

TOWN OF BARRINGTON, RHODE ISLAND  
BARRINGTON TOWN COUNCIL

NOTICE OF PUBLIC HEARING

PROPOSED TAX STABILIZATION AGREEMENT

Pursuant to R.I.G.L § 44-3-9, and in accordance with the authorization of the Financial Town Meeting granted on May 27, 2015, the Barrington Town Council will hold a Public Hearing on November 12, 2015, at 7:00 o'clock P.M. in the Town Hall, 283 County Road, Barrington, Rhode Island. The Town Council will consider and may vote on a proposed Tax Stabilization Agreement and Memorandum of Agreement with Shineharmony Holdings LLC, regarding property located at 27 Middle Highway, Barrington, also known as Assessor's Plat 14, Lots 2, 4, 13, 341, 342, and 343.

All persons or agencies interested in the above matter will have an opportunity to be heard and/or to submit communications in writing. Copies of the proposed Tax Stabilization Agreement and Memorandum of Agreement may be obtained prior to the Hearing beginning November 2, 2015, at the Town Clerk's Office, Barrington Town Hall, 283 County Road, Barrington, Rhode Island 02806 between the hours of 8:30 o'clock A.M. and 4:00 o'clock P.M. on regular business days. The proposed Tax Stabilization Agreement and Memorandum of Agreement may be modified or amended prior to the close of the public hearing without further advertising, as a result of further study or because of the views expressed at the public hearing. Any modifications or amendment will be presented for comment in the course of the hearing.

Individuals with handicaps needing sign language or other assistance should call 247-1900 at least seventy-two hours in advance of the meeting date.

**PER ORDER OF THE BARRINGTON TOWN COUNCIL  
MEREDITH J. DESISTO  
TOWN CLERK**

## AGREEMENT AND MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“MOU”) is made as of the \_\_\_\_\_ day of November 2015, by and between the Town of Barrington, a Rhode Island municipal corporation (“Town”), and Shineharmony Holdings Inc. (“Shineharmony”) regarding the proposed redevelopment (“Project”) of the former Zion Bible College Campus located at 33 Middle Highway, in Barrington, and further identified as Assessor’s Plat 14, Lots 2, 4, 13, 341-343 (“Premises”).

Shineharmony, or its affiliated entity, seeks to develop the historic buildings and grounds located on the Premises into a Continuing Care Retirement Community (“CCRC”) of approximately three hundred (256) units/rooms. This Proposed Project also includes a separate age restricted cottage/residential community.

In connection with the proposed development of the premises, Shineharmony and the Town have reached agreement on two key issues affecting said development. These two issues, and the general terms of their agreement are set forth as follows:

### **I. Tax Stabilization Agreement.**

a. On May 27, 2015, and pursuant to Rhode Island General Laws § 44-3-9, the electors of the Town of Barrington at its Financial Town Meeting approved a resolution to authorize the Town Council for a period of time up to March 31, 2016, to enter into a Tax Stabilization Agreement (“TSA”) for the development of a senior residential village and associated uses located on the Premises, excluding therefrom any and all cottages which are sold to third parties by Shineharmony. Once the terms of the TSA are agreed upon between representatives of the Town and Shineharmony, then the TSA is to be ratified and voted upon by the Town Council at a public hearing. Specifically, it would be found at that hearing that the Proposed Project on the Premises would benefit the Town (i) by increasing residential senior

housing, including affordable housing, and (ii) the physical plan would result in long term economic benefit to the Town as set forth in R.I.G.L. § 44-3-9i(C),(D)(ii).

This MOU outlines the agreed upon framework given the conceptual development program, and the initial number, type, and components of the proposed development in advance of the Master Plan process, as well as detailed design and engineering. It is expected that the number, types, and components of the proposed development will evolve and change—and that the terms and agreements outlined herein will adapt in accordance.

b. The baseline tax assessment for the TSA will be the 2015 Barrington Tax Assessment of approximately \$6.0 million dollars. Under the TSA, the real estate taxes for the Premises would increase over a fifteen (15) year period starting with development/construction. At the end of the TSA period, the yearly tax revenue for the Project shall be fully assessed, as will be set forth in TSA.

c. If the Premises are (i) sold or otherwise transferred to a Tax Exempt Entity, or (ii) Shineharmony becomes a Tax Exempt Entity or any portion of the Premises becomes tax exempt during the term of the TSA period, then, unless otherwise agreed to by the Town, Shineharmony, or the subsequent Owner of the Premises shall be responsible to pay to the Town the full amount of real estate taxes that would have been due on the Premises but for the TSA set forth herein, “as will be set forth in TSA.

