

## **Development Agreement**

Ocean View Retirement Community Limited Partnership, a Maine limited partnership (hereinafter “Ocean View”) and the Town of Falmouth, a municipality existing under the laws of the State of Maine (hereinafter the “Town”) hereby agree as of this \_\_\_ day of \_\_\_\_\_, 2015 as follows:

Whereas, on February 13, 2013, the Town sold to Ocean View the former Lunt School and the former Plummer School in Falmouth and related land, and the Town retained ownership of the former Mason/Motz School and related land;

Whereas such sale contemplated the creation of certain public/private partnerships between the Town and Ocean View relating to such properties, which have been completed other than additional landscaping of the Town Green, including: (a) the construction and ongoing maintenance by Ocean View, of a “Town green”, subject to additional landscaping and site improvements yet to be determined, located on Lot H which is owned by the Town and shown on the 11<sup>th</sup> Amended Subdivision Plat, Plummer, Lunt & Motz School Properties made for Ocean View Retirement Community Limited Partnership and Ocean View at Lunt School, LLC by Titcomb Associates, dated September 4, 2012, as revised through July 1, 2014, and recorded in the Cumberland County Registry of Deeds, Plan Book 214, Page 323 (the “Plan”); (b) the preservation of the façade of the former Lunt School (which is located on Lot K as shown on the Plan), with reasonable modifications for signage and building entrances; and (c) construction and operation of an auditorium in a portion of the former Lunt School building located on Lot K shown on the Plan, which auditorium is available for use by Ocean View, the Town, Town-related entities use and others;

Whereas the Town has located its Community Programs Department and associated Activity Center in the former Mason-Motz School located on Lot F shown on the Plan, which lot is owned by the Town;

Whereas, Ocean View has requested that the Town convey a portion of Lot H as shown on Exhibit B hereto to Ocean View to facilitate redevelopment of the former Plummer School and construction of an addition thereto for use as an affordable senior housing project as described herein;

Whereas, the Town has requested that Ocean View make certain additional improvements to the Town-owned Lot H and convey a portion of Lot G to the Town as shown on Exhibit B hereto, subject to a public easement that preserves the use thereof as open space, and covenant that the apartments in the building and proposed addition on Lot G be rented on terms consistent with the affordability guidelines of the MSHA Affordable Housing TIF program, and create a public easement over the walking trails that surround the storm water detention pond that exists along the boundary of Lots E and H; and

Whereas the parties wish to enter into this Agreement relating to further development and use of such properties;

Now, therefore, Ocean View and the Town hereby agree as follows:

1. Ocean View agrees to construct the following improvements within 6 months after substantial completion of construction of the proposed addition to the former Plummer School: (a) landscaping / hardscaping to complete the Town green, (b) landscaping / hardscaping to create a pocket park with paths, benches and additional plantings, and (c) a patio / sitting area located between and shared by the Plummer Senior Housing and Falmouth Community Programs. These improvements are represented in a conceptual context on the master plan for the property, with the details of a final landscaping and hardscaping plan for the Village Green and general surrounding area to be agreed upon by the Town and Ocean View by March 1, 2016, provided, however, that the changes shall not increase the estimated \$35,000 cost of such work. To the extent that any of the work described above is located on property owned by the Town, the Town hereby consents to the construction and maintenance of such improvements by Ocean View.

2. The Town agrees to convey to Ocean View, by deed in the form attached hereto as Exhibit B-1, upon approval by the Falmouth Planning Board of an amendment to the Plan amending the lot lines to permit such conveyance, the portion of Lot H as shown on Exhibit B and as described in the deed attached hereto as Exhibit B-1 hereto. Ocean View agrees to convey to the Town by deed in the form attached hereto as Exhibit B-2, upon approval by the Town of Falmouth Planning Board of an amendment to the Plan permitting such conveyance (and Ocean View and the Town shall use their best efforts to obtain such approval as soon as is reasonable), the portion of Lot H described in Exhibit B-2 hereto and as shown on Exhibit B hereto. Such properties shall be conveyed by Quitclaim Deed with Covenant, conveying good and marketable fee simple title to such properties, free and clear of all liens and encumbrances. The property to be conveyed by Ocean View to the Town pursuant to Exhibit B-2 shall be subject to a covenant and easement obligating Ocean View, and its successors and assigns, to keep and maintain such property in an attractive, park like condition and to maintain the Lamb Memorial Outdoor Classroom and the Binder Memorial Tree.

