


ANDOVER'S HOUSING TRUST FUND

- ▶ Approved in 2005 at Town Meeting
 - ▶ Over 100 communities have a Housing Trust Fund
 - ▶ It is important to have an operating Housing Trust Fund to help Andover preserve and maintain its existing affordable housing stock. The HTF:
 - ▶ Provides a place to put housing funds received by the Town of Andover
 - ▶ Helps to preserve existing affordable units
 - ▶ Potential to rehabilitate existing housing units
 - ▶ May create affordable housing
- 

How does the Trust operate?


There is a volunteer Board of Trustees. Trustees include: The Town Manager, as well as residents from the Town of Andover, Linda O'Connell, Carolyn Finlay, Chuck Wolfe, Susan Sheppard and David Currie.

What are the operating costs the Trust Fund?

The Trustees are volunteers. Town staff acts as technical assistance to the Trust. There are no additional costs of operating the Trust.



Update on the Housing Trust Fund

- ▶ The Board of Trustees meets 2 to 4 times a year.
 - ▶ There is a set of bylaws and a Declaration of Trust
 - ▶ The Housing Trust Fund account has \$107,866 as a result of one foreclosure and two market rate resales (units were in need of repairs).
 - ▶ Funds were dispersed from the account only once for a consultant to create a First Time Home Buyer program in 2010.
 - ▶ The Board discusses and facilitates federal and state grant opportunities, such as North Shore HOME Consortium grants.
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Protection offered by the Housing Trust Fund

- ▶ Helps to preserve the equity of the unit and the town's interest in the unit.

**Existing
Affordable
Unit**



FORECLOSURE Bank sells unit at market price when the Town cannot purchase the unit.

FOR SALE and an income-eligible buyer is not found (as in the case at Brookside Estates). Unit is then sold at market price.

No Housing Trust Fund,
Equity is lost


Market Price = \$200,000
Affordable Price = \$168,000
Difference = \$32,000

Housing Trust Fund,
Equity is retained because
the difference is
deposited into the HTF
for a future project.

Overview of What the Trust can do:

The Board of Trustees may do the following:	With <u>approval</u> from the Board of Selectmen:	With the <u>approval</u> of the Board of Selectmen <i>and</i> Town Meeting (2/3):
<p>to employ advisors and agents, such as consultants, accountants, appraisers and lawyers as the trustees deem necessary</p>	<p>to accept and receive property (real or personal) by gift, grant, devise, or transfer from any person, firm, corporation or other public or private entity including without limitation, grants of funds or other property tendered to the trust in connection with provisions of any zoning or other by-law</p>	<p>to sell, lease, exchange, transfer or convey real property and to abandon any property which the trustees determine not to be worth retaining</p>
<p>to pay reasonable compensation and expenses to all advisors and agents</p>	<p>to purchase and retain real or personal property</p>	<p>to incur debt, to borrow money on such terms and conditions as the trustees deem advisable, and to mortgage and pledge trust assets as collateral</p>
	<p>to disburse trust funds for the purpose of making loans or grants in furtherance of the creation or preservation of affordable housing in Andover</p>	

In sum, the Housing Trust Fund is one tool to help Andover

- ▶ Maintain at least the 10% affordable housing inventory in order to be selective in approving future 40B proposals
 - ▶ Preserve existing affordable units
 - ▶ Create grants for first time home buyers or other affordable housing opportunities
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MEMO

To: Andover Board of Selectmen

From: Robert Lavoie, Esq., Johnson & Borenstein On behalf of Pulte Homes of New England LLC

Date: January 19, 2017

Subject:

1. Request for approval and signature of documents relating to Riverside Woods
(Special Permit SP15-01 Special Permit for Senior Residential Community Overlay District)

(A) Age Restriction: Subsection 8.8.5.8.15 and Special Permit Condition 34

(B) Affordability Restriction: Subsection 8.8.5.8.h

(C) Monitoring Agreement: Subsection 8.8.5.8.j

(D) LIP Application to DHCD

2. Introduction of Deed conveying the 7.207 acre Open Space Parcel (Proposed Lot 2) to the Town, in the care, custody and control of the Conservation Commission pursuant to Subsection 8.8.5.7

1. In July 2016, Pulte Homes of New England, LLC (Pulte) closed on its purchase of 459 River Road consisting of Proposed Lot 1 and Proposed Lot 2, comprising over 22 acres of land. The Closing marked the culmination of several years of hard work by and among the Andover Planning Board, Pulte and Avis. An important step was the issuance of the 10/30/15 Planning Board Special Permit SP15-01, under the Town's relatively new amendment to the Zoning Bylaw, creating the Senior Residential Community Overlay District (SRCOD) at the Franciscan Center on River Road.