## **II. Affordable Housing Component.**

a. The Town and Shineharmony have reached an agreement regarding a conceptual framework to balance and restrict the units on the site within the Project with a program that provides both affordable units on the premises and sustained funding for affordable housing in the Town through the Fee in Lieu Program as defined in R.I.G.L. § 45-24-46.1.

b. Subject to modifications in the number of units in the Project that may result from economic and market forces, and/or the master plan and preliminary plan process before the Planning Board, the Town and Shineharmony have agreed to the following affordable housing

proposed figures for the Project; provided, however, that the TSA shall be cancelled and all taxes paid if the percentages set forth below in subparagraph (i) and (ii) are not met:

- i. Within the CCRC, 10% of all independent living (“IL”) and assisted living (“AL”) units would be affordable to individuals or households earning 80% AMI or less, per Rhode Island State definitions. For these purposes, Memory Care or (“ALZ”) units/rooms are not counted as AL.
- ii. No less than 25% of the for sale cottages shall be restricted and limited to individuals or households earning 120% or less of the area median income again per Rhode Island State definitions.
- iii. Implementation of the TSA is contingent upon final numbers for affordable units as approved by the Town and in accordance with the Percentages set forth in sections (i) and (ii).
- iv. A Four Hundred Thousand Dollar (\$400,000.00) contribution to the Barrington Affordable Housing Revolving Loan Fund within sixty (60) days of the issuance of a building permit by the Town will be made by Shineharmony or the appropriate affiliated entity. This contribution shall be part of the overall Fee in Lieu payment referenced in Subsection v below.
- v. Over the term of 15 years, as illustrated in Exhibit A, Shineharmony shall make Fee in Lieu payments under R.I.G.L. § 45-24-46.1 which will be made at a rate of Sixty-Seven Thousand Dollars (\$67,000.00) per unit and the intention of these Fees in Lieu is to represent the additional 15% of a 25% affordable housing component set forth in the Barrington Comprehensive Plan for this property. Said payments are shown on the attached **Exhibit A**.

c. It is acknowledged that the Town previously had a Fee in Lieu option in its Zoning Code. This section was removed in February 2012. As part of the Agreement between the parties, the Town shall work to restore the Fee in Lieu option to its Zoning Code with said new Ordinance to be in compliance with R.I.G.L. § 45-24-46.1.

Once the final Tax Stabilization Agreement is drafted and signed between the parties it shall all be binding upon the parties, their respective successors and assigns. The Agreement shall also be construed under the laws of the State of Rhode Island

IN WITNESS WHEREOF the parties have executed this Memorandum of Understanding as the day and year as first set forth above.

**Witnesses:**

**TOWN OF BARRINGTON**

\_\_\_\_\_

BY: \_\_\_\_\_  
June Speakman, Council President

**SHINEHARMONYHOLDINGS INC.**

\_\_\_\_\_

BY: \_\_\_\_\_

EXHIBIT A

Approximate Pay-in Schedule.

Year	Approx. Schedule of Total Fee in Lieu Payments *
1	0%
2	17% **
3	0%
4	1.0%
5	2.0%
6	3.0%
7	4.0%
8	5.0%
9	6.0%
10	7.0%
11	9.0%
12	10.0%
13	11.0%
14	12.0%
15	<u>12.9%</u>
	100%

\* Exact percentages and timing based upon preliminary schedule and forecast number of units as of Oct 2015

\*\* II.b.iv. A Four Hundred Thousand Dollar (\$400,000.00) contribution to the Barrington Affordable Housing Revolving Loan Fund within sixty (60) days of the issuance of a building permit by the Town will be made by Shineharmony or the appropriate affiliated entity. Based upon current unit counts, that payment represents 17% of the total commitment. As unit counts may change, \$400,000 may equate to a different percentage of the total commitment. General pattern will be maintained with adjustments spread evenly cross term.

