

SHARED COSTS AND MAINTENANCE AGREEMENT

7591051

THIS AGREEMENT entered into as of the ^{6th} day of April, 1992, by and between Martha's Vineyard Community Services, Inc., a Massachusetts non-profit corporation ("MVCS") and Island Elderly Housing, Inc., a Massachusetts non-profit corporation ("IEH").

W I T N E S S E T H

WHEREAS, MVCS and Martha's Vineyard Regional High School District Committee, a body politic (the "School District") entered into that certain Lease, dated September 16, 1986, recorded at Book 481, Page 867, in the Dukes County Registry of Deeds (the "Original Lease"), as amended by that certain Amendment to Lease, dated July, 1987, recorded at Book 481, Page 884, in the Dukes County Registry of Deeds (the "Amendment to Lease"), which Original Lease, as amended by the Amendment to Lease, is hereinafter referred to as the "Lease"; and

WHEREAS, under the terms of the Lease, the School District leased to MVCS, and MVCS leased from the School District, certain land located in Oak Bluffs, Massachusetts, as more particularly described in Exhibit A to the Original Lease (the "Leased Premises") and the School District granted to MVCS, and MVCS accepted from the School District, an easement over certain land located adjacent to the Leased Premises, referred to as the "GRANTED AREA" in the Amendment to Lease, and more particularly described in Exhibit A to said Amendment to Lease; and

WHEREAS, the Lease required MVCS to construct a road across the GRANTED AREA and a portion of the Leased Premises, as more particularly shown on Exhibit "A" attached hereto and incorporated herein by reference (the "Existing Road") and permitted MVCS to construct an extension of the Existing Road across the northeasterly portion of the Leased Premises, as more particularly shown on Exhibit "B" attached hereto and incorporated herein by reference (the "Road Extension Area"); and

WHEREAS, under and in accordance with the terms of the Lease, MVCS constructed the Existing Road, but did not construct an extension of the Existing Road on the Road Extension Area; and

WHEREAS, under paragraph C of the Amendment to Lease ("Paragraph C"), the School District reserved the right to grant easements and leases to third parties to use the Existing Road and the Road Extension Area, conditioned in each instance upon the third party reimbursing MVCS for a portion of the cost of constructing the Existing Road (and any extension thereof constructed on the Road Extension Area), and entering into an agreement to share future costs of maintaining the Existing Road and the Road Extension Area; and

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WHEREAS, the School District granted an easement, dated January 7, 1991, to IEH (the "Easement") to construct an extension of the Existing Road on the Road Extension Area (the "Extension") and to use the Existing Road and the Extension to provide access and utility services to an elderly housing project to be developed by IEH (the "Project") on land owned by IEH located north of the Leased Premises and more particularly described in a deed, dated August 6, 1991, from Michael T. Putziger, Trustee of MVY Realty Trust to IEH, recorded with the Dukes County Registry of Deeds at Book 564, Page 656 (the "IEH Deed"); and

WHEREAS, the Easement has been granted subject to and conditioned upon IEH satisfying the conditions of Paragraph C of the Lease described above, and will be recorded simultaneously herewith;

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows.

1. MVCS hereby waives the right to collect any sum from IEH for reimbursement of any portion of the total amount which has already been expended by MVCS for construction of the Existing Road. after construction of the Project commences.

2. IEH agrees, at its sole cost and expense, to (a) fill in the two (2) existing potholes at the entrance to the Existing Road near the Edgartown Vineyard Haven Road and (b) construct, maintain, and repair the Extension.

3. IEH and MVCS agree to maintain and repair the Existing Road and to share the costs of maintaining and repairing same ("Maintenance Costs") as follows. Commencing on the date on which construction of the Project begins and continuing throughout the duration of the Lease and any extensions thereof, IEH and MVCS shall each pay one half (1/2) of all Maintenance Costs, as and when such Maintenance Costs are incurred. Notwithstanding the provisions of the foregoing sentence to the contrary, (a) during any period when one or more third parties other than MVCS or IEH (collectively, the "Third Parties") is obligated to contribute to Maintenance Costs incurred, under the Lease or one or more separate agreements with MVCS (collectively, the "Third Party Agreements"), IEH and MVCS shall each pay one half (1/2) of the sum arrived at by subtracting from the sum of all Maintenance Costs incurred, the amount, if any, which represents the total amount which Third Parties are obligated to contribute to such Maintenance Costs under Third Party Agreements, and (b) at no time shall MVCS be obligated to pay any sums for construction of the Extension, and (c) at no time shall MVCS be obligated pay any sums for repair or maintenance of the Extension; provided that, if MVCS shall commence, at some time in the future, to use the Extension for access to a driveway

