

SEB Housing LLC

257 Hillside Ave
Needham, MA 02494

December 19, 2019

Daniel Lovendale
Lovendale LLC
[Address Block]

Re: Affordable Housing Marketing and Lottery Program for MassHousing 40B Homeownership development on 279 Old Oaken Bucket Road

Daniel,

We are pleased to submit this contractual agreement between Lovendale LLC., or its assigns, (the "Developer" or the "Sales Office") and SEB Housing, LLC ("SEB Housing") for consulting services related to the selection of buyers for the affordable units within your planned MassHousing development on 279 Old Oaken Bucket Road in Scituate, MA with affordable for-sale homes. The buyer selection processes will be conducted in accordance with the conditions of the Comprehensive Permit approved by the Town of Scituate, the MassHousing Regulatory Agreement, as well as general policy guidelines established by the 40B guidelines and MassHousing guidelines for the marketing and lottery process.

We believe our aptitude with affordable housing issues, our experience dealing with MassHousing, and our general experience gained from working on hundreds of 40B developments in MA will be extremely helpful for you and prospective buyers as we move through the process. We maintain it is this experience and understanding of affordable housing in the State of Massachusetts which will provide you with the best possible guidance necessary to achieve your objectives, conducting a fair and impartial selection process compliant with local and state regulations. SEB Housing, LLC has also developed own mixed income multi-family housing so we understand your concerns and objectives as a developer.

As part of this process, SEB Housing would ask the Developer or its assigns to provide the following documents so that we may carry out the tasks included herein:

- Comprehensive Permit
- Estimated building schedule including phasing schedule
- Unit Location Schedule
- Design specifications, floor plans and amenities
- Condominium documents including budget and a schedule of beneficial interest

We look forward to discussing this opportunity in greater detail and to continue our relationship with you. Should you have any questions please contact me at (617) 782-2300 x203.

Sincerely,

Brian Engler
Manager
SEB Housing, LLC

I. Scope of Services

Overview

SEB Housing we will be responsible for the outreach, intake and selection process for the affordable units so that this process conforms to MassHousing and 40B guidelines. SEB Housing can also review the Regulatory Agreement and provide guidance and recommendations as it relates to Affordable housing considerations, however, the coordination of the redlining and execution of the Regulatory Agreement must be done directly between MassHousing, the municipality and the Developer or the Developer's attorney (and MassHousing typically doesn't allow edits to the Regulatory Agreement anyway).

Affordable Housing Administration

The proposed scope of services will include four phases; a *Preparatory Phase* to be conducted over a two to eight week period, a *Final Approval Phase* to be conducted over a one to three month period, an *Implementation Phase* to be conducted over approximately a twelve to sixteen week period, and a *Rolling Application Phase* which will occur for the entire duration of the development following the lottery deadline date. Ideally the preparatory phase of this project should start approximately 8 months prior to the first units being ready for occupancy (mostly due to the time it may take MassHousing to approve the materials).

Preparatory Phase for Final Approval

Once the Developer has received their Comprehensive Permit, SEB Housing will perform the following activities immediately following our receipt of requested project documents.

- Review and confirm pricing of the affordable units with the Developer based on affordable housing program guidelines so that the units conform to MassHousing guidelines and will be available to include in the Town's affordable housing inventory approved by MassHousing. Sales prices will be refined from the draft sales prices calculated earlier for Site Approval based on changes to the condo or homeowners' association dues (as applicable), local residential property tax rates, and prevailing interest rates and number of bedrooms within a unit.
- Prepare the draft Homebuyers Selection/Marketing Plans, known as the Affirmative Fair Housing Marketing Plan ("AFHMP") in accordance with the project documents and guidelines to be included with the Developer's Final Approval application. The AFHMP will include elements such as:
 - Description of application process
 - Resident Selection Plan
 - Information packet and program application
 - Lottery/Buyer selection process
 - An affirmative marketing plan
 - Sample Advertisement
 - Local preference requirements

Final Approval Phase

As mentioned, SEB Housing will follow the conditions of the Comprehensive Permit and draft Regulatory Agreement with respect to obtaining all necessary approvals from the necessary parties for the AFHMP, as required. Whatever comments are received during this review and approval process, we will include as

much and will prepare/update the final AFHMP for the Developer and for approval by the Town (if applicable) and MassHousing prior to initiating the marketing outreach.

SEB Housing will coordinate all correspondences between the Developer and MassHousing and/or the Town related to the final approval of the AFHMP.