3. Ocean View covenants and agrees with the Town that all of the apartments to be constructed in the building and addition thereto located on the land to be conveyed to Ocean View pursuant to Exhibit B-2 hereto and in the former Plummer School located on Lot G as shown on the Plan shall be rented in accordance with the Housing for Older Persons Act at rents that meet the affordability guidelines of the MSHA Affordable Housing TIF program. Ocean View and the Town further agree that each will work in cooperation with each other if the Town decides to pursue an actual Affordable Housing TIF for the property. Proceeds from the TIF may be used for anything that meets the TIF program guidelines, as the Town may determine in its sole discretion, including funding of the proposed Falmouth Senior Community Center and other elements of the Falmouth Community Programs Center located at the Mason-Motz facility, and which may also include, if agreed to by the Town and Ocean View, provisions for an additional subsidy to apartments within the former Plummer School building and the addition

thereto, in order to make the rents, or some of them affordable to persons at levels below the affordability guidelines in the MSHA Affordable Housing TIF Program,.

4. In addition, on the terms set forth in Exhibit B-3, Ocean View will convey an easement to the Town for public access over the existing walking trails and the walking trails to be constructed that are located within approximately 60 feet adjoining the storm water management basin detention pond located on the boundary of Lots E and H so that the general public can access the walking trails around said storm water pond at the top of the Village Green (currently the property line cuts right through the pond).

In Witness Whereof, the Town of Falmouth and Ocean View Retirement Community Limited Partnership have caused this Agreement to be executed, by their duly authorized officers, as of this \_\_\_ day of \_\_\_\_\_, 2015.

Town of Falmouth

By: \_\_\_\_\_  
Nathan Poore, Its Town Manager

Ocean View Retirement Community Limited Partnership  
By: Ocean View Management Company, Its General Partner

By: \_\_\_\_\_  
John B. Wasileski, Its President

Exhibits

Exhibit A: Revised OVRC Conceptual Master Plan for re-zoning

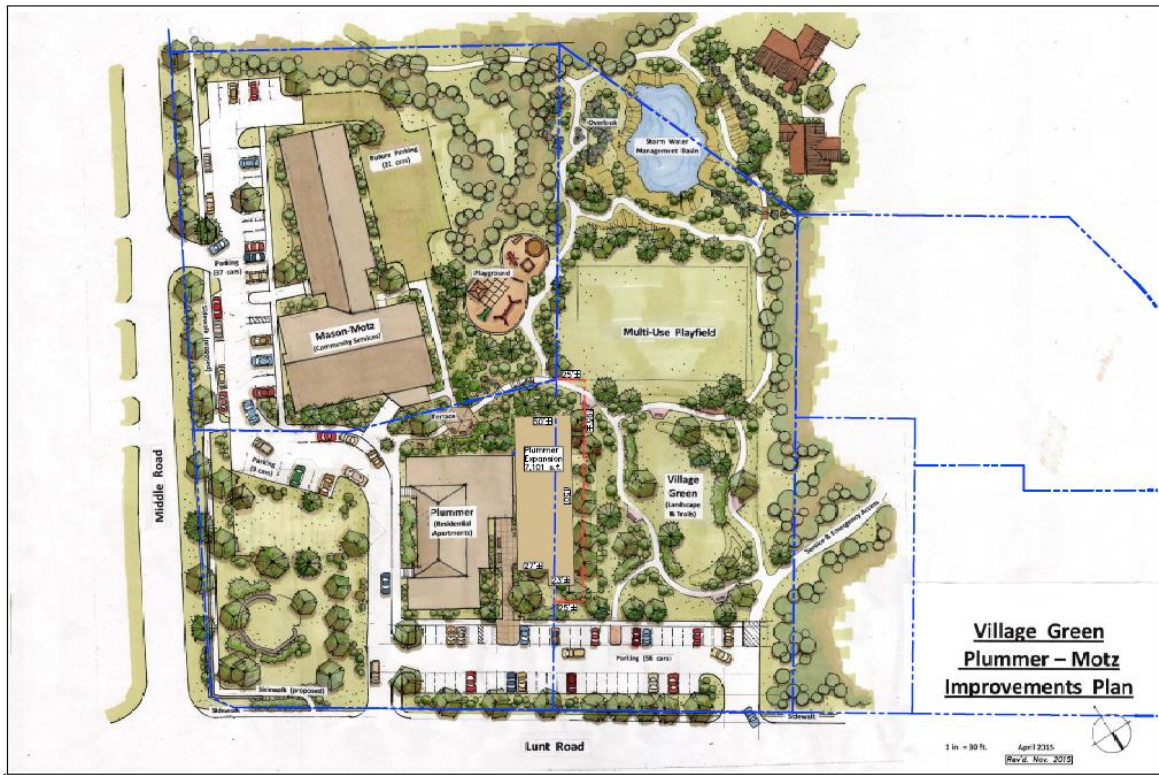
Exhibit B: Plan and legal description for the portion of land to be conveyed by Town to Ocean View and by Ocean View to the Town

