

Return recorded copy to:  
Cheryl A. Hartnett  
Narragansett Affordable Housing Corporation  
25 Fifth Avenue  
Narragansett, Rhode Island 02882

## **Monitoring Services Agreement Real Property Containing Low & Moderate Income Housing Units**

This Agreement entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2023 (“The Agreement”) by and between the Narragansett Affordable Housing Corporation, a nonprofit corporation existing under the laws of the State of Rhode Island (the “Monitoring Agent”) and Bell Capital, LLC, (“the owner”).

### WITNESSETH

WHEREAS, The Town of South Kingstown has provided municipal subsidy for the purpose of creating \_\_\_\_\_ located in the Town of South Kingstown, Rhode Island (the “Development”) and

WHEREAS, under Rhode Island General Law 45-53, the Development has received preliminary approval from the Planning Board of the Town of South Kingstown recorded in the Land Evidence Records of the Town on \_\_\_\_\_.

WHEREAS, Pursuant to Rhode Island General Laws, Chapter 45-53, the newly constructed \_\_\_\_\_ identified as Plat \_\_\_\_, Lot \_\_\_\_ comprised of ( ) \_\_\_\_-bedroom units, (the “Affordable units”) having an address of \_\_\_\_\_, South Kingstown, Rhode Island 02879 are required to be rented to tenants whose households incomes do not exceed 80% (eighty percent) of the median income, adjusted for household size for the Providence Metropolitan Statistical Area. The maximum initial rent shall not exceed \_\_\_\_\_ (\_\_\_\_\_ hundred and \_\_\_\_\_ dollars) per unit, per month, including utilities. In addition, both units will be subject to a deed restriction governing maximum affordable rental price (the “Affordability Requirement”) for the affordable unit for a period of not less than 30 years.

WHEREAS, the Developer has agreed to retain the Monitoring Agent to perform monitoring duties and enforcement services regarding compliance of the Development with the Affordability Requirement.

WHEREAS, the Monitoring Agent has demonstrated expertise in compliance monitoring and stable financial evidence such that it is reasonable to anticipate it will be in existence for the period of the Affordability Requirement.

WHEREAS, the Monitoring Agent is entitled to reasonable fees for monitoring compliance with the deed restriction and Affordability Requirement.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the parties do hereby agree as follows:

**Section 1. Monitoring Services.**

- A. The Monitoring Agent shall monitor the compliance of the Project with the Affordability Requirement including:
- (i) Review of the substantive compliance of the Development with the Affordability requirements.
  - (ii) Review of income certifications, deeds and deed restrictions with respect to rentals of the Affordable Rental Unit.
  - (iii) Certifying to the owner of the Affordable Units as to the maximum rental price which households having incomes not in excess of 80% of the average median income for the Providence Metropolitan Statistical Area (adjusted for family size), can pay for an affordable maximum rent.
  - (iv) Monitoring of income qualification of tenants at initial rent up and every year thereafter through certification of incomes represented on tenant's most recent tax filing.
- B. The Monitoring Agent shall work with in-place and prospective owners and tenants to understand ongoing subsidizing program requirements and restrictions including at least annual notice to owners and tenants of affordable rental units.
- C. The Monitoring Agent may provide reasonable supplemental monitoring on its own initiative in order to ensure to the extent practicable the compliance of the Developer, successive owners of the development and tenants of the Affordable Units with the Affordability Requirement. The services under this Agreement shall not include follow up discussions with the developer, and successive owners of the development and tenants of the affordable units if appropriate, after an event of noncompliance.

**Section 2. Responsibilities of Owner**

- A. Owners shall commit to providing safe, decent affordable housing to eligible individuals and notify the Monitoring agency if tenancy changes during the affordability term.

**Section 3. Monitoring, Services Fee.**

- A. The Monitoring Agent shall receive an initial fee of \$2,000.00 per unit for the original certification of the affordable units, to be paid upon completion of construction. In addition, a \$100.00 fee for change in tenancy shall be paid by the owner of the affordable units to the Monitoring Agent upon change in tenancy. Such fees shall constitute payment for the services of the Monitoring Agent with respect to the on-going compliance with the Affordability Requirements for the term of the Affordable Requirement Period.

**Section 4. Enforcement Services.**

- A. In the event of serious or repeated violations of the requirements of this Agreement, the Monitoring Agent shall have the right, at its discretion, to take appropriate enforcement action against the Developer, successive owners of the Development and Affordable Unit tenants including, without limitation, notice to the Municipality of noncompliance and the potential decertification of these units as low and moderate income housing, or legal action to compel the Developer or successive owners or tenants to comply with the requirements of the Agreement.
- B. In the event of a violation of the provisions of a deed restriction, the Monitoring Agent shall have the right, at its discretion, to take appropriate enforcement action against the Developer or the Developer's successors in title, including, without limitation, notice to the Municipality and/or of noncompliance and the potential decertification of these units as low and moderate income housing, or legal action to compel the Affordable Rental Unit owner or tenant to comply with the requirements of the relevant deed restriction. The Monitoring Agent shall be entitled to seek recovery of its fees and expenses incurred in enforcing a deed restriction against the Affordable Unit owner.
- C. Nothing in this Agreement shall be construed to require the Monitoring Agent to expend more than \$500 in enforcing the provisions of the Agreement or to take any particular enforcement action against the Developer or Affordable Unit owner.

**Section 5. Term.**

- A. The monitoring services are to be provided for the full term of the Agreement. This Agreement shall terminate 30 years after the date of the execution and

recording of the deed restriction in the Land Evidence Records of the town of South Kingstown.

**Section 6. Responsibility of Monitoring Agent.**

- A. The Monitoring Agent 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.

**Section 7. Indemnity.**

- A. The Developer, for itself and its successors and assigns, agrees to indemnify and hold harmless the Monitoring Agent against all damages, costs and liabilities, including reasonable attorney's fees, asserted against the Monitoring Agent by reason of its relationship with the Development under this Agreement except where the Monitoring Agent acted in bad faith and with gross negligence.

**Section 8. Applicable Law.**

- A. This agreement, and the application or interpretation of this Agreement, shall be governed by the laws of the State of Rhode Island.

**Section 9. Binding Agreement.**

- A. This Agreement shall be binding on the parties to this Agreement, their heirs, executors, personal representatives, successors and assigns.

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

Name of Owner

By: \_\_\_\_\_  
Harrison Bell, Manager

Narragansett Affordable Housing Corporation

By: \_\_\_\_\_  
Michael C. McLoughlin, President