Municipalities and MassHousing typically takes between 1 and 4 months to approve the Final Approval Application, depending on the amount of work they have in their pipeline, what the conditions are in the Comprehensive Permit for Town approval, how quickly the Developer and/or the municipality respond to requests for information and clarification, and how many changes the Developer redlines in the template Regulatory Agreement.

Implementation Phase

This phase of the project occurs immediately following the beginning of the Affirmative Marketing. This phase will proceed concurrently to the marketing phase (which is required to last 60 days) and generally begins approximately 6 months from the estimated date when the first affordable homes will have their certificate of occupancy. The key activities and tasks include (in sequential order):

Advertising and Community Outreach

- Prepare and place advertisements and conduct community outreach according to the affirmative fair housing marketing plan established

Disseminate Information to Interested Affordable Home Buyers

- SEB Housing will prepare and distribute via mail, e-mail and at the informational session, materials and applications related to the buyer selection process, the homebuyer workshop and the development. (The Developer will work with SEB Housing to provide the necessary review/input in order to complete this part of the task.)
- Update SEB Housing website with information about this development including downloadable versions of all relevant documentation
- SEB Housing will respond to inquiries by phone, e-mail & mail, where necessary on marketing materials.
- Provide guidance to applicants as to what this process entails – part of the overall income and program screening process (not tantamount to a financing pre-qualification)

Facilitate Application Collection and Screening Process

- Collect and review applications to determine if applications are complete (households will not need to include local preference documentation or income/asset/tax documentation but will need to provide mortgage pre-approval documentation with their lottery application). Households with incomplete applications will be given specific checklists of missing documentation to facilitate the completion process by the application deadline. SEB Housing will review completed applications and determine if households are eligible according to Affordable housing program guidelines.
- Notify all applicants as to eligibility status
- Respond to telephone inquires and questions
- Develop application database – including application categorization, classification and number assignment

- Provide lottery information including times, dates and locations

Facilitate Information Sessions

- Locate and reserve space
- Distribute information packets regarding home buyer selection process. A person from the development team should be present to discuss the development itself
- SEB Housing will invite a lending institution(s) to explain the mortgage application/pre-approval process (The Developer can provide SEB Housing with the lender(s) it would like invited as well). Before the Lottery, lending institutions will conduct their own approval process of applicants to determine if the household qualifies and can be approved for a mortgage. This mortgage qualification process is outside of the SEB Housing scope of services but a mortgage pre-approval qualification is required for applicants to be entered into the Lottery.

Conduct Lottery

- Organize and conduct the lottery, depending on the level of interest, select applicants based on eligibility and order of applications

Full SEB Housing Program Eligibility Screening of Households with Top Waiting List Positions

- Subsequent to sending the top lottery applicants to MassHousing for certification for Affordable housing program eligibility, SEB Housing will require that households with top positions on the Waiting List submit to SEB Housing all of the income, asset, tax, local preference (if applicable) and other documentation that MassHousing requires to officially certify households as eligible. SEB Housing will only approve households who are 40B eligible. The SEB Housing Program Eligibility screening will screen out lottery applicants who are unwilling to provide all necessary documentation and lottery applicants who are over or under the income limits based on the documentation provided. SEB Housing may invite more households to complete this screening than there are units available, to ensure that there are as many households as Affordable units that are sent to MassHousing for certification.
- Impose deadlines and eligibility guidelines during this screening, and notify all invited households of their eligibility status. Households with incomplete applications will be given specific checklists of missing documentation to facilitate the completion process by the SEB Housing screening deadline.

Submit Applications to Monitoring Agent

- Following SEB Housing review, SEB Housing will send files to MassHousing (or their assigns, such as a Monitoring Agent) for applicant certification. SEB Housing will work directly with MassHousing and the applicant to ensure that the review is completed in a timely manner. If for any reason MassHousing and/or MassHousing determines that the applicant is not eligible, SEB Housing will communicate their reasons to the applicant.
- Notify households when they have been certified by MassHousing as eligible for the Affordable housing program and prepare the certified household and the developer of the next steps that need to be taken to reserve one of the available Affordable units.
- Notify the certified applicants of details and instructions on obtaining final mortgage commitments and send reminders to certified applicants who have reserved units about meeting deadline dates (such as mortgage contingency dates and final certification dates).
- Submit all final applications to MassHousing as part of the final certification process and prompt the developer's team of the final steps needed to coordinate with MassHousing and/or

MassHousing the receipt of the final Affordable housing related documentation required for closing and recoding.