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entrance across the northerly boundary of the Leased Premises on a regular basis, as reasonably determined by the parties hereto based on an analysis of MVCS' travel over the extension, then in that event MVCS shall share with IEH the costs of repair and maintenance of the Extension in the same manner as MVCS and IEH share the Maintenance Costs for the Existing Road in accordance with this paragraph 3, for so long as MVCS continues to use the Extension for access to the Leased Premises, as aforesaid.

4. In the event of any dispute between the parties hereto concerning the implementation of the terms of this Agreement, the parties agree to arbitrate the dispute before the Martha's Vineyard Commission, or its executive director, or an independent third party mutually agreed upon by IEH and MVCS.

5. This Agreement shall be binding upon IEH and its successors and assigns and shall run with the land which is described in the Easement and the IEH Deed for so long as the Easement is in effect.

6. This Agreement contains the entire agreement between the parties hereto regarding the subject matter contained herein and shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, without reference to choice of law provisions.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto on the date first above written.

ATTEST:

Judy McCarthy
Secretary / VICE PRESIDENT

MARTHA'S VINEYARD COMMUNITY SERVICES, INC.

BY:

Judy McCarthy
Name: Judy McCarthy
Title: President

ATTEST:

Kathleen Kopic
Secretary

ISLAND ELDERLY HOUSING, INC.

BY:

Marguerite A. Bergstrom
Name: MARGUERITE A. BERGSTROM
Title: PRESIDENT

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COMMONWEALTH OF MASSACHUSETTS

DUKES COUNTY, SS. May 4, 1992

Then personally appeared the above-named Judy McCarthy and acknowledged the foregoing instrument to be his/her free act and deed, and the free act and deed of the said Martha's Vineyard Community Services, Inc., before me,

Nancy L. Wade
Notary Public

My Commission Expires: 10-28-92

COMMONWEALTH OF MASSACHUSETTS

DUKES COUNTY, SS. April 6, 1992

Then personally appeared the above-named Marquitta Kingston and acknowledged the foregoing instrument to be his/her free act and deed, and the free act and deed of the said Island Elderly Housing, Inc., before me,