2. Last week on Tuesday 1/10/17, Pulte was before the Planning Board for a "1st reading" for the first 3 documents noted above, as well as the proposal that Planning Board consider a Minor Modification, which would have been necessary only in connection with Pulte's now-eliminated previous request that the Open Space continue to be designated for Andover Village Improvement Society (Avis), and the use of a Conservation Restriction. Pulte will appear before the Planning Board on Tuesday 1/24/17 for a Second Reading and for action approving Documents A, B, and C.

3. As of last Thursday 1/12/17, Pulte agreed to convey the 7.207 acre Open Space Parcel (Proposed Lot 2) to the Town, in the care, custody and control of the Conservation Commission. On 1/17/17, Pulte made a presentation to the Conservation Commission and delivered Item #2, the proposed Deed conveying the 7.207 acre Open Space Parcel (Proposed Lot 2) to the Town, in the care, custody and control of the Conservation Commission. At its Feb. 7, 2017 meeting the Conservation Commission will resume its review and is expected to act on the acceptability to the Conservation Commission of the proposed Deed conveying the 7.207 acre Open Space Parcel to the Town.

4. Attached is an 11 Item Memorandum, which identifies the 5 remaining documents which under the Zoning Bylaw currently require the review, approval and signature of the Selectmen:

2. Subsection 8.8.5.8.15: Age Restriction

3. Subsection 8.8.5.7: Deed conveying the 7.207 acre Open Space Parcel (Proposed Lot 2) to the Town, in the care, custody and control of the Conservation Commission

4. Subsection 8.8.5.8.h: Affordability Restriction

5. Subsection 8.8.5.8.j: Monitoring Agreement

11. LIP Application to DHCD

5. Our office drafted items 2, 4, and 5; and has worked with the Andover Town Counsel, to refine and revise said 4 documents to make them satisfactory to Town Counsel “as to form”. On Monday 1/23/17, items 2, 4 & 5 are understood to be acceptable to Town Counsel “as to form”.

6. On Item 4, the Affordability Restriction (the “Local Restriction”) was circulated to the Dept. of Housing and Community Development (DHCD). DHCD responded last week on 1/13/17, and the redline was circulated to Town Counsel and the Planning Department on 1/13/17. On Thursday 1/19/17, Town Counsel made its final revisions. Since the Planning Board Special Permit 15-01 speaks in terms of provisions being included to the extent agreeable with DHCD, we respectfully submit that the DHCD-approved format would be approvable by the Board of Selectmen and the Planning Board.

7. The Local Initiative Program (LIP) application is in the standard format required by the Department of Housing and Community Development (DHCD), and the Board of Selectmen have reviewed, approved and signed various similar LIP applications for other affordability projects, ensuring that maximum 21 of the 30 Affordable Senior Housing units will be counted in Andover’s favor on the State’s Affordable Housing Inventory.

8. At the Selectmen’s meeting on 1/9/17, Item 3, the 7.207 acre Open Space parcel was still being proposed as a conveyance to Andover Village Improvement Society (Avis), with the Town of Andover receiving a Conservation Restriction. As noted in Paragraph 3 above, the Conservation Restriction became too cumbersome, and Avis graciously agreed to step aside and allow the Town of Andover, in the care, custody and control of the Conservation Commission to take ownership of The Open Space Lot 2. A Draft Deed was circulated Thursday evening 1/12/17, which was refined on Saturday and Monday. On Tuesday 1/17/17, the attached version (with easements) was circulated, and was delivered by us in person to the Conservation Commission at its 1/17/17 meeting. The discussion was very preliminary, with the Conservation Commission voting to take up the matter at its Tuesday 2/7/17 meeting. On Monday 1/23/17, Pulte’s expectation is that the Selectmen would be willing to allow a very brief overview of the 1/17/17 Open Space Deed to be made, understanding that Town Counsel will need additional time to raise concerns, which concerns are certainly capable of being quickly addressed by Pulte.

9. Consequently, the following Board of Selectmen action is respectfully requested by Pulte:

Motion that the Board of Selectmen

(a) approve the format of the proposed Declaration of Age Restriction, and authorize the signing of the same;

(b) approve the format of the proposed Local Affordability Restriction and authorize the signing;

(c) approve the format of the proposed Monitoring Agreement and authorize the signing of the same by the Town Manager; and

(d) approve the format of the proposed LIP, and authorize the signing of the same by the Board Chair and the Town Manager as applicable

all conditioned upon the Town Counsel’s “Approval As to Form” of said documents.

