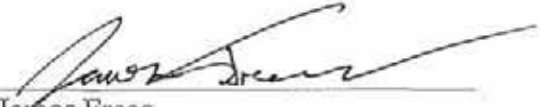
IN WITNESS WHEREOF the parties hereto have executed this AGREEMENT in three sets to be effective when executed by His Honor the Mayor of the City of Newton.

GRANTEE:


Myrtle Village, LLC

By:   
Shelby Robinson  
Its: Manager

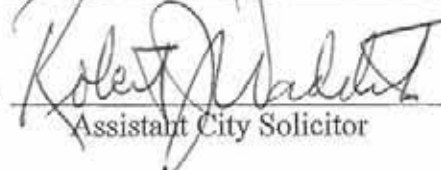
CITY OF NEWTON:

By:   
James Freas  
Acting Director of Planning and Development


I certify funds are available in the amount of \$910,179 in Account 21C11420-15797 for this Agreement.

By:   
Comptroller of Accounts

Approved as to legal form and character

By:   
Assistant City Solicitor

CONTRACT APPROVED

By:   
Seth D. Warren, Mayor

4/23/15  
Date



# ATTACHMENT A

CITY OF NEWTON  
IN BOARD OF ALDERMEN

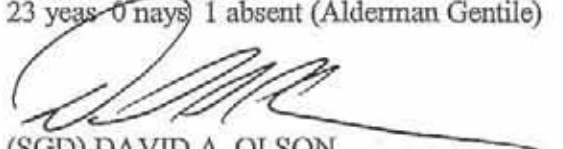
March 3, 2014

ORDERED:

That, in accordance with the recommendations of the Community Preservation Committee (CPC) through its Chairman Joel Feinberg; the Land Use Committee through its Chairman Marc C. Laredo; and the Finance Committee through its Chairman Leonard J. Gentile, nine hundred ten thousand one hundred seventy-nine dollars (\$910,179) be appropriated from the Community Preservation Fund as shown below to the Planning and Development Department for a grant to create seven units of permanently affordable rental housing at 12 and 18-20 Curve Street, West Newton, as detailed in the CPC's November 2013 funding recommendation to the Board of Aldermen and the August 2013 Myrtle Village proposal to the CPC.

From: CPA Community Housing Fund Balance	
(21-3321C) .....	\$304,452
CPA Community Housing Current Reserve	
(21R10498 – 5790C) .....	\$236,095
Fund Balance – Community Preservation Purposes	
(21-3498) .....	\$369,632
To: Myrtle Village Housing	
(21-C11420-5797) .....	\$910,179

Under Suspension of Rules  
Readings Waived and Adopted  
23 yeas 0 nays 1 absent (Alderman Gentile)

  
(SGD) DAVID A. OLSON  
City Clerk

  
(SGD) BETTY D. WARREN  
Mayor

Date 3/17/14

# ATTACHMENT B

City of Newton



Setti D. Warren  
Mayor

City of Newton, Massachusetts  
Department of Planning and Development  
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
[www.newtonma.gov](http://www.newtonma.gov)

Candace Havens  
Director

DOCKET  
ITEM  
79-12(2)

## Community Preservation Committee FUNDING RECOMMENDATION

date: 14 November 2013  
to: The Honorable Board of Aldermen  
for: **MYRTLE VILLAGE** (community housing)

### PROJECT GOALS, ELIGIBILITY & SPONSORSHIP

This project will convert two late 19<sup>th</sup>- early 20<sup>th</sup>-century homes in West Newton into 7 rental units, with a total of 15 bedrooms. All units will be deed-restricted to remain permanently affordable to households with incomes from 50 to 85 percent of the area-wide median. One new, single-floor unit will be fully wheelchair accessible, and two units will be "visitable" – with an accessible/adaptable bedroom and bath on the first floor, and additional baths and bedrooms on the second floor.

The project is eligible for funding under the Community Preservation Act as the creation of affordable housing. It satisfies the CPA's emphasis on using previously developed sites for affordable housing and the priorities in Newton's Community Preservation Committee *Funding Guidelines, Comprehensive Plan, and Consolidated Plan for Housing & Community Development* for creating affordable housing in transit-served, mixed-use locations; serving households with a range of incomes; and not displacing current residents whose incomes fall within the allowable range for the proposed project.

The Newton Historical Commission considers the project's proposed design consistent with the character of the neighborhood, which was recently listed on the National Register of Historic Places for its significance as the heart of Newton's historic African-American community.

The developer is Myrtle Village, LLC, organized for this purpose by the 140-year-old Myrtle Baptist Church, located across the street. The church will transfer to the LLC both the smaller of the two properties, which the church purchased for this project in 2011, and the larger property, which the church has owned since 1960 and is donating to the project. The developer's qualifications and project budget are discussed further under "Special Issues" below.

### RECOMMENDED FUNDING & SUMMARY BUDGET (following page)

On 4 November 2013 the Community Preservation Committee voted unanimously 6-0 to recommend that the requested **\$910,179** be appropriated to complete this project. CPC member Beryl Gilfix did not attend this meeting, and member Tom Turner did not participate in the discussion or vote because he is also a member of Myrtle Baptist Church.

All funds should be appropriated to the control of the Director of Planning and Development, for a grant to Myrtle Village, LLC, and allocated 100% as community housing. CPA funds may be used for any eligible purpose in the proposal's detailed development budget. The **summary budget on the following page** is provided solely to assist the Board in its discussion of this recommendation.

(continued on page 2)

website [www.newtonma.gov/cpa](http://www.newtonma.gov/cpa)

contact Alice E. Ingerson, Community Preservation Program Manager

email [aingerson@newtonma.gov](mailto:aingerson@newtonma.gov) phone 617.796.1144

DEVELOPMENT BUDGET for MYRTLE VILLAGE, 12 & 18-20 Curve Street, West Newton			
USES		SOURCES	
<b>Hard Costs</b>		Permanent Loan	
Acquisition	\$1,032,000	(Bank)	\$591,746
New Construction (3500 sq ft) & Rehabilitation (4500 sq ft):		Developer Equity	
Costs: 40% New/60% Rehabilitation	\$1,310,950	(20 Curve St)	\$632,000
Contingency: 5% of New Costs + 15% of Rehab. Costs	\$137,493	CPA funds	\$910,179
<b>Soft Costs</b>		CDBG funds	\$604,679
Surveys & Permitting (incl. studies required for Comp. Permit)	\$30,000	HOME funds	\$339,000
Legal, Accounting, Taxes, Insurance	\$61,213	<b>TOTAL Sources</b>	<b>\$3,077,604</b>
Relocation Allowance	\$6,000		
Construction Loan Interest	\$16,000		
Marketing & Rent-up (reserve, appraisal, market study, etc.)	\$27,000		
Architecture, Engineering & Project Manager	\$208,000		
Development Consultants	\$25,000		
Soft Cost Contingency	\$72,422		
Developer Overhead & Fee (8% of costs excl. acquisition)	\$151,526		
<b>TOTAL Uses</b>	<b>\$3,077,604</b>		

**SPECIAL ISSUES CONSIDERED**

**Developer/Sponsor Qualifications** The long history and property management record of Myrtle Baptist Church indicate a strong commitment both to the neighborhood and to affordable housing. The 2013 independent appraisal for the CPC considered the property the church has owned since 1960 to be in "average to above average" condition, though the rents charged are "below" or "significantly below" market rates. The church has absorbed a combined operating deficit for both properties since 2011 but is not requesting reimbursement of this cost through the project.