Rolling Application Phase

SEB Housing has included a Rolling Application Phase in the event that not enough eligible applicants are identified through the application and lottery process. This Phase would occur for the life of each building phase of the development until the final affordable unit(s) included in each building phase of the lottery is sold. It is possible that MassHousing could require an additional lottery after 18-24 months if not enough applicants were identified for the affordable units. SEB Housing will advocate on behalf of The Developer so that its best interests are represented (e.g. no additional lotteries) and discuss with The Developer various options to present as part of the Buyer Selection Plan that may enable to Developer to avoid numerous lotteries, depending on the phasing of the site work.

Applicants in the Rolling Application Phase who are interested in purchasing an affordable unit would then need to complete an affordable housing Certification Application. SEB Housing will assist the interested applicant throughout the Certification Application process to ensure that all required documentation is submitted. SEB Housing will then review the Certification Application to determine if the applicant is eligible to purchase an affordable unit. Eligible applicants will then be allowed to enter into a Purchase and Sale Agreement with the development entity. SEB Housing will continue to work with the applicant to ensure that the proper steps are followed up through the closing.

Developer Responsibilities

In both the Implementation Phase and the Rolling Application Phase, the sales offices will be responsible for property tours and showing the affordable units. SEB Housing will provide households certified as program eligible by MassHousing to the Developer. The Developer (or their assigns) will work directly with the buyer in coordinating and executing the unit reservations (or offers to purchase), the Purchase and Sales Agreements, extensions or amendments to the Purchase and Sales Agreements, and the Closing and coordination and scheduling of the closing. The Developer will provide copies of the Purchase and Sales Agreement (and any and all extensions or amendments) when they are executed to SEB Housing. The Developer will notify SEB Housing when there is a change to the closing date of any affordable unit with the understanding that SEB Housing needs to be notified at least 6 weeks prior to the scheduled closing date of any changes to the closing date in order to ensure that the buyer has properly completed all the necessary affordable housing related activities (such as the final certification done by MassHousing prior to closing) as to not delay the closing.

The Developer will be solely responsible for all marketing during the Rolling Application Phase and/or all marketing necessary after the lottery. **The Developer is solely responsible for all costs associated with all marketing, including any buyer's agent fees if the developer decides to post the affordable units on MLS.** SEB Housing can make recommendations, but the developer should recognize that given the size and location of the project, additional and continual advertising will likely be needed to generate enough traffic to find buyers for all the affordable units, including posting the units on MLS. If co-broker fees are offered on MLS, those will be paid by the developer and will not be deducted from SEB Housing's fees.

II. Professional Fees & Expenses

The following table outlines the proposed fee schedule for the services included in this proposal:

Activity	Fee
Upon execution of this contract for initial activities	\$2,500
Upon MassHousing approval of Affirmative Fair Housing Marketing Plan (AFHMP) for Final Approval	\$5,000
Upon the date of each scheduled lottery (1)	\$7,500
At the time each buyer closes on their affordable unit (2)	3.0% of unit closing cost

- (1) Should an additional lottery(s) be required by MassHousing due to project phasing/affordable market absorption occurring over an extended period of time (multiple years); the Developer will owe SEB Housing \$7,500 on the scheduled date of lottery (meaning that if a second lottery is required, the Developer will owe SEB Housing \$7,500 in addition to the costs of marketing as detailed below).
- (2) SEB Housing's fee will be part of the disbursements at each closing and shown on the HUD settlement statement(s) as such.

With regards to the affordable housing lottery, all advertising costs, reproduction expenses, postage including special mailing costs and facility costs will be borne by the development entity. For efficiency purposes, these costs will be paid out-of-pocket by SEB Housing and then passed through to the developer at actual cost. Based on SEB Housing's experience, these out-of-pocket costs are expected to be in the range of \$4,000 to \$7,000 for this project, but the Developer understands that this is an estimate, and SEB Housing will notify the Developer promptly if SEB Housing believes the costs will exceed this estimate. The Developer should be mindful that this affirmative marketing is required by MassHousing as part of the affordable housing lottery process and is required as part of the Fair Housing process. Moreover, this money will not be due until about 3 months prior to the first certificate of occupancy. All tasks and costs associated with any and all affirmative marketing required after the lottery will be borne by the Development Team. Finally, the Development Team must recognize that SEB Housing is not a professional marketing agent, and as indicated above, does not make any promise or guarantee that the required marketing campaign will generate sufficient eligible buyers to purchase all homes, and that additional advertising by the Developer after the lottery may be necessary.