Riverside Woods

Documents Prerequisite to Building Permit

(as contained in Zoning Bylaw 8.8 Senior Residential Community and in Special Permit Conditions)

(+ = require action by the Board of Selectmen)

1. Condition 44: recorded Sewer IMA completed; recorded 7/19/16 at Book14713-26;
- +2. Subsection 8.8.5.8.15: Age Restriction revised 1/9 as requested by Town Counsel (Also mentioned in SP15-01 Condition 34)**
- +3. Subsection 8.8.5.7: Open Space now to be deeded to Town in the care custody and control of the Conservation Commission**
- +4. Subsection 8.8.5.8.h: Affordability Restriction last revised 1/12/17 By DHCD in order to qualify for MGL c.184 certification by DHCD**
- +5. Subsection 8.8.5.8.j: Monitoring Agreement revised 12/27/16 by Town Counsel**

Other documentation from Pulte not related issuance of 1st building permit:

6. Pedestrian Easement: Condition 47 -- to be submitted and approved prior to the last building permit
7. Parking easement: Condition 49 -- to be submitted and approved prior to the last building permit
8. Condominium documents: Condition 54 -- to be submitted and approved prior to sale of 1st unit
9. Regulatory Agreement: submitted 11/29/16 to Town Counsel
10. Deed Rider: submitted 11/29/16 and deemed satisfactory by Town Counsel 12/27/16
- + 11. LIP Application submitted 12/1/16 to DHCD and to Andover Selectmen: Selectmen to review at 2nd reading on 1/23/17**

(final)

DECLARATION OF AFFORDABLE HOUSING RESTRICTION

Pulte Homes of New England, LLC, a Michigan Corporation of 115 Flanders Road, Westborough, MA 01581 (“**Pulte**” or the “**Declarant**”), hereby declares and does hereby grant with quitclaim covenants to the Town of Andover, a Massachusetts municipal corporation acting by and through its Planning Board (the “**Planning Board**”) with a usual place of business at Andover Town Office building at 36 Bartlett Street, Andover MA 01810 (“**Andover**” or the “**Municipality**”), the following described Affordable Housing Restriction (“**Restriction**”) which shall burden a portion of the improvements to be constructed on that certain parcel of land located in Andover, Massachusetts, known as 459 River Road, as more particularly described in the Deed recorded at Essex North District Registry of Deeds in Book 14713, Page 190 and being more particularly shown as Lot 1 (the “**Property**”) on a Plan entitled “Plan of Land -- Pulte Homes -- dated 03/08/16 prepared by Control Point Associates, Inc. (the “**2016 ANR Plan**”) recorded with Essex North District Registry of Deeds as Plan #17443;

WHEREAS, Pulte intends to construct a senior housing residential development for residents who have attained the age of 62 on the Property to be known as “**Riverside Woods**” (the “**Project or Project Site**”);

WHEREAS, the Project is to consist of a Condominium Project including a total number of two hundred (200) condominium units (the “**Units**”); and

WHEREAS, the Andover Planning Board, following notice and public hearing, approved a Special Permit pursuant to Section 8.8 of the Andover Zoning Bylaw under the Senior Residential Community Overlay District, namely Decision: SP 15-01 which was issued on October 30, 2015 and filed that date with the Andover Town Clerk’s Office and is recorded with Essex North District Registry of Deeds in Book 14713 Page 278 (the “**Special Permit**”).

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, and in order to comply with the provisions of Special Permit, Pulte does, for itself and its successors and assigns hereby forever covenant and agree for the benefit of the Town, acting through its Planning Board, and for the benefit of all future owners of the Property and Units within Riverside Woods as follows:

1. The **Special** Permit authorizes the construction of 200 age restricted dwelling units and other improvements on the Property. According to Condition Number 26 of the **Special** Permit, in perpetuity, thirty (30) of the units within the Project shall be “affordable units”, as defined in

Section 8.8.5.8 of the Andover Zoning By-Law, (the “Affordable Units”). Declarant shall comply in all respects with the conditions of the Special Permit pertaining to the Affordable Units to the extent permitted by law and by the Department of Housing and Community Development (DHCD). The Affordable Units are described in more detail in the **Special** Permit and the plans referenced therein. Of the affordable units, the Declarant shall set aside units representing