Once project funding is confirmed, the church will transfer both properties to the LLC, which has engaged both an architect/construction manager (Angelo Kyriakides) and a development consultant/property manager (Newton Community Development Foundation) with extensive affordable housing experience in Newton.

**Project Finances** The independent underwriting analysis conducted for Newton's HOME program considered this project "considerably less risky than most," due in part to the "conservative assumptions" made in its development and operating budgets. The underwriting analysis considered the proposed developer fee "modest for a development of this size and complexity." As usual, this fee is at risk to cover any costs that exceed those budgeted. After project completion, the LLC has also committed to using its fee to increase this project's replacement reserves and to support future affordable housing development in the same neighborhood. Net of its fee, the developer is contributing equity of \$480,474 to the project.

**Traffic & Parking** Some neighbors have expressed concern about the project's potential impacts on parking and traffic. The project's plans maximize green space and landscape buffers by providing only 1 handicap parking space and 2 drop-off spaces on site. The church will transfer to the LLC a permanent easement on 12 spaces in its parking lot, for the exclusive use of project residents. This parking solution and any traffic issues will be evaluated in greater depth during the Comprehensive Permit review process. The church also plans to continue its long practice of allowing neighbors to park in its lot temporarily, upon request, and allowing neighbors whose own properties have no off-street parking to use the lot in winter, when on-street parking is not allowed.



**KEY OUTCOMES**

The CPC will evaluate this project based on the completion of construction on time and within budget, and on prompt initial occupancy and continued later occupancy of the units as described in the proposal:

unit sizes	allowable household income as % of area-wide median (with current residents who are income-eligible)		
	≤ 50%	≤ 70%	≤ 85%
1 bdrm, 1.5 ba, 500 sq ft	1 accessible unit		
2 bdrms, 1.5 ba, 1275 sq ft		2 visitable units (2-person household)	2 units (2-person household)
3 bdrms, 2.5 ba, 1200 sq ft	1 unit (4-person household)		1 unit

**ADDITIONAL RECOMMENDATIONS**

The Community Preservation Committee recommends the following:

1. **Spending authority:** All funds should be appropriated to the spending authority of the Director of Planning and Development.
2. **Contingent funding commitment:** No CPA funds may be released until the project has received its required Comprehensive Permit and confirmed all other funding required for project viability.
3. **Scope of grant agreement:** All CPA funds should be disbursed through a legally binding grant agreement that includes but is not limited to conditions and procedures for:
  - ♦ the initial release of funds, such as: City of Newton approval of procurement procedures, the LLC’s final ownership/membership structure, and the project’s property manager; confirmation that the LLC can assume the current mortgage or refinance on similar terms; receipt of all required demolition and building permits; recording of the final deed restrictions and execution of a regulatory agreement assuring permanent affordability
  - ♦ the phased release of the developer fee and construction funding; and City approval of the project’s final affirmative marketing and relocation plans
  - ♦ publicizing the project and providing regular progress reports as requested by the Community Preservation Committee or Board of Aldermen
  - ♦ releasing the final 10 percent of funds, such as verified completion of construction and a final in-person presentation and written report to the CPC on project costs and results
  - ♦ after project completion, annual monitoring to ensure compliance with the deed restrictions and regulatory agreement, and City approval of any new property manager
4. **Deadlines:** Myrtle Village LLC must begin the design and other initial work for the project within 3 months after the grant agreement is executed; and the project should be fully occupied within 36 months after the start of construction; or by any extension of either deadline granted in writing by the Director of Planning and Development
5. **Return of unspent funds:** Any CPA funds not used for the purposes stated in the attached proposal or this recommendation must be returned to the Newton Community Preservation Fund.

*Attachments are listed on the following page.*



# ATTACHMENT C



2015 00053861

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Page: 1 of 8 04/18/2015 10:07 AM

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## DECLARATION OF AFFORDABLE HOUSING COVENANTS

**MYRTLE VILLAGE, LLC**, a limited liability company organized under the laws of the Commonwealth of Massachusetts, having an address of **21 Curve Street, Newton, MA 02465**, and owner in fee simple of property known as **12 Curve Street and 18-20 Curve Street** in Newton, Massachusetts, acting by and through its **Manager** pursuant to a Certificate of Authority of the limited liability company recorded herewith (the "Owner") hereby covenants and agrees for itself, its successors, heirs and assigns, that the parcel described in Exhibit A, attached hereto and incorporated herein, (hereinafter the "Property") shall be subject to the following restrictions for the benefit of the Newton Community Development Authority, having a mailing address of Newton City Hall, 1000 Commonwealth Avenue, Newton Centre, Massachusetts, 02459 (the "NCDA"), its successors and permitted assigns.

The consideration for this Declaration of Affordable Housing Covenants (hereinafter "Covenant") is a loan to the Owner from the Newton Community Development Authority, which is evidenced by a promissory note and secured by a mortgage of the Property of even date recorded herewith at the Middlesex South District Registry of Deeds.

The terms of this Covenant authorized by Massachusetts General Laws, Chapter 184, §§31-33 and otherwise by law, are as follows:

1. **Purpose.** The purpose of this Covenant is to ensure that the Property will be retained as affordable housing for occupancy by low and moderate-income households as defined by the U.S. Department of Housing and Urban Development's (HUD) Community Development Block Grant (CDBG) and HOME Investment Partnerships Programs. This Covenant is intended to be construed as an affordable housing restriction as defined in Section 31 of Chapter 184 of the Massachusetts General Laws which has the benefit of Section 32 of said Chapter 184.

2. **Covenants.** The Owner intends, declares and covenants on behalf of itself, its successors and assigns that these covenants, agreements, and restrictions are not merely personal covenants of the Owner and shall run with the land and shall bind the Owner, its successors and assigns and inure to the benefit of the NCDA, and its successors and assigns.

3. **Term.** For the maximum duration permitted by law with the approval of the Commonwealth of Massachusetts, pursuant to General Laws, Chapter 184, Sections 31-33, and in the event such approval is not given, for a period of fifty (50) years from the date of this Covenant and for such further time thereafter (up to 99 years) as this Covenant may be lawfully extended (including without limitation extensions permitted under General Laws, Chapter 184, Section 27-30), the property shall be maintained as affordable housing as defined in paragraph 1 above.

4. **Completion Date.** The date on which all required Certificates of Occupancy for the rental units on the Property are issued by the City of Newton Inspectional Services Department and the Owner has provided written notification to the NCDA and the NCDA has verified that all

units are fully occupied, as provided in the CDBG and HOME Program Loan Agreement of even date between the NCDA and the Owner. If the units receive Certificates of Occupancy and are occupied on different dates, then the Completion Date shall be the date of occupancy of the unit that is occupied last.

5. **Owner's Warranties and Representations.** During the term of this Covenant as defined in paragraph 3 beginning from the Completion Date as defined in paragraph 4 above, (hereinafter "affordability period") the Owner shall comply with the following requirements:

A. The Owner shall provide two units of rental housing at the Property which shall be rented at HOME Program rents as defined by the United States Department of Housing and Urban Development for the twenty (20) year period of HOME affordability. Notwithstanding the above, upon completion of the twenty (20) year period, any HOME Program imposed rules not also mandated by other programs, shall expire. The expiration of the HOME rules shall not impact the affordability period placed on the units by any other programs. The HOME-assisted units will comply with the following income and affordable rent requirements:

(i) Units must be occupied by households with incomes that do not exceed 50% of the area median income for the Boston-Cambridge-Quincy, MA-NH Metropolitan Statistical Area, adjusted for family size.. The actual income limits are determined by HUD and published annually in the Federal Register;

(ii) Rents, including utilities, may not exceed the maximum rent limits imposed by the United States Department of Housing and Urban Development.