Dianna L. Smith
Notary Public

My Commission Expires: February 12, 1999

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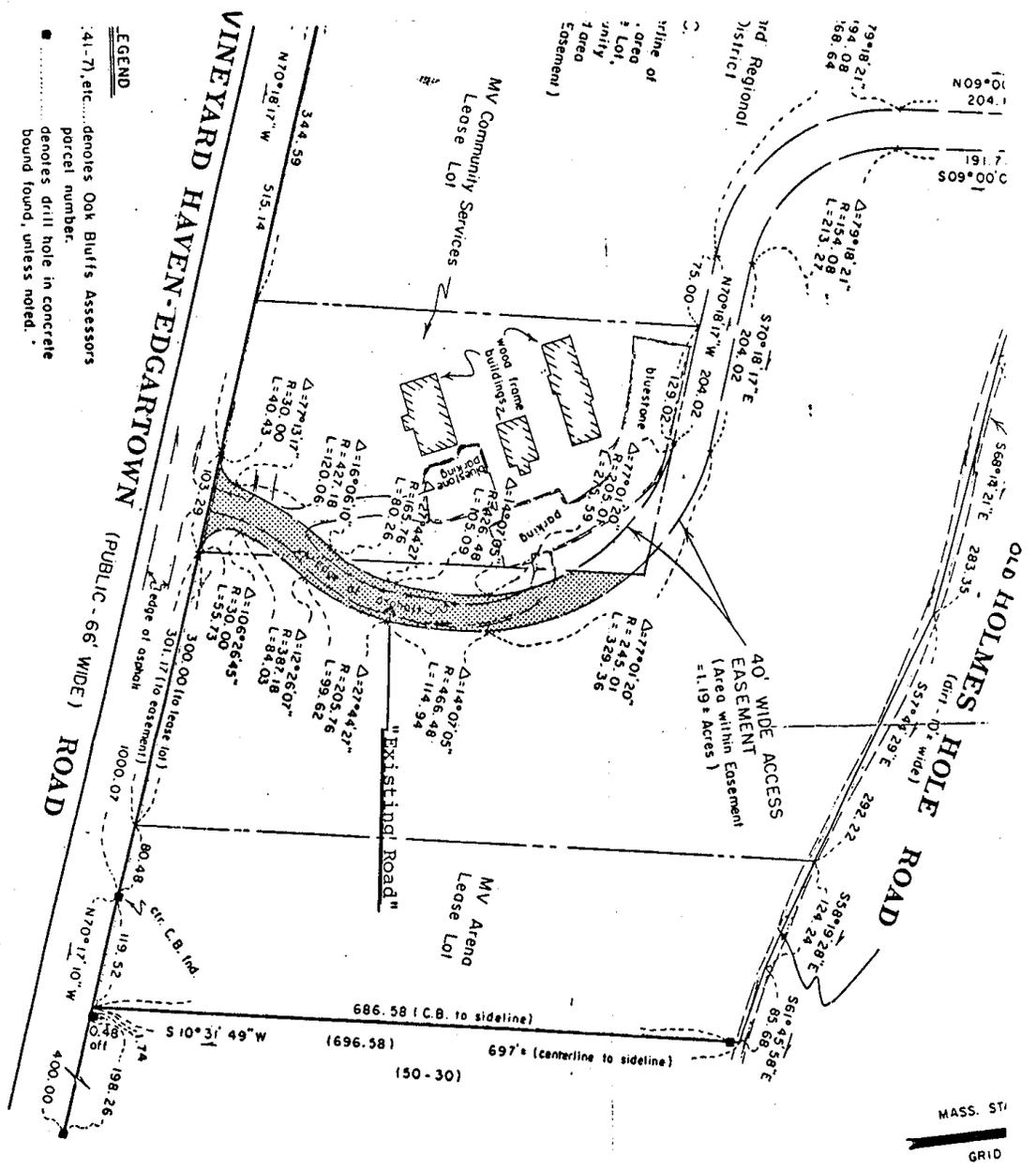
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EXHIBIT "A" to Shared Costs and Maintenance Agreement showing the "Existing Road"

LEGEND

41-71, etc. denotes Oak Bluffs Assessors parcel number.

denotes drill hole in concrete bound found, unless noted.



new ways are shown.

This survey and plan were prepared in accordance with the Procedural and Technical Standards for the Practice of Land Surveying in the Commonwealth of Massachusetts.

I certify that the preparation of this plan conforms with the rules and regulations of the Registers of Deeds effective Jan. 1, 1976 and as amended.

Professional Land Surveyor

Date: June 1990

PLAN OF LAND

OAK BLUFFS, MASS.