Exhibit B-1 Form of Deed from Town to Ocean View

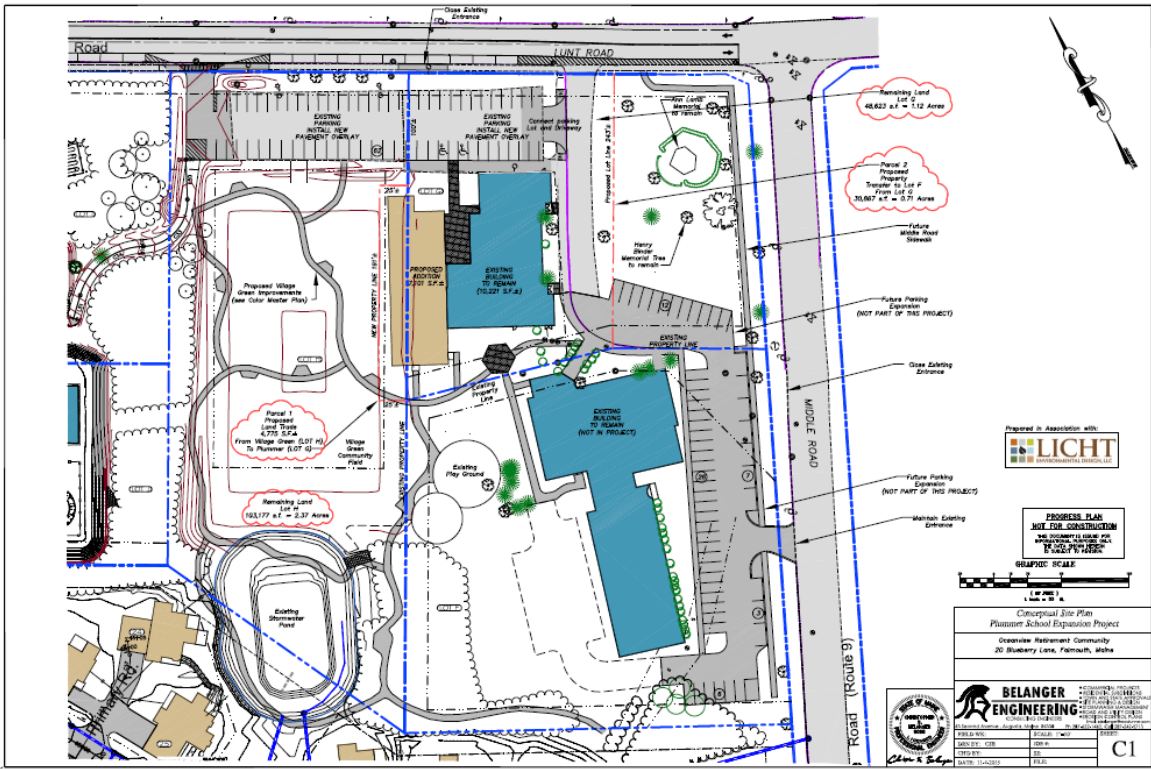
Exhibit B-2 Form of Deed from Ocean View to the Town

Exhibit B-3 Form of Easement Deed from Ocean View to the Town

**Exhibit A**  
**OVRC Conceptual Master Plan for re-zoning**



## Exhibit B Plan showing parcels to be conveyed



**Exhibit B-1**

**QUITCLAIM DEED WITH COVENANT**  
(Maine Statutory Short Form)

KNOW ALL PERSONS BY THESE PRESENTS that the Town of Falmouth, a municipality existing under the laws of the State of Maine (“Grantor”) for consideration paid, grants to Ocean View Retirement Community Limited Partnership, a Maine limited partnership, its successor and assigns (“Grantee”), whose mailing address is 22 Blueberry Lane, Falmouth, ME 04105, with **QUITCLAIM COVENANT**, the property, located in the Town of Falmouth, County of Cumberland, State of Maine, bounded and described as follows:

*[insert legal description of property conveyed approximately 4775 square feet of land]*

Together with and also hereby granting an easement over Lot H shown on the Plan for access to the property herein conveyed and said Lot G for purposes of grading, construction and maintenance of the improvements to be located by Grantee on Lot G. The rights and easements granted in the deed from the Town of Falmouth to Ocean View Retirement Community Limited Partnership, dated February 27, 2013, and recorded in said Registry, Book 30428, Page 7 shall also benefit the premises herein conveyed and Grantor hereby grants such rights and easements to Grantee, its successors and assigns.

Covenants of Grantee: Grantee covenants and agrees with Grantor, as covenants running with the land herein conveyed and with Lot G as shown on the 11<sup>th</sup> Amended Subdivision Plat, Plummer, Lunt & Motz School Properties made for Ocean View Retirement Community Limited Partnership and Ocean View at Lunt School, LLC by Titcomb Associates, dated September 4, 2012, as revised through July 1, 2014, and recorded in the Cumberland County Registry of Deeds, Plan Book 214, Page 323 (the “Plan”) that all the proposed apartments in the building and addition thereto to be constructed by Grantee on the land herein conveyed to Grantee and in the former Plummer School located on Lot G as shown on the Plan shall be rented in accordance with the Housing for Older Persons Act for a period of thirty years to households whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 412, 50 Stat. 888, Section 8, as amended in accordance with the affordability guidelines of the Maine State Housing Authority Affordable Housing TIF program.

IN WITNESS WHEREOF, the Town of Falmouth, has caused this instrument to be signed and sealed in its name by Nathan Poore, its Town Manager, thereunto duly authorized, this \_\_\_ day of \_\_\_\_\_, 2015.

WITNESS:

\_\_\_\_\_

Town of Falmouth

By: \_\_\_\_\_

Name: Nathan Poore

Title: Town Manager

Ocean View Retirement Community  
Limited Partnership  
By: Ocean View Management Company, Its  
General Partner

\_\_\_\_\_

By: \_\_\_\_\_  
John B. Wasileski, Its President

STATE OF MAINE  
CUMBERLAND, ss.

\_\_\_\_\_, 2015

Then personally appeared the above named Nathan Poore, Town Manager of the Town of Falmouth, as aforesaid, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said Town of Falmouth, before me,

\_\_\_\_\_  
Attorney at Law/Notary Public  
Printed Name: \_\_\_\_\_

**Exhibit B-2**  
**QUITCLAIM DEED WITH COVENANT**  
(Maine Statutory Short Form)

KNOW ALL PERSONS BY THESE PRESENTS that Ocean View Retirement Community Limited Partnership, a Maine limited partnership (hereinafter “Grantor”) for consideration paid, grants to the Town of Falmouth, a municipality existing under the laws of the State of Maine, its successor and assigns (“Grantee”), with **QUITCLAIM COVENANT**, the property, located in the Town of Falmouth, County of Cumberland, State of Maine, bounded and described as follows:

**[insert legal description of property conveyed approximately 30867 square feet of land]**

Covenants and Easements: Grantee covenants and agrees with Grantor, as covenants running with the land herein conveyed and for the benefit of the adjoining property owned by Grantor, that: (a) the Ann Lamb (stone circle) Memorial located on the property herein conveyed shall be preserved and shall not be altered or removed; and (b) the Henry Binder Memorial Maple Tree located on the property herein conveyed shall be preserved to the extent reasonable, and (c) the property herein conveyed shall be kept and maintained by Grantor, its successors and assigns in an attractive, park like condition and that no buildings or improvements shall be constructed thereon.

Grantor hereby excepts and reserves the following perpetual rights and easements for the benefit of the adjoining property (the former Plummer School lot G) owned by Grantor, its successors and assigns (including the premises added thereto by deed of even date from Grantee to Grantor):

A. Access: The right to pass and repass on foot and with vehicles at any and all times together with the right to enter from time to time over the driveway located on the premises herein conveyed running from Lunt Road southeasterly of the existing former Plummer School building and to install, construct, improve, maintain, repair, rebuild, replace and remove fill, pavement and other facilities and appurtenances intended to facilitate or improve or relocate such access over such premises, provided, however, that the owner of Lot G, its successors and assigns, shall have the right to relocate such access way from time to time in such manner and location as may be hereafter approved by the Falmouth Planning Board.