(iii) A tenant whose income met the income limits at the time of initial occupancy, but whose income eventually exceeds 50% of the area median income, may remain in the unit, provided that the rent is adjusted so that the "over-income" tenant is paying not less than 30% of their adjusted monthly gross income for rent and utilities. As soon as the "over-income" tenant vacates the Property, the Owner must re-rent the unit to an income-eligible household.

(iv) After the expiration of the twenty (20) year period of HOME affordability, units must continue to be occupied by households with incomes that do not exceed 50% of the area median income for the Boston-Cambridge-Quincy, MA-NH Metropolitan Statistical Area, adjusted for family size.

B. The Owner represents warrants and covenants that the determination of whether a resident meets the income requirements set forth herein shall be made by Owner at the time of the leasing of the units and thereafter at least annually on the basis of the current income of such resident. The Owner shall maintain as part of its records, copies of all leases governing the rental of the units as may be executed throughout the affordability period and all initial and annual income certification(s) by the tenant(s) of the units. At the request of the NCDA, the Owner shall provide copies of records documenting the annual and monthly gross and adjusted income of each resident

occupying the units. In addition to the foregoing, Owner shall keep such additional records and prepare and submit to NCDA such reports as the NCDA may deem necessary to ensure compliance with the requirements of this Covenant and of the CDBG and HOME Programs.

- C. Prior to initial occupancy of the units and annually thereafter, the Owner shall submit to the NCDA a proposed schedule of monthly rent and monthly allowances for utilities and services for the units. Such schedule shall be subject to the approval of NCDA for compliance with the requirements of applicable HUD regulations. After approval of a schedule of rent and allowances by NCDA, rents shall not be increased without either (a) a specific request by Owner for a rent increase or (b) the next annual schedule of rents and allowances. Notwithstanding the foregoing, rent increases shall be subject to the provisions of outstanding leases and shall not be implemented without at least 30 days prior written notice by Owner to the affected tenant(s).
- D. The Owner shall not demolish any part of the Property or substantially subtract from any real or personal property of the Property except in conjunction with renovation or rehabilitation of the Property or construction of a new project on the Property, in either case subject to the prior written consent of the NCDA, which consent shall not be unreasonably withheld. The Owner shall not permit the use of any residential unit for any purpose other than housing.
- E. The Owner represents, warrants and agrees that if the Property, or any part thereof, shall be damaged or destroyed, the Owner (subject to the approval of the lender(s) which will provide the financing) will use its best efforts to repair and restore the Property to substantially the same condition as existed prior to the event causing such damage or destruction, and the Owner represents, warrants and agrees that the Property shall thereafter continue to operate in accordance with the terms of this Covenant.
- F. Any use of the Property or activity thereon which is inconsistent with the purpose of this Covenant is expressly prohibited. The Owner shall carry out each activity provided for in this Covenant in compliance with all applicable federal laws and regulations described in 24 CFR 570, Community Development Block Grant Program and 24 CFR Part 92, the HOME Investment Partnership Program, as amended.

6. **Condition of Property.** By its acceptance of this Covenant, NCDA does not undertake any liability or obligation relating to the condition of the Property.

7. **Instruments to Enforce Covenant.** The NCDA is authorized to record or file any notices or instruments appropriate to ensuring the enforceability of this Covenant; and the Owner on behalf of itself and its successors and assigns appoints the NCDA its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Owner and its successors and assigns agree to execute any such instruments upon request. The Owner and the NCDA intend that the restrictions arising hereunder take effect upon the date hereof, and to the extent enforceability by any person ever depends upon the approval of

governmental officials, such approval when given shall relate back to the date hereof regardless of the date of actual approval or the date of filing or recording of any instrument evidencing such approval.

**8. Covenants to be Referenced in Deed.** These restrictive covenants shall be contained or referenced in any deed of conveyance of the subject Property or any other instruments conveying a non-leasehold interest in the Property or any part thereof and shall be equally binding on any subsequent owner of the title thereto whether acquired by grant, sale or any other means and such subsequent owner shall comply with this restriction for the remaining duration of said restriction.

**9. Foreclosure.** At least 60 days prior to the foreclosure auction sale by a lender or other transfer in lieu of foreclosure, the lender shall notify the NCDA of its intent to so foreclose and shall allow the NCDA the option/opportunity to assume the mortgage. In the event of such assumption of the mortgage, the Owner shall not further pledge or hypothecate said Property and the Owner's recapture of any equity it may have shall be deferred until such time as the Property is sold. If the option is exercised, the NCDA may direct the sale of the Property at any time during the period of affordability and shall undertake to sell the property within a reasonable period of time after the expiration of the affordability period. In the event of such a sale, the monies received shall be applied first to any and all encumbrances outstanding with respect to the property in order of priority, next to the costs of sale, then to repay the NCDA and/or the City of Newton for any amounts expended on the assumption of the mortgage. Any sums remaining after the above payments shall then be paid to the person or entity which was Owner of record prior to assumption of the mortgage, in full satisfaction of its equity interest in the Property.

In the event the NCDA chooses not to exercise its option to assume the mortgage referenced above, then the affordability restriction created hereunder shall terminate upon foreclosure or by instrument in lieu of foreclosure, provided that the holder of the mortgage gives the NCDA not less than 60 days prior written notice of the mortgagee's intention to foreclose upon the Property or to accept an instrument in lieu of foreclosure. Thereafter, if at any time following foreclosure or other transfer in lieu of foreclosure but still during the term of affordability, as defined in paragraph 3, the Owner of Record prior to foreclosure, any subsidiary thereof, or any newly formed entity that includes the former Owner or those with whom s/he or it has had family or business ties obtains ownership interest in the Property, the affordability period shall be revived in accordance with its original term.

**10. Notices.** All notices required under this Covenant shall be deemed to have been received if mailed, postage prepaid to the following:

For the NCDA:  
Sole Member  
Newton Community Development Authority  
City Hall, 1000 Commonwealth Avenue  
Newton, MA 02459



For Owner:  
Myrtle Village, LLC  
21 Curve Street  
West Newton, MA 02465  
Attention: Manager

**11. Enforcement.**

- A. The rights hereby granted shall include the right of NCDA to enforce this Covenant by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including without limitation relief requiring restoration of the Property to its condition prior to any such violation (it being agreed that the NCDA will have no adequate remedy at law), and such restoration shall be in addition to, and not in limitation of, any other rights and remedies available to the NCDA. The Owner covenants and agrees to reimburse NCDA all reasonable costs and expenses (including without limitation reasonable counsel fees) incurred in enforcing this Covenant or in taking reasonable measures to cure any violation hereof, provided that a violation of this Covenant is acknowledged by Owner or determined by a court of competent jurisdiction to have occurred.
- B. Without limitation on any other rights or remedies of the NCDA, its successors and assigns, the NCDA shall be entitled to the following remedies, which shall be cumulative and not mutually exclusive:
- (i) specific performance of the provisions of this Covenant, which shall be the preferred remedy;
  - (ii) voiding of any rental arrangement that violates this Covenant;
  - (iii) in the case of any rental arrangement where the Owner is found to have violated willfully or in bad faith, then money damages for charges in excess of rents permissible under this Covenant;
  - (iv) If any action is brought to enforce this Covenant, the prevailing party shall be entitled to reasonable attorneys' fees and other costs of bringing such action, in addition to any other relief or remedy to which such party may be entitled.
  - (v) The Owner hereby grants to the NCDA and its duly authorized representatives the right to enter upon the Property upon reasonable notice for the purpose of enforcing the restrictions contained in this Covenant and to take any reasonable and appropriate action under the circumstances to cure any violation of the provisions of this Covenant. Notwithstanding the definition of Owner hereinbefore contained, the rights of enforcement for violations of this Covenant shall survive any subsequent sale or transfer of the Property.