SEB Housing's payments will be contingent on the completion of each task. Should the Developer sell, assign or otherwise transfer its interest and/or title in this development to another entity for the purposes of completing the lease up of this development, then this contract shall remain in full force and effect, with payments due under the same thresholds as outlined above. Developer acknowledges that all earned fees and expenses due must be paid at the time of sale and/or transfer to the new entity and that if Developer does not make payment of said fees and expenses that SEB Housing will be entitled to place a lien on the Project and the Property irrespective of the sale and/or transfer. To that end Developer agrees to provide written notice to SEB Housing if any sale and/or transfer is to occur and further agrees to notify the buyer and/or transferee as the case may be of the terms of this Agreement.

In the event of termination, all monies owed as of the date of termination shall be paid in full. Furthermore, Developer acknowledges that SEB Housing has agreed to "backload" its fees under this contract in anticipation that SEB Housing would be retained as the lottery agent throughout the initial sale of all affordable units at this development. Accordingly, should Developer terminate this contract without good cause at any time after MassHousing has issued Final Approval, Developer agrees to compensate SEB

Housing an additional \$15,000, to be paid within 60 days of termination. Should Developer terminate this contract without good after the lottery but prior to all affordable units being sold, Developer agrees to compensate SEB Housing in the amount of \$20,000 to be paid within 60 days of termination (but if the total amount that would be owed for any remaining, un-sold affordable units is less than \$20,000, then that lesser amount). Developer expressly acknowledges that this payment is not a penalty.

SEB Housing will carry \$2M of professional liability insurance for the type of work outlined under this scope of services. Assuming that in any related Agreement or Addendum between Developer and SEB Housing, SEB Housing has agreed to provide additional insurance at Developer's request, then, upon SEB Housing's providing to Developer certificates of insurance, Developer shall have seven (7) days to inform SEB Housing whether said insurance meets Developer's requirements. Developer's failure to give notice shall constitute its acceptance of SEB Housing's insurance, and Developer thereafter waives any and all claims relating to such insurance including, but not limited to, the right to withhold payment for services rendered.

Should SEB Housing need to employ an attorney to initiate collection proceedings, institute suit or demand arbitration to enforce any of the provisions hereof, to protect its interest in any matter arising under this agreement, to collect damages for breach of the agreement or to recover any monies owed under this agreement, then SEB Housing party shall be entitled to recover reasonable attorney's fees, costs, charges and expenses expended or incurred therein from the Developer or its assigns. SEB Housing shall not be obligated to institute suit or demand arbitration in order to be entitled to recover the fees, costs, charges and expenses as set forth above.

The Scope of Services and Professional Fees and Expenses listed herein are only valid for a fixed amount of time. Should you wish to lock in our services on the terms and rates provided herein, we must *receive*, by mail, e-mail, fax, or other written communication, a signed copy of this proposal from you, absent any modifications or changes which have not previously been agreed upon by the parties in writing, within 60 days of the date listed at the top of the first page of this proposal. After the expiration of 60 days, SEB Housing reserves the right to withdraw, change, or modify this offer for affordable housing related services at its sole discretion.

Non-Solicitation and Non-Hire. The Developer, and its affiliates, parent companies, successors and assigns, covenant and agree that, without the prior written consent of SEB Housing, the Developer shall not, during the term of this Agreement or any extension thereof or for two (2) years after the termination or expiration of this Agreement, directly or indirectly recruit or otherwise solicit or induce any person who is at the time an employee or consultant of SEB Housing to terminate his/her employment with, or otherwise cease his/her relationship with SEB Housing, or hire any such employee or consultant who has left the employ of SEB Housing within two (2) years after termination of that employee's or consultant's employment with SEB Housing. The restriction against solicitation set forth above is considered by the parties to be reasonable for the purposes of protecting the business of SEB Housing. If any restriction is found by a court of competent jurisdiction to be unenforceable because it extends for too long a period of time, over too broad a range of activities or in too large a geographic area, that restriction shall be interpreted to extend only over the maximum period of time, range of activities or geographic area as to which it may be enforceable. In the event of a breach of this covenant, and in addition to any other remedy available hereunder or at law, the Developer shall pay to SEB Housing as liquidated damages a sum equal to two (2) times the annual salary of any employee of SEB Housing engaged by the Developer in violation of this provision.

Your signature affixed below shall constitute a contractual agreement between us under the terms specified above.

Brian Engler, Manager
SEB Housing LLC

Lovendale LLC
By _____
Its Authorized Representative

Date

Date