

EXHIBIT B
ARBORPOINT MEADOW WALK
RENTAL MONITORING SERVICES AGREEMENT

This Rental Monitoring Services Agreement (“Agreement”) is made as of the ____ day of _____ 200_, by and between Meadow Walk Residential LLC (hereinafter, the “Developer”) having an address of 2310 Washington Street, Newton Lower Falls, Newton, Massachusetts 02462, the Town of Lynnfield (hereinafter “the Town”), acting by and through its Board of Selectmen, and _____ (hereinafter, the “Administering Agency”), having an address at _____.

RECITALS

WHEREAS, the Developer has commenced construction of a one hundred and eighty (180) unit rental apartment development which will be constructed pursuant to a continuous buildout, consisting of three residential buildings and certain accessory structures, on a property which is located off of Walnut Street, Lynnfield, Massachusetts, as such property and the proposed improvements thereon (the “Project”) is more particularly shown on Exhibit A attached hereto; and

WHEREAS, as part of the Planned Village Development District (hereinafter, the “PVDD”) approved at the April 30, 2007, Lynnfield Annual Town Meeting, 25% of the total number of units in the Project shall be affordable units (hereinafter, the “Affordable Housing Units”) which will be subject to a certain Master Affordable Housing Restriction Agreement dated _____, 200_, recorded at the Essex South Registry of Deeds in Book _____, Page _____, by and among the Developer, the Town, and the Administering Agency (hereinafter, the “Master Agreement”) to restrict the rental of certain Affordable Housing Units to income eligible households; and

WHEREAS, pursuant to the terms of the PVDD and the Master Agreement, the Affordable Housing Units will be rented to Eligible Households satisfying the Regulations (as defined in the Master Agreement) which, as of this date, means a Family earning no more than eighty percent (80%) of the median income, by Family size, for the Boston-Cambridge-Quincy, MA-NH Metropolitan Statistical Area (such median income is referred to hereinafter as the “Maximum Income”); and

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

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

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

1. Monitoring Services. The Administering Agency shall monitor the compliance of the Project with the Affordability Requirement as more fully described herein.

a. Unit Designation. The distribution of the Affordable Housing Units by unit size shall be as set forth below and as further detailed on Schedule "A" attached hereto:

Number of Units: Forty-five (45)
Twenty-Four (24) - One Bedroom Units
Nineteen (19) - Two Bedroom Units
Two (2) - Three Bedroom Units

The total number of bedrooms in the Affordable Housing Units will be, so far as practicable, in the same proportion to the total number of bedrooms in the unrestricted units.

b. Unit Pricing. The Monthly Rents for each Affordable Housing Unit shall be as set forth in Schedule "B" attached hereto.

c. Affordability Requirement. Throughout the term of this Agreement, the Affordable Housing Units constructed as part of the Project will be rented for no more than the rental rates set forth herein to an Eligible Household. An Eligible Household is a Family whose annual income does not exceed eighty percent (80%) of the Area median income, adjusted for Family size as determined by the U.S. Department of Housing and Urban Development ("HUD") (the "Maximum Income"). A "Family" shall mean two or more persons who live regularly in the Affordable Housing Unit as their primary residence and who are related by blood, marriage or operation of law or who have otherwise evidenced a stable inter-dependent relationship; or an individual. The "Area" is defined as the Boston-Cambridge-Quincy, MA-NH Metropolitan Statistical Area as determined by HUD.

[The monthly rents charged to tenants of Affordable Housing Units shall not exceed an amount equal to thirty percent (30%) of the Maximum Income of a Family whose gross income equals seventy percent (70%) of the median income for the Area, with adjustment for the number of bedrooms in the Affordable Housing Unit, as provided by HUD (the "Maximum Monthly Rent"). In determining the Maximum Monthly Rent that may be charged for an Affordable Housing Unit under this clause, the Developer shall include an allowance for any utilities and services (excluding telephone) to be

paid by the resident. Adjusted income shall be as defined in 24 C.F.R. 5.611 (or any successor regulation) using assumptions provided by HUD. Family size shall be equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by DHCD shall apply. As of the date of this Agreement, the Maximum Monthly Rents and utility allowances for the Affordable Housing Units shall be no greater than as set forth in Schedule “B” attached hereto. Maximum monthly rents and utility allowance shall be adjusted annually as provided herein.]

OR

[The monthly rent payment for an Affordable Housing Unit, including utilities and parking, shall not exceed thirty percent (30%) of the Maximum Income permissible for an Eligible Household, assuming a Family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by DHCD shall apply (the “Maximum Monthly Rent”). Maximum Monthly Rents and utility allowance shall be adjusted annually as provided herein.]

- d. Annual Reports. Throughout the term of this Agreement, as defined below, the Administering Agency agrees to prepare and deliver annually a report (the “Annual Compliance Report”) to the zoning enforcement officer of the Town on the compliance of the Developer with the reporting requirements required under the Master Agreement and of compliance of the Project with the Affordability Requirement set forth in Section 1(c), above. The Annual Compliance Report shall indicate the extent of noncompliance with the relevant reporting and/or substantive requirements, describe efforts being made by the Developer to remedy such noncompliance and, if appropriate, recommend possible enforcement action by the Town against the Developer. The Administering Agency shall deliver the Annual Compliance Report within 120 days of the end of each calendar year during the term of this Agreement.
- e. Supplemental Monitoring Services. The Administering Agency shall provide reasonable supplemental monitoring on its own initiative in order to ensure to the extent practicable the compliance of the Project and the Developer with the Affordability Requirement. The services hereunder shall not include any construction period monitoring. The services hereunder shall include follow-up discussions with the Developer, if appropriate, after an event of noncompliance.
- f. Monitoring Services Fee. The Administering Agency shall receive a fee of \$_____ per Affordable Housing Unit from the Developer at the time of execution of this Agreement to be used, inter alia, for its monitoring

services hereunder **[DISCUSS]**. In addition, the Developer shall pay the Administering Agency an additional fee in the amount of \$_____ per Affordable Housing Unit for each subsequent year thereafter, payable within thirty (30) days after receipt by the Developer of the Annual Compliance Report. Such annual fee shall constitute payment in full for the services of the Administering Agency for the period covered by the applicable Annual Compliance Report. If this Agreement is terminated pursuant to Section 1(k) herein, then the annual fee payable hereunder shall be pro rated based on the number of days from the beginning of the applicable year through the termination date.

- g. Enforcement Services. In the event of serious or repeated violations of the substantive or reporting requirements of the Master Agreement or a failure by the Developer to take appropriate actions to cure a default under the Master Agreement, the Administering Agency shall have the right, with the prior consent of the Town, to take appropriate enforcement action against the Developer including, without limitation, legal action to compel the Developer to comply with the requirements of the Master Agreement. Prior to taking appropriate enforcement actions and exercising remedies, the Administering Agency shall provide a first mortgagee with reasonable notice and an opportunity to cure. The Master Agreement provides for payment by the Developer of fees and expenses (including legal fees) of the Administering Agency in the event enforcement action is taken against the Developer hereunder and grants to the Administering Agency a lien on the Project to secure payment of such fees and expenses. The Administering Agency shall be entitled to seek recovery of its fees and expenses incurred in enforcing the Master Agreement against the Developer and to assert a lien on the Project to secure payment by the Developer of such fees and expenses.
- h. Default. If any default, violation or breach by the Developer under this Agreement with respect to the Affordable Housing Units is not cured to the satisfaction of the Administering Agency within sixty (60) days after notice to the Developer thereof, then the Administering Agency or the Town may exercise any remedy at law or in equity available. No such failure to cure a default, however, will be deemed to exist if the Developer has commenced to cure the default within such period and provided such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of the Developer.

The Developer shall pay all reasonable costs and expenses, including legal fees, incurred by the Administering Agency and the Town in enforcing this Agreement, and, in the event of any action by the Administering Agency or the Town against the Developer, the Administering Agency or the Town shall be entitled to seek an attachment against the Developer's

property including, without limitation, its interest in the Project. The Administering Agency or the Town may perfect a lien on the Project by recording/filing one or more certificates setting forth the amount of the costs and expenses due and owing in the Registry. A purchaser of the Project or any portion of it shall be liable for the payment of any unpaid costs and expenses which were the subject of a recorded/filed certificate prior to the purchaser's acquisition of the Project or portion thereof; provided, however, a mortgagee foreclosing on all or any portion of the Project, or a purchaser at any foreclosure sale, shall have no liability for any such costs or expenses.

- i. Term. The term of this Agreement shall be the longest period customarily allowed by law but shall be no less than thirty (30) years.
- j. Responsibility of Administering Agency. The Administering Agency shall not be held liable for any action taken or omitted under this Agreement so long as it shall have acted in good faith and without gross negligence.
- k. Successor Administering Agency. Should the Administering Agency be dissolved or become incapable of fulfilling its obligations during the term of this Agreement, the Town shall have the right to appoint a successor to serve as the Administering Agency for the remaining term of this Agreement. The Administering Agency shall give the Town and the Developer at least six (6) months written notice prior to any such dissolution or incapacity in order to allow the Town to locate a successor to assume the rights and obligations of the Administering Agency under this Agreement and the Master Agreement. At the Developer's request, the Town shall terminate the Administering Agency for cause.
- l. Indemnity. The Developer agrees to indemnify and hold harmless the Administering Agency and the Town against all damages, costs and liabilities, including reasonable attorney's fees, asserted against the Administering Agency or the Town by reason of its relationship with the Project under this Agreement and not involving the Administering Agency or the Town acting in bad faith or with gross negligence.
- m. Applicable Law. This Agreement, and the application or interpretation hereof, shall be governed by the laws of the Commonwealth of Massachusetts.
- n. Binding Agreement. This Agreement shall be binding on the parties hereto, their heirs, executors, personal representatives, successors and assigns.

- o. Headings. All paragraph headings in this Agreement are for the convenience of reference only and are not intended to qualify the meaning of the paragraph.
- p. Third-Party Beneficiaries. The Town shall be entitled to enforce this Agreement and may rely on the benefits of this Agreement.
- q. Entire Agreement. This Agreement supersedes all prior agreements between the parties with respect to the Project, whether oral or written including, without limitation, all correspondence between the parties and between counsels for their respective parties. This Agreement, together with the Master Agreement, constitutes the sole and entire agreement between the parties hereto with respect to the subject matter thereof, and the rights, duties, and obligations of the parties with respect thereto. In executing this Agreement, the Administering Agency acknowledges that the Administering Agency is not relying on any statement, representation, warranty, covenant or agreement of any kind made by the Developer or the Town or any employee or agent of any of the foregoing, except for the agreements set forth herein.

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

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

DEVELOPER:

MEADOW WALK RESIDENTIAL LLC

By: _____
Name:
Title:

LYNNFIELD BOARD OF SELECTMEN

By: _____
_____, Chairman

ADMINISTERING AGENCY

By: _____
Name:
Title:

COMMONWEALTH OF MASSACHUSETTS

_____ ss.

On this _____ day of _____, 2008, before me, the undersigned notary public, personally appeared _____, as _____ of Meadow Walk Residential LLC, proved to me through satisfactory evidence of identification, which was _____ to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he)(she) signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires: _____

COMMONWEALTH OF MASSACHUSETTS

_____ ss.

On this _____ day of _____, 2008, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____ to be the Chairman of the Board of Selectmen, and acknowledged to me that (he)(she) signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:_____

COMMONWEALTH OF MASSACHUSETTS

_____ ss.

On this _____ day of _____, 2008, before me, the undersigned notary public, personally appeared _____, _____ of **[ADMINISTERING AGENCY]**, proved to me through satisfactory evidence of identification, which was _____ to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he)(she) signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:_____

SCHEDULE "A"

AFFORDABLE HOUSING UNIT DESIGNATION

SCHEDULE "B"
MONTHLY RENTS

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