**12. Certificate.** Any party may rely on a certificate signed by the Owner and the NCDA as to any facts relative to this Covenant.



13. **Governing Law.** This Covenant shall be governed by the laws of the Commonwealth of Massachusetts. Any amendments to this Covenant must be in writing and executed by all of the parties hereto. If any provision of this Covenant shall to any extent be held invalid, the remainder shall not be affected.

\*\*\*\*\*

IN WITNESS WHEREOF the said Myrtle Village, LLC has caused its seal to be hereto affixed and these presents to be signed, acknowledged and delivered in its name and behalf by Shelby Robinson, Manager, its duly authorized representative, this 14<sup>th</sup> day of April, 2014.

Myrtle Village, LLC

By: Shelby Robinson  
Shelby Robinson  
Its: Manager

4-14-15  
Date

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

April 14, 2015

On this 14<sup>th</sup> day of April 2015, before me, the undersigned notary public, personally appeared the above-named Shelby Robinson proved to me through satisfactory evidence of identification, which were MA Driver's License, to be the person whose name is signed on the proceeding document, and acknowledged to me that she signed it voluntarily for its stated purpose, as Manager of Myrtle Village, LLC.

Robert J. Waddick  
Notary Public  
My Commission expires: 8/11/2017

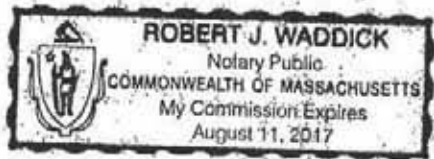


EXHIBIT A

LEGAL DESCRIPTION

A certain parcel of land in Newton, Middlesex County, MA on the Southerly side of Curve Street. Beginning at a point being at the Northwesterly corner of land of Rosalie Cater-Dixon thence

by a curve to the right distance of 7.57 feet, with a radius of 788.95 feet thence

N34-45-16E distance of 34.35 feet thence

by a curve to the right distance of 62.16 feet with a radius of 378.09 feet thence

N 44-10-26E distance of 74.67 feet thence

by a curve to the right distance of 23.84 feet with a radius of 245.81 feet to the Southwest corner of land of William & Mary Price Trustees. The initial 5 courses being by the line of Curve Street thence

S37-15-30E distance of 80.34 feet by land of said Price thence

S40-50-48W distance of 19.10 feet thence

S 70-28-36E distance of 3.77 feet thence

S30-19-27W distance of 106.33 feet to land of Rosalie Carter-Dixon thence

N 80-48-41W distance of 120.34 feet by land of said Carter-Dixon to the point of beginning.

Described land is shown on a plan dated January 5, 2012, Prepared by Land Surveys Incorporated, Containing 15,770.52 square feet according to said plan. Plan is recorded at the Middlesex County Registry of Deeds as Plan #132 of 2015.

# ATTACHMENT D

THE MYRTLE BAPTIST CHURCH OF WEST NEWTON

CERTIFICATION OF VOTE

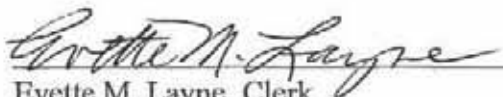
I, **Evette M. Layne**, hereby certify that I am the duly elected and qualified Clerk of The Myrtle Baptist Church of West Newton (the "Church"), a duly organized Massachusetts corporation established on October 3, 1874. I do hereby certify that pursuant to the Bylaws of the Church, the Board of Trustees is responsible for the management of all property owned by the Church.

The following is a correct copy of the Resolution of the Church, duly adopted at a meeting hereof held on March 4, 2015 at which a quorum was present and acting throughout:

**Resolved:** that the Myrtle Baptist Church of West Newton ("the Church") agrees to sell, for a price of thirty-five thousand and 00/100 dollars (\$35,000.00), to Myrtle Village LLC, a Massachusetts limited liability company, the land with the improvements thereon known and numbered as 12-20 Curve Street Newton, Middlesex County being the land described in (i) a Deed recorded with Middlesex County (Southern District) Registry of Deeds in Book 10455 Page 494 and (ii) a Deed recorded with said Registry of Deeds in Book 56762 Page 361.

I certify that the foregoing Resolution has not been rescinded, amended or modified and is in full force and effect at the date hereof.

Signed,

  
Evette M. Layne, Clerk

3/4/15  
Date



Bk: 65224 Pg: 208 Doc: VOTE  
Page: 1 of 1 04/16/2015 10:07 AM



2015 00053857

Bk: 66224 Pg: 207 Doc: DEED  
Page: 1 of 2 04/16/2015 10:07 AM

MASSACHUSETTS EXCISE TAX  
Southern Middlesex District ROD # 001  
Date: 04/16/2015 10:07 AM  
Ctrl# 220715 20429 Doc# 00053857  
Fee: \$159.60 Cons: \$35,000.00

QUITCLAIM DEED

**The Myrtle Baptist Church of West Newton**, a religious body duly incorporated under the laws of the Commonwealth of Massachusetts

for consideration of thirty-five thousand dollars (\$35,000.00) grants to

**Myrtle Village, LLC** a Massachusetts limited liability company, having a usual place of business located at 21 Curve Street, Newton, MA 02465

with **Quitclaim Covenants**.

A certain parcel of land in Newton, Middlesex County, MA with the buildings and other improvements thereon located on the Southerly side of Curve Street. Beginning at a point being at the Northwesterly corner of land of Rosalie Cater-Dixon thence

by a curve to the right distance of 7.57 feet, with a radius of 788.95 feet thence

N34-45-16E distance of 34.35 feet thence

by a curve to the right distance of 62.16 feet with a radius of 378.09 feet thence

N 44-10-26E distance of 74.67 feet thence

by a curve to the right distance of 23.84 feet with a radius of 245.81 feet to the Southwest corner of land of William & Mary Price Trustees. The initial 5 courses being by the line of Curve Street thence

S37-15-30E distance of 80.34 feet by land of said Price thence

S40-50-48W distance of 19.10 feet thence

S 70-28-36E distance of 3.77 feet thence

S30-19-27W distance of 106.33 feet to land of Rosalie Carter-Dixon thence

N 80-48-41W distance of 120.34 feet by land of said Carter-Dixon to the point of beginning.

**City of Newton Law Department**  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

Property Address: 12 and 18-20 Curve Street Newton, MA 02465  
Grantee Address: 21 Curve Street Newton, MA 02465



The described land is shown on a plan dated January 5, 2012, Prepared by Land Surveys Incorporated, Containing 15,770.52 square feet according to said plan, plan recorded at the Middlesex County (Southern District) Registry of Deeds as Plan #132 of 2015.

Being the same premises conveyed to the Myrtle Baptist Church of West Newton by two deeds, one being of Elaine N. Thomas dated April 20, 2011 recorded with Middlesex County (Southern District) Registry of Deeds in Book 56762, Page 361 and the other being deed of Louis E. Ford, Chester B. Lomax and James C. Spikes dated January 30, 1964 recorded with Middlesex County (Southern District) Registry of Deeds in Book 10455, Page 494.