B. Utilities; Parking and Drainage: The rights to construct, maintain, improve, use, repair, rebuild, replace and relocate from time to time drives, parking areas and spaces, pedestrian access areas, drainage lines, pipes, swales, conduits, manholes, mains and other equipment and facilities for drainage purposes together with all necessary fixtures and appurtenances over the premises herein conveyed, and to flow and direct water into such areas running to Middle Road, together with the right to construct, maintain, improve, use, repair, rebuild, replace and relocate from time to time any and all utility lines, conduits, pipes and mains, and wires with all necessary fixtures and appurtenances through or under the premises herein conveyed for any and all utilities including but not limited to electric power, transmission and distribution lines, other energy, transmission and distribution lines, gas mains, cable-television, telephone and other



communications or intelligence lines, together with suitable and sufficient lines, pipes, cables, mains, poles and towers with sufficient foundations together with wires strung upon and extending between the same, below ground, together with all necessary facilities, fixtures, anchors, guys, crossarms, and other equipment and appurtenances and also for conveying and transmitting power, communications, drainage, water, sewerage, wastewater and other liquids and substances together with the right at all times to make connection with all of said facilities to land adjoining the premises as deemed appropriate by Grantor, its successors and assigns.

C. Landscaping. The right to enter the premises herein conveyed to landscape, use and maintain such lot and construct and maintain signs thereon, including the rights to fill, grade, landscape, seed, plant grass, trees and shrubs, to mow, cut and trim the same and to remove and replace the same from time to time in order to fulfill the maintenance covenants of Grantor that remain with the property conveyed hereby.

D. Related Rights: The right in connection with or in exercising any of the above described rights to enter such areas and to work, fill, excavate, tunnel, trench and/or landfill with such areas, and to trim, clear, cut down and remove trees and bushes to such extent as in the judgment of Grantor, its successors and assigns, is reasonably necessary or appropriate for any of the above described purposes.

IN WITNESS WHEREOF, the said Ocean View Retirement Community Limited Partnership, by its duly authorized general partner, thereunto duly authorized, has executed and delivered this deed as of this \_\_\_ day of \_\_\_\_\_, 2015.

Signed, Sealed and Delivered  
in the Presence of:

Ocean View Retirement Community  
Limited Partnership  
By: Ocean View Management Company,  
Its General Partner

\_\_\_\_\_

By: \_\_\_\_\_  
Name: John B. Wasileski, Its President

STATE OF MAINE  
CUMBERLAND, ss.

\_\_\_\_\_, 2015

Then personally appeared the above named John B. Wasileski, President of Ocean View Management Company, General Partner of said limited partnership, as aforesaid, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said limited partnership, before me,

\_\_\_\_\_  
Attorney at Law/Notary Public  
Printed Name: Ronald Epstein

**Exhibit B-3  
EASEMENT DEED**

KNOW ALL PERSONS BY THESE PRESENTS that Ocean View at Lunt School, LLC, a Maine limited liability company (hereinafter "Grantor") for consideration paid, grants to the Town of Falmouth, a municipality existing under the laws of the State of Maine, its successor and assigns ("Grantee"), with **QUITCLAIM COVENANT**, a perpetual easement for public access over the walking trails to be constructed, as located and relocated from time to time, adjoining the detention pond located on the boundary of Lots E and H so that the general public can access for walking and running, during daylight hours, the walking trails located on Lot E that are within 60 feet of the storm water management basin detention pond located at the southwesterly end of Lot H and the northwesterly end of Lot E.

IN WITNESS WHEREOF, the said Ocean View at Lunt School, LLC, by its duly authorized Manager, thereunto duly authorized, has executed and delivered this deed as of this \_\_\_ day of \_\_\_\_\_, 2015.

Signed, Sealed and Delivered  
in the Presence of:

Ocean View at Lunt School, LLC  
By: Ocean View Management Company,  
Its Manager

\_\_\_\_\_

By: \_\_\_\_\_  
Name: John B. Wasileski, Its President

STATE OF MAINE  
CUMBERLAND, ss.

\_\_\_\_\_, 2015

Then personally appeared the above named John B. Wasileski, President of Ocean View Management Company, Manager of said limited liability company, as aforesaid, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said limited liability company, before me,

\_\_\_\_\_  
Attorney at Law/Notary Public  
Printed Name: Ronald Epstein