PREPARED FOR

ISLAND ELDERLY HOUSING, IN

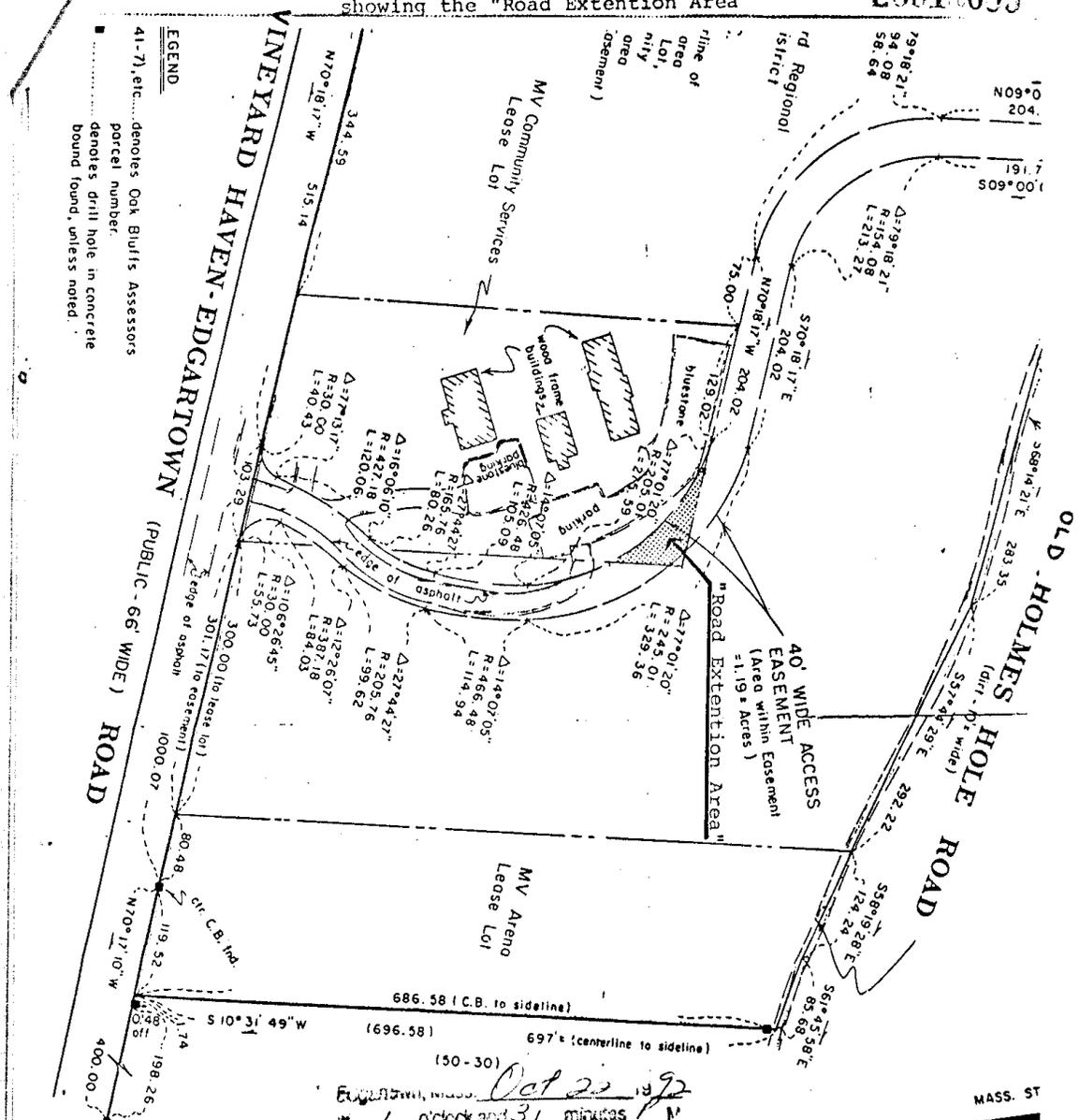
SCALE: 1" = 100' JUNE 1, 1990

SCHOFIELD BROTHERS, INC.

REGISTERED PROFESSIONAL ENGINEERS & LAND SURVEYOR: STATE ROAD, P.O. BOX 339, VINEYARD HAVEN, MA



EXHIBIT "A" to Shared Costs and Maintenance Agreement showing the "Road Extension Area" 053



EGEND
 41-7), etc... denotes Oak Bluffs Assessors parcel number.
 denotes drill hole in concrete
 bound found, unless noted.

SCALE: 1" = 100'
 JUNE 1, 1990
 SCHAFFIELD BROTHERS, INC.
 REGISTERED
 PROFESSIONAL ENGINEERS & LAND SURVEYORS
 STATE ROAD, P.O. BOX 339, VINEYARD HAVEN, MA

ISLAND ELDERLY HOUSING, INC.
 PREPARED FOR

OAK BLUFFS, MASS.
 PLAN OF LAND
 IN

Date: 1 June 1990
 Professional Land Surveyor
 Duane E. Miller

I certify that the preparation of this plan conforms with the rules and regulations of the Registers of Deeds effective Jan. 1, 1976 and as amended.
 This survey and plan were prepared in accordance with the Procedural and Technical Standards for the Practice of Land Surveying in the Commonwealth of Massachusetts.
 new ways are shown.

Received and entered with Dukes County Deed book 691 page 051
 Oct 22 1992
 697' (centerline to sideline)
 686.58 (C.B. to sideline)
 150-30

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 GRID