This conveyance is subject to a Mortgage in favor of Village Bank recorded with Middlesex County (Southern District) Registry of Deeds in Book 56762, Page 364 which Grantee assumes and agrees to pay.

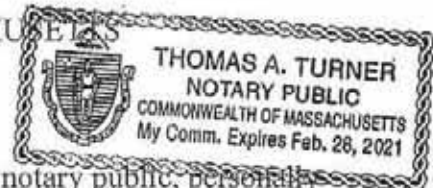
Witness my hand and seal this 24 day of March, 2015

**Myrtle Baptist Church of West  
Newton**

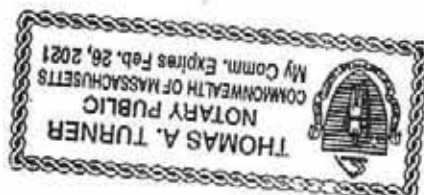
By: Earl Sheard  
Earl Sheard  
Chairman, Board of Trustees  
Myrtle Baptist Church

THE COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss



On this 24 day of March, 2015, before me, the undersigned notary public, personally appeared Earl Sheard, proved to me through satisfactory evidence of identification, which was  name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.



Thomas A. Turner  
Notary Public: Feb 26, 2021  
My commission expires: Feb. 26, 2021

# ATTACHMENT E

## CERTIFICATION OF TAX COMPLIANCE

Pursuant to MG c. 62C, § 49A and requirements of the City of Newton, the undersigned acting on behalf of the Contractor certifies under the penalties of perjury that the Contractor is in compliance with all laws of the Commonwealth relating to taxes including payment of all local taxes, fees, assessments, betterments and any other local or municipal charges (unless the Contractor has a pending abatement application or has entered into a payment agreement with the entity to which such charges were owed), reporting of employees and contractors, and withholding and remitting child support.\*

Shelby Robinson

\*\*Signature of Individual  
or Corporate Contractor (Mandatory)

\*\*\* Contractor's Social Security Number  
(Voluntary) or Federal Identification Number

Print Name: Shelby Robinson

By: Manager, Myrtle Village LLC

Corporate Officer  
(Mandatory, if applicable)

Date: 4-14-15

Print Name: \_\_\_\_\_

\* The provision in this Certification relating to child support applies only when the Contractor is an individual.


\*\* Approval of a contract or other agreement will not be granted until the City receives a signed copy of this Certification.

\*\*\* Your social security number may be furnished to the Massachusetts Department of Revenue to determine whether you have met tax filing or tax payment obligations. Providers who fail to correct their non-filing or delinquency will not have a contract or other agreement issued, renewed, or extended.

# ATTACHMENT F

**CERTIFICATE OF AUTHORITY**  
**LIMITED LIABILITY COMPANY**

I, the undersigned, hereby certify that I am the Manager of Myrtle Village, LLC and that I am authorized to execute contracts and bonds in the name and on behalf of said limited liability company, and in particular all documents relating to a certain Community Preservation Funding Agreement between Myrtle Village, LLC and the City of Newton, Massachusetts in the amount of \$910,179.00, and such execution in the name of Myrtle Village LLC and on its behalf shall be valid and binding upon Myrtle Village, LLC. I further certify that such authorization is in full force and effect as of the date set forth below.

  
\_\_\_\_\_  
Shelby Robinson,  
Manager, Myrtle Village, LLC

Date: 4-14-15

# ATTACHMENT G



## Insurance

1. **General.** Grantee, and contractors and subcontractors engaged by Grantee, its agents or designees to perform the site work and construction work, shall, at all times, be required to maintain insurance coverage consistent with the character of the Project. Grantee agrees to keep copies of each policy and certificate on file, and to provide such copies to the City upon request.

The following coverage will be required at the minimum amounts indicated below:

Workmen's Compensation Employer's Liability	Statutory Coverage \$100,000 Coverage B
Comprehensive General Liability Bodily Injury	\$500,000 each occurrence \$1,000,000 aggregate
Property Damage	\$500,000 each occurrence \$1,000,000 aggregate

**NOTE:** The comprehensive General Liability policy must include coverage for:

- Independent contractor's liability
- Products and completed operations liability for a period of not less than one year
- Broad form property damage liability
- Contractual liability

## 2. Property Insurance.

a. **Hazard Insurance.** Grantee shall keep the Property continuously insured against damages resulting from hazards by maintaining an adequate extended coverage policy. In the event of distribution of hazard insurance proceeds in lieu of restoration or repair following loss to the structures, an amount of the proceeds equal to the amount of the grant distributed to Grantee by the City under the terms of this AGREEMENT are hereby assigned and shall be paid to the City.

b. **Restoration or Repair of Property.** In the event of fire, hazard or other similar occurrence resulting in the partial or total loss of the Property, Grantee shall restore the Property unless Grantee and the City determine that it is impossible or impractical to do so.

# ATTACHMENT H



Setti D. Warren  
Mayor

**Newton, Massachusetts**  
**FUNDING REQUEST for AFFORDABLE HOUSING DEVELOPMENT**  
**FY14 or FY15**

*(For staff use)*  
date rec'd:  
29 August  
2013

PRE-PROPOSAL                       PROPOSAL

This form is NOT self-explanatory. Please complete it in consultation with staff.

You may adjust the space for each question,  
but the combined answers to all questions on this page must fit on this page.

<b>Project TITLE</b>	Myrtle Village			
<b>Project LOCATION</b>	Full street address (with zip code), or other precise location. 12 and 18 – 20 Curve Street, West Newton, MA 02465			
<b>Project CONTACTS</b>	Name & title of organization	Email	Phone	Mailing address
<b>Manager/ Developer</b>	Shelby Robinson, Manager Myrtle Village LLC	myrtlevillage@gmail.com		Myrtle Baptist Church 21 Curve Street West Newton, MA 02465
<b>Other Contacts</b>	Robert Engler, President Newton Community Development Foundation	rengler@s-e-b.com	617-782-2300 x201	425 Watertown Street, Suite 205 Newton, MA 02458
<b>Project FUNDING</b>	Newton CDBG/HOME/CPA funds requested: \$1,853,858	Total other funds to be used: \$1,223,746	Total project cost: \$3,077,604	
<b>Project SUMMARY &amp; NEEDS</b>	Location (amenities within walking distance, access to transit); short summary of details on page 2 (rehabilitation or new construction; target population; type of housing; unit composition; special features); and brief citations (section & page) showing how project meets needs identified in Newton's <i>Comprehensive Plan, Consolidated Plan, or CPC Funding Guidelines</i> (if relevant).			
<p>Myrtle Baptist Church in West Newton organized Myrtle Village LLC in 2011 to develop affordable housing opportunities in close proximity to the church located at 21 Curves Street. Myrtle Village LLC will be responsible for the development and construction of Myrtle Village with consulting services provided by Newton Community Development Foundation and construction management by Angelo Kyriakides, Architect.</p> <p>The church purchased a single family home at 20 Curve street in the 1950's and used it as a parsonage until 1986. Recognizing the need for affordable housing in the neighborhood, the church expanded the home to include two, 3 bedroom duplexes. The units are currently occupied by two families, one of whom receives a rental subsidy through the Section 8 Voucher program and the other with income qualifying for a rental subsidy. Following discussions with NCDF regarding the potential to expand affordable housing opportunities in the immediate neighborhood, Myrtle Baptist Church purchased a single family home at 12 Curve Street next to the duplex in 2012. The previous owners continue to live in the home and are paying rent.</p> <p>The proposed project entails expanding the two homes (currently 3 units) to create a total of 7 units of affordable rental housing in the two structures. The project will be developed using the Comprehensive Permit (40B) and the units will be affordable to families at 50 – 85% of area median income (AMI) and will remain affordable in perpetuity. The following unit mix will be offered:</p> <p>1 – 1 bedroom, 1 bath 700 square foot HP unit @50% AMI</p> <p>4 – 2 bedroom, 1.5 bath, 990 – 1275 square foot duplex units. 2 @ 70% AMI and 2 @ 85% AMI</p> <p>2 – 3 bedroom, 2.5 bath, 1200 square foot duplex units. 1 @ 50% AMI and 1 @ 85% AMI</p>				

You may adjust spaces, but the combined answers to all questions on this page must fit on this page.