For illustration/discussion purposes only: Application of percentages to existing number of units (as of Oct 28 2015)

Year	Approx. Payment
1	\$0
2	\$400,000
3	\$0
4	\$23,450
5	\$46,900
6	\$70,350
7	\$93,800
8	\$117,250
9	\$140,700
10	\$164,150
11	\$211,050
12	\$234,500
13	\$257,950
14	\$281,400
15	<u>\$303,500</u>
	\$2,345,000

## TAX STABILIZATION AGREEMENT

### TOWN OF BARRINGTON and SHINEHARMONY HOLDINGS INC

WHEREAS, Shineharmony Holdings Inc. (“Shineharmony”) is the owner of real property located at 33 Middle Highway, Barrington, Rhode Island, also known as Assessor’s Plat 14, (Lot numbers as assigned by the Planning Board during Master Plan Review) hereinafter referred to as the “Property”; and

WHEREAS, Shineharmony has proposed to develop a Continuing Care Retirement Community (“CCRC”), as well as a separate and independent age-restricted residential/cottage community on the Property. The approximate scale of the CCRC is a combination of Independent Living, Assisted Living and Memory Care units/beds that total approximately 256 units/rooms over multiple phases of development and construction. The cottage community seeks approximately 35 units of housing which is not subject to this tax stabilization agreement beginning after subdivision, as represented in Table A; and

WHEREAS, Shineharmony has agreed to provide 10% of all Independent Living units and 10% of all Assisted Living rooms/beds as affordable housing to households earning 80% of the area median income (“AMI”) or less; per state definitions. And, Shineharmony has agreed to provide 25% of all cottages as affordable to households earning 120% AMI or less; per state definitions. The income restrictions will be in place for a period of 30 years in accordance with *APPENDIX II: Developer Guidance for Senior Residential Village and Village Sites within the Barrington Comprehensive Community Plan: 2015 Update*; and

WHEREAS, the full build-out of the project is anticipated to be completed in two (2) distinct phases; and

WHEREAS, Rhode Island General Laws § 44-3-9 (the “Act”) authorizes, subject to certain enumerated conditions, the Town of Barrington (hereinafter “Barrington” or the “Town”), through its Town Council, for a period not to exceed twenty (20) years, to exempt and determine an amount of taxes to be paid on account of real property; and

WHEREAS, on May 27, 2015, the Financial Town Meeting voted to authorize the Town Council to enter into a tax stabilization agreement with Shineharmony, pursuant to the Act; and

WHEREAS, the tax payments contemplated to be made pursuant to this Agreement have been determined by the Town Council to be acceptable to the Town; and

WHEREAS, pursuant to the Act, the Town Council has determined that granting a tax stabilization pursuant to this Agreement will inure to the Town’s benefit by reason of Shineharmony’s willingness to redevelop the former Zion Bible College, resulting in an increase in senior residential housing in the Town;

NOW THEREFORE, the Town and Shineharmony enter into the following agreement.

**Section 1.** The findings set forth in the preceding recitals are hereby made and confirmed.

**Section 2. Definitions.** The following terms shall have the meanings set forth herein.

- (a) "Assessment" shall mean the value placed upon the land and improvements made by Shineharmony by the Town of Barrington Tax Assessor.
- (b) "Commencement Date" shall be September 1, 2017 unless mutually modified by the parties hereto. Good faith best efforts will be made to commence construction at or before this date, subject to timely approvals, financing and unanticipated market changes. The Project Site Owner may be entitled to an extension of the time for performance for a cause beyond the Project Site Owner's reasonable control. In such an event, or with evidence of continued best efforts to proceed in a timely manner, the Project Site Owner may request an extension from the Town Council. Such an approval shall not be unreasonably withheld or delayed. As evidence of good faith intent to proceed in a timely manner, it is anticipated that the Project Site Owner will continue to advance with design, engineering, entitlements and other predevelopment activities.
- (c) "Personal Property" means any and all tangible personal property including, but not limited to, all fixtures, furniture, equipment, furnishings, vehicles, computer hardware and software, informational systems, and other personal property.
- (d) "Project Site" means all of the real estate and buildings and improvements thereto located at the Property.
- (e) "Project Site Owner" means an entity with the right and interest in and to the Project Site (or portions thereof), including successors to units and/or sub-units of the Project Site.
- (f) "Project Taxable Property" means collectively, the Project Site and all Real Property Improvements thereon.
- (g) "Real Property Improvements" means any structures or improvements, including, but not limited to, buildings, parking lots/structures, and related improvements to be constructed and developed on the Project Site.
- (h) "Stabilized Tax Payments" shall mean the payments described in Section 5.
- (i) "Termination Date" means the 15th anniversary of the December 31 in which the Project Site is first assessed pursuant to Section 5 below.