<b>SOURCES OF FUNDS</b> <i>Check all that apply and identify if funds are committed or proposed.</i>		
X CDBG funds	\$ 604,679	X Other (identify sources) Developer's equity in 18 – 20 Curve Street
X HOME funds	\$ 339,000	\$ 632,000
X CPA funds	\$ 910,179	\$
X Private bank loan	\$ 591,746	\$
<input type="checkbox"/> Sales revenue	\$	\$

<b>USES OF FUNDS</b> <i>Check all that apply.</i>			
<input type="checkbox"/> Acquisition	<input checked="" type="checkbox"/> Rehabilitation	<input checked="" type="checkbox"/> New construction	<input type="checkbox"/> Mortgage buydown
Categories below apply only to CPA funds -- please consult staff.			<input type="checkbox"/> Site preparation/ remediation
X Creation	<input type="checkbox"/> Preservation	<input type="checkbox"/> Support	

<b>TARGET POPULATION &amp; SPECIAL FEATURES</b> <i>Check all that apply.</i>		
X Individual/Family	<input type="checkbox"/> Elderly	<input type="checkbox"/> Homeless/At Risk of Homelessness
<input type="checkbox"/> Special needs/disabilities (Identify population & provider of support services, if any):		
<input type="checkbox"/> Special features (historic preservation, sustainability, etc.):		

<b>TYPE OF HOUSING</b> <i>Check all that apply.</i>		
<input type="checkbox"/> Homeownership	<input checked="" type="checkbox"/> Rental	Combination or other (Identify):
X Individual/single family		
<input type="checkbox"/> Group residence/congregate		
<input type="checkbox"/> Condominium	<input type="checkbox"/> Cooperative	

<b>UNIT COMPOSITION</b> <i>List the development's number of units in each category.</i>						
	Total	≤ 30% AMI	≤ 50% AMI	≤ 80% AMI	80-100% AMI	Market-rate
SRO						
Studio						
1 BR			1			
2 BR				2	2	
3 BR			1		1	
4 BR/+						

**OUTREACH** *Summarize efforts to date to communicate with abutters, neighborhood residents & ward aldermen.*

There have been several informational meetings with the Myrtle Baptist congregation and the church has established an Affordable Housing Ministry Committee. In June 2011 a letter was delivered to all abutters and the church has received several letters of support. Representatives from Myrtle Baptist Church have also met with Ward 3 Alderman Ted Hess-Mahan, Alderman Anthony Salvucci and Alderman Greer Tan Swiston.



		<b>HOUSING PROPOSAL ATTACHMENTS CHECKLIST</b>	
Required for	Check if included	Review full instructions on following pages thoroughly with staff prior to submission. Pre-proposals need only those attachments highlighted in red.	
all	X	<b>LETTERS or PETITIONS of SUPPORT</b> , if available	
all	X	<b>PHOTOS</b>	of site conditions & surroundings (2-3 photos may be enough for pre-proposal)
	X	<b>MAP</b>	of site in relation to nearest major roads, schools, shopping, transit, etc.
	X	<b>TIMELINE</b>	including financing, permitting, construction & occupancy
<b>SITE CONTROL &amp; PROJECT FINANCES</b>			
all	X	Legally binding option, purchase & sale agreement or deed	
	X	Developer commitment to pursue permanent affordability	
	X	Appraisal by an independent, certified real estate appraiser	
	X	Development pro forma (pre-proposals need only a short draft)	
	X	Scope of construction work, supported by professional cost estimates	
	X	Non-Newton funding: sources, commitment letters or application/decision schedules	
	X	Market analysis: including prevailing/trending rents or prices & target population	
as needed	X	Home inspection report by a licensed professional, for rehabilitation projects	
	X	Budget for temporary or permanent relocation, if there are existing tenants	
		Capital needs assessment for multifamily rehabilitation of ≥ 26 units using HOME funds	
rental	X	10-year operating budget (pre-proposals need only a short draft)	
	N/A	Rental subsidy, if any: sources, commitment letters or application/decision schedules	
ownership		Cost of ownership analysis: including proposed sales prices, owners' estimated total housing costs, % interest of affordable units & proposed condominium association budget	
<b>DEVELOPER CAPACITY &amp; QUALIFICATIONS</b>			
all	X	Organization mission & current housing portfolio, including how this project fits both	
	X	Previous similar projects completed, with photographs	
	X	Resumes for development team, including affiliations with City boards or commissions	
	X	Most recent audited annual financial statement of parent company or organization	
	X	Fair housing training completed	
	X	Any past fair housing complaints & their resolution	
nonprofits	X	most recent annual operating budget	
	X	Board of directors: including skills, experience, tenure & affiliations	
<b>SITE REVIEW, ZONING &amp; PERMITTING</b>			
all	X	Brief property history, covering at least the previous 30 years of ownership & use	
	X	Environmental mitigation plan, including lead paint, asbestos, underground tanks	
	X	Confirmation of review by Development Review Team (DRT) and zoning relief / permits required (such as parking, building, demolition, comprehensive or special permit)	
	X	Other approvals required: Newton Conservation or Historical Commission, Commission on Disability, Mass. Historical Commission, Mass. Architectural Access Board, etc.	
<b>DESIGN &amp; CONSTRUCTION</b>			
all	X	Site & floor plans, elevations	
	X	Materials & finishes; highlight "green" or sustainable features or proposed certification	
as needed	X	Detailed site & floor plans, elevations for major rehabilitation and all new construction	
<b>RELOCATION, FAIR HOUSING &amp; ACCESSIBILITY</b>			
all	X	Plans/notices for relocation(if applicable), affirmative marketing & resident selection	
	X	Reasonable accommodation/reasonable modification policy	
	X	Architectural access worksheet: applicable requirements & proposed features	

**ARCHITECTURAL ACCESS CODE APPLICABILITY**

Please answer these questions in a separate attachment:

- Describe which requirements of the following apply to the project, and why (based on sources of funding and/or project size): Section 504, Title II of the ADA, the FHA and MAAB.
- If the project is required to prepare a Section 504 Compliance Plan, describe the progress made and any deficiencies outstanding.
- Describe any anticipated required variances from MAAB’s requirements and the status of the variance process
- **For existing projects/rehabilitation:** show calculations indicating the cost of the proposed work relative to the value of the building per MAAB’s CMR 521 3.3 and, if Section 504 is applicable to the project, relative to the replacement cost of the facility per Section 504 8.23(a).

**ARCHITECTURAL ACCESS WORKSHEET:** Use the table below to summarize the most stringent applicable requirements from the list above, and how the proposed project will meet or exceed these requirements. If you cannot complete the worksheet, you must at least provide sufficient information for City staff to complete it, as applicable and as information becomes available.

REQUIRED	PROPOSED
<b>1. Site access – accessible route</b>	
521 CMR 20: Accessible Route; 521 CMR 21: Curb cuts; 521 CMR 22: Walkways; 521 CMR 9: Multiple dwellings	The project will comply with all requirements.
<b>2. Accessible parking (Identify proposed total # of spaces)</b>	
Parking and passenger loading zones. City of Newton parking regulations.	1 fully compliant accessible parking space.
<b>3. Building entrances &amp; accessible routes within buildings</b>	
521 CMR 25: Entrances; 521 CMR 20: Accessible Route; 521 CMR: Doors and doorways	Project will comply with all requirements.
<b>4. Common areas &amp; facilities (offices, laundry rooms, community rooms, etc.)</b>	
There are no common areas.	N/A
<b>5. Group 1 Units (MAAB) (include units covered by the FHA)</b>	
521 CMR 42: bathrooms; 521 CMR 43 kitchens; 521 CMR 46 bedrooms; 521 CMR 9: Multiple dwellings	Project will comply with all requirements.
<b>6. Group 2 Units (MAAB)</b>	
521 CMR 44: bathrooms; 521 CMR 45: kitchens; 521 CMR 47: bedrooms; 521 CMR 9: Multiple dwellings.	Project will comply with all requirements.



**MYRTLE VILLAGE Updated Project Budgets**

Rec'd by CPC staff 29 August 2013

<b>CURVE ST 7 UNITS</b>				
Newton, MA				
29-Aug-13				
<b>DEVELOPMENT BUDGET</b>		<i>Per Unit</i>	<i>Total</i>	<i>Development Assumptions</i>
<b>Hard Costs</b>				
Acquisition	147,429	1,032,000	12 Curve St:\$400K mgt balance; 20 Curve St @ \$632K value	
Sitework / Utilities/landscape	8,000	56,000	estimate based on drawings	
Construction - new units	72,500	507,500	3,500sf @ \$145/sf - estimate based on drawings	
Rehabilitation - existing units	106,779	747,450	4,530sf @ \$165/sf - estimate based on drawings	
Contingency (5%-new, 15%-rehab)	19,842	137,493	40B guidelines	
<b>Sub-Total Hard Costs</b>	<b>364,349</b>	<b>2,480,443</b>		
<b>Soft Costs</b>				
Surveys & Permits/peer review	4,286	30,000	estimate	
Architecture & Engineering	16,857	118,000	contract	
Legal, Title & Recording	3,571	25,000	estimate	
Accounting & Cost Certification	714	5,000	estimate	
Civil/Environmental /Geotech Engineering	2,143	15,000	estimate	
Project Manager	10,714	75,000	contract	
Finance Fees	1,000	7,000	1% of construction loan + DHCD application fees	
Taxes	1,602	11,213	estimate based on existing taxes	
Insurance	1,857	13,000	estimate	
Relocation benefits-allowance	857	6,000	estimate	
Construction Loan Interest	2,286	16,000	loan @ 6% for 8 mo (after CPA/CDBG funds)	
Lease-up reserve	1,429	10,000	estimate	
Rent up & Marketing	1,714	12,000	estimate	
Appraisal/Market Study/reports	714	5,000	estimate	
Development consultants	3,571	25,000	contract	
Soft Cost Contingency	10,346	72,422	5% of soft costs per 40B guidelines	
Developer Overhead & Fee	21,647	151,526	8% TDC less acquisition - 40B guidelines	
Cost Certification Bond	0	0	not required - small project	
<b>Sub-Total Soft Costs</b>	<b>85,309</b>	<b>597,161</b>		
<b>TOTAL DEVELOPMENT COSTS</b>	<b>439,658</b>	<b>3,077,604</b>		
<b>DEVELOPMENT SOURCES</b>				
Permanent Loan	84,535	591,746	1.25 debt coverage ratio-5.30% - 25 yr term	
Developer Equity (20 Curve St)	90,286	632,000	assessed value of house	
CPA funds	130,026	910,179		
CDBG funds	86,383	604,679		
HOME funds	48,429	339,000		
<b>TOTAL DEVELOPMENT SOURCES</b>	<b>439,658</b>	<b>3,077,604</b>		

# MYRTLE VILLAGE Updated Project Budgets

Rec'd by CPC staff 29 August 2013

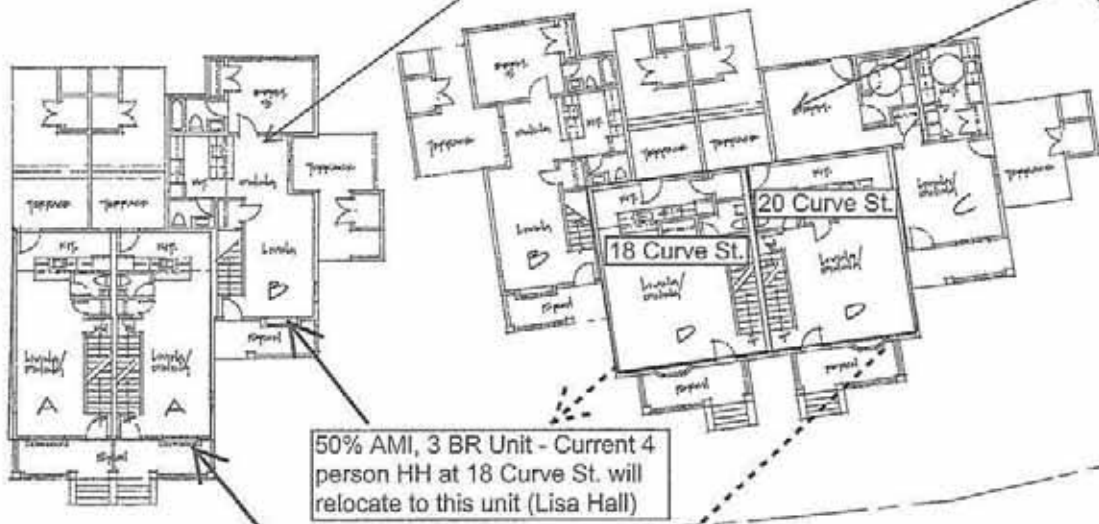
CURVE ST						
Newton, MA						
OPERATING BUDGET						
Number of Units:		7				
RENTAL REVENUES	Units	gross rent	Utility Allowance	net rent	OPERATING PRO-FORMA	Annually
Assumptions:						
Affordable 1BR @ 50%AMI	1	945	171	774	Gross Rental Income	\$106,320.00
Affordable 2 BR @ 70% AMI	2	1487	254	1,233	(less) Vacancy and Bad Debt	-\$7,442.40
CPA 2BR @ 85% AMI	2	1806	254	1,552	Effective Rental Income	\$98,877.60
Affordable 3BR @ 50% AMI	1	1180	335	845	Other Income-parking	\$0.00
CPA 3BR @ 85% AMI	1	2006	335	1,671	Other Income-fees	\$0.00
					Total Income	\$98,877.60
					(less) Annual Operating Expenses	-\$45,660.00
					<b>NET OPERATING INCOME</b>	<b>\$53,217.60</b>
TOTAL UNITS	7				Debt coverage ratio @ 1.25	
Other Income - garages/carports/storage	0	0			Available to service debt	\$42,574.08
Other Income - Fees		0				
Vacancy & Bad Debt		7.0%			Maximum mortgage @ 5.30% - 25 yrs	\$591,746.00
Assumed annual rates of change:						
Annual Operating Expenses	3.0%					
Real Estate Taxes	2.5%					
Income Growth	2.0%					
PROJECTED OPERATING EXPENSES		Total	Per Unit			
MANAGEMENT FEE		3,360	480			
ADMINISTRATION		14,000	2,000			
MAINTENANCE		12,000	1,714			
UTILITIES (common areas only)		3,000	429			
REPLACEMENT RESERVE		2,100	300			
TAXES		8,200	1,171			
INSURANCE		3,000	429			
MONITORING FEE		0	0			
<b>TOTAL OPERATING EXPENSES</b>		<b>45,660</b>	<b>6,523</b>			
NOTES:						
	affordable rents @ HUD 2013 limits calculated using DHCD methodology, eg. 70% income = 50% x 1.4; 85% inc = 50% x1.7					
	vacancy/bad debt using MHP guidelines					
	total operating expenses using MHP guidelines plus NCDF experience					
	taxes estimated using NOI /cap rate of 6.4% x tax rate					