**Section 3. Grant of Tax Stabilization Plan.** The Town, in accordance with the Laws of the State of Rhode Island and the authorization of the Financial Town Meeting granted on May 27, 2015, is hereby authorized to grant and does grant the Stabilized Tax Payments pursuant to Section 5.

**Section 4. Term.** The term of this Agreement shall be a period commencing upon the Commencement Date and terminating on the Termination Date.

**Section 5. Tax Exemption and Stabilization Plan.** During the term of this Agreement, tax payments shall be made by the Project Site Owner according to the schedule listed below.

**\*Table A**

Year	Assessment for CCRC Portion	Assessment for Cottage Portion
1	\$5,500,000	\$500,000
2	\$5,500,000	After subdivision – 100% assessed value
3	\$5,500,000	100% of the then assessed value
4	10% of the then assessed value	100% of the then assessed value
5	10% of the then assessed value	100% of the then assessed value
6	20% of the then assessed value	100% of the then assessed value
7	30% of the then assessed value	100% of the then assessed value
8	40% of the then assessed value	100% of the then assessed value
9	50% of the then assessed value	100% of the then assessed value
10	60% of the then assessed value	100% of the then assessed value
11	70% of the then assessed value	100% of the then assessed value
12	70% of the then assessed value	100% of the then assessed value
13	80% of the then assessed value	100% of the then assessed value
14	90% of the then assessed value	100% of the then assessed value

\*Shineharmony agrees for the duration of this agreement that the minimum amount of taxes paid to the Town of Barrington shall not fall below \$100,500 for the “CCRC Portion” and \$9,000 for the “Cottage Portion.” Taxes paid from the “Cottage Portion” shall not be used to subsidize taxes paid for the “CCRC Portion.”

**Section 6. Payment of Taxes.**

- (a) Stabilized Tax Payments due to the Town pursuant to Section 5 may be made in either a lump sum during the first quarter of the applicable tax year or in equal quarterly installments. If the quarterly payments are to be made, they shall be due on the same dates that quarterly taxes are due for all other taxpayers in the Town.
- (b) The liability for the Stabilized Tax Payments due and owing under this Agreement shall constitute an obligation of the Project Site Owner, and the Town shall be granted by the Project Site Owner, a first lien on the Project Taxable Properties, which lien shall be of the same priority and entitle the Town to the same foreclosure remedies as the lien and foreclosure remedies provided under the applicable laws and ordinances with respect to real property and personal property taxes. The Town agrees to provide notice to the Project Site Owner prior to exercising any foreclosure or other remedies available. The Project Site Owner shall have ninety (90) days to cure any alleged default under this Agreement from the date upon which notice of any alleged default is received from the

Town. Said notice shall include, with specificity, the nature of any alleged default, and the actions which the Town believes to be reasonable necessary to cure any alleged default under this Agreement.

- (c) It is understood that the Stabilized Tax Payments made hereunder are deemed by the Town to be tax payments, and the Project Site Owner making the Stabilized Tax Payments shall be entitled to all of the rights and privileges of a taxpayer in the Town. It is further understood and agreed that the Town's sole and exclusive recourse to the Project Site owner is limited to the Town's first lien on the Project Taxable Properties, however, nothing herein shall be construed to limit the right of the Town to foreclose or take any other judicial proceeding available at law for the collection of taxes.
- (d) Stabilized Tax Payments not made by the Project Site Owner as they become due shall be subject to any and all penalties allowed under Rhode Island General Laws. Failure to receive a stabilized tax bill shall not relieve the Project Site Owner of its obligation to make Stabilized Tax Payments as specified herein. If, for any reason, the Project Site Owner does not receive an appropriate stabilized tax bill, the Project Site Owner shall have the responsibility and obligation to make reasonable inquiries to the Town in order to have such a stabilized tax bill issued and thereafter to make payment of the same no later than the due dates provided herein. Stabilized Tax Payments shall be made by the Project Site Owner directly to the Town of Barrington Tax Collector's Office.

**Section 7. Effect of Failure to Make Payments.** This Agreement is conditioned upon the Project Site Owner, whether now or in the future, remaining current on tax payments pursuant to Section 5. Failure to make said timely Stabilized Tax Payments may, at the discretion of the Town, following the notice and the 90-day cure period set forth in Section 6(b), render this Agreement null and void.

Section 8. Retroactive Revocation for Failure to Satisfy Performance Milestones. In the event that the Project Owner fails to satisfy the following performance milestones, this Agreement may be nullified following the Notice and the 90-day cure period set forth in Section 6(b), and the Project Site Owner shall be reassessed for a period of one year prior to the Default any unpaid real estate taxes, penalties, and interest which remain unpaid as if this Agreement had never been executed:

- (a) Project Owner continues to proceed with all due diligence to obtain all necessary permits and approvals being secured from the municipal agencies of the Town of Barrington or the State of Rhode Island for the redevelopment of the Project Site.
- (b) Project Owner shall continue to proceed with due diligence to achieve substantial completion of construction and development of Phase 1 of the Project Site within sixty (60) months of the Commencement Date and Phase 2 of the Project site within eighty-four (84) months.
- (c) Notwithstanding anything to the contrary in this Section 8, the Project Site Owner shall be entitled to an extension of the time for performance of the preceding milestones if, for a cause beyond the Project Site Owner's reasonable control, including strikes and/or labor disputes, negative economic forces, accidents, invasion, riot, rebellion, civil commotion, insurrection, acts of terrorism against the United States' interest, any act or judgment of any court granted in any legal proceeding, acts of God such as fire, wind, or

lightning, explosion, etc., the performance milestones are delayed. In such event, the Project Site Owner may request an extension from the Town Council,

**Section 9. Transfers.** As long as the Project Site Owner or any successor or assignee owns or operates the Project Site, it will continue to pay Stabilized Tax Payments for the Project Site pursuant to this Agreement.

- (a) The Project Site Owner, or any successor or assignee, acknowledge and agree that the Project Site will be subject to taxation pursuant to the terms of this Agreement and thereafter subject to taxation pursuant to Rhode Island General Laws and the ordinances of the Town of Barrington. The Project Site Owner, or any successor or assignee, agrees that the exemption and conditions under this Agreement shall run with the land.
- (b) If the Project Site is sold to a real property tax-exempt entity, the Tax Stabilization Plan may terminate at the discretion of the Town of Barrington following the Notice and the 90-day cure period set forth in Section 6(b), and unless otherwise agreed to by the Town, the Project Site Owner/Seller shall pay to the Town an amount equal to the difference between the Stabilized Tax Payments made under the Tax Stabilization Plan and the amount of real estate taxes that would have been paid during the effective term of said plan, but for the Tax Stabilization Plan.

**Section 10. Resolution of Calculation Disputes.** The Project Site Owner and the Town of Barrington agree that the Project Site Owner retains the right to appeal the valuation or calculation of the taxes assessed.

**Section 11. Severability.** If any one section of this Agreement is found to be unenforceable, then the other provisions herein shall continue to have the same force and effect as if the unenforceable provision were not passed as part of this Ordinance.

**Section 12. Applicable Law.** This Agreement shall be construed under the laws of the State of Rhode Island.

**Section 13. Effective Date.** This Agreement shall become effective immediately upon its adoption by the Town Council.

Witness:

TOWN OF BARRINGTON

\_\_\_\_\_

By: \_\_\_\_\_  
June Speakman, Council President

Witness:

Shineharmony Holdings, Inc.

\_\_\_\_\_

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