12/17/14  
Draft Relocation Schematic; waiting for final relocation plan

Phased construction: 1st Phase

Phased construction: 2nd Phase

12 Curve Street



50% AMI, 3 BR Unit - Current 4 person HH at 18 Curve St. will relocate to this unit (Lisa Hall)

85% AMI, 2BR Unit - Current 2 person HH at 20 Curve St. will relocate to this unit (Kristen Haywood Smith)

LEGEND:

Unit Type	Construction	1st Phase	2nd Phase	Total	No. of Units
A	2 Bedrooms, 1 1/2 Bath	470 sq ft	470 sq ft	940 sq ft	2
B	2 Bedrooms, 2 1/2 Bath	660 sq ft	660 sq ft	1320 sq ft	2
C	1 Bedroom, 1 Bath, 10' Deck	700 sq ft	---	700 sq ft	1
D	2 Bedrooms, 1 1/2 Bath	660 sq ft	660 sq ft	1320 sq ft	2

**AAK<sup>CO</sup>AIA**  
ANGELO A. KYRIAKIDES PG  
ARCHITECT

Proposed Curve Street  
Apparatus Building Development  
Miracle Village  
Community Development Corp  
20 Curve Street  
West Hempstead, NY

# ATTACHMENT I

## CURRENT POLICY (3/31/14)

### CITY OF NEWTON

#### Procurement Policy for Affordable Housing Projects

This Policy applies to all allocations of grant funds, whether federal (HUD) or state and local (CPA), by the City of Newton, by the Newton Community Development Authority (NCDA) and by for profit and nonprofit entities for the purpose of developing affordable housing. The City is responsible for these funds as grantee or as distributor of funds to subgrantees.

Under state statute and City ordinance<sup>1</sup> all procurements made by the City must be through open, fair competition. Open competition means that opportunity is open to all. Fair competition means that no one bidder has an advantage over any other bidder. Federal law states that the City is

responsible for the efficient and effective administration of Federal awards through the application of sound management practices.

The City has determined that its responsibility to apply "sound management practices" for the grant monies it distributes means that its recipients also use open and fair competitive processes to procure their supplies and services.

The City has therefore instituted the following procedures, modeled on M.G.L. c. 30B, for NCDA and nonprofit (Developer) procurements in connection with affordable housing building projects:

0-\$2,999	\$3,000-\$24,999	\$25,000 AND ABOVE
Sound business practices	NCDA/nonprofit solicits at least three written quotes  NCDA/nonprofit completes Comparison Sheet and awards to lowest responsive and responsible quoter.  [See Appendix A]	NCDA/nonprofit solicits competitive sealed bids, completes Comparison Sheet and awards to the lowest responsible and responsive bidder.  [See Appendix B]

<sup>1</sup> "All purchases of and contracts for supplies and contractual services ... involving a sum of two thousand dollars (\$2,000.00) or more shall be based upon competitive bid unless the mayor gives written authority to do otherwise, stating the reasons therefor." Newton Ordinances (2012), §2.193.

## APPENDIX A

### PROCEDURES FOR PROCUREMENTS BETWEEN \$3,000 AND 24,999

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For projects of between \$3,000 and \$24,999, the Developer may procure contracting services and building materials in whatever manner it wishes, provided however, that the procurement includes the following minimum requirements:

1. Developer solicits at least three written quotes from persons who customarily provide the supply or service needed.
2. Developer selects the lowest responsive and responsible quoter.
3. Developer submits a completed Comparison Sheet to the Newton Purchasing Department.
4. The City Purchasing Department approves the process and the selection.
5. Developer enters into contract with selected quoter.



## APPENDIX B

### PROCEDURES FOR PROJECTS OF \$25,000 OR MORE

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For projects of \$25,000 or more, the Developer may procure contracting services and building materials in whatever manner it wishes, provided however, that the procurement includes the following minimum requirements:

1. The Developer shall issue an invitation for bids (IFB) for a procurement contract. The IFB shall include:
  - (a) the time and date for receipt of bids, where the bids are to be delivered, and the maximum time for bid acceptance;
  - (b) the scope of service and the Developer's evaluation criteria; and
  - (c) all contractual terms and conditions applicable to the procurement (The IFB may incorporate documents by reference; provided, however, that the IFB specifies where prospective bidders may obtain the documents.)
2. The Developer shall make copies of the IFB available to all persons on an equal basis.
3. The Developer shall give public notice of the IFB a reasonable time prior to the date for the opening of bids. The notice shall:
  - (a) indicate where, when and for how long the IFB may be obtained;
  - (b) describe the scope of work;
  - (c) shall be, at a minimum, be posted for at least two weeks, in a conspicuous place in or near the City of Newton Purchasing Department until the time specified in the invitation for bids; and
  - (d) be published at least once, not less than two weeks prior to the time specified for the receipt of bids
    - o in a newspaper of general circulation within the area where the proposed project is located; and
    - o in the *Central Register* published by the Massachusetts Secretary of State. (The City of Newton Purchasing Department will submit information to the *Central Register* on the Developer's behalf.)
4. The Developer may in addition distribute copies of the IFB and/or notice such prospective bidders as it may select, and may compile and maintain lists of

prospective bidders to which notices may be sent.

5. The Developer shall open bids publicly or in the presence of one or more witnesses.

6. The Developer shall evaluate each bid based solely on the requirements and criteria set forth in the IFB. Such criteria shall include the standards by which the Developer will determine acceptability as to ability and experience.

7. The Developer shall unconditionally accept a bid without alteration or correction, except as provided below. A bidder may correct, modify, or withdraw a bid by written notice received prior to the time and date set for the bid opening. However, after bid opening, a bidder may not change the price or any other provision of its bid. The Developer may waive minor informalities or allow the bidder to correct them.

8. The Developer shall provide a copy of a Comparison Sheet summarizing the bids and identifying the selected contractor and copies of the IFB and the bids received.

9. The City Purchasing Department approves the process and the selection.

10. Upon approval of the City, the Developer shall award the contract to the lowest responsible<sup>2</sup> and responsive bidder. The Developer shall award the contract by written notice to the selected bidder within the time for acceptance specified in the invitation for bids. The time for acceptance may be extended.

11. The Developer may agree to any change orders up to an aggregate of 25% of the original contract amount. Change orders which would cause the aggregate dollar amount to exceed 25% must have the prior approval of the City.

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<sup>2</sup> A "responsible bidder" is a person who has the capability to perform fully the contract requirements, and the integrity and reliability which assures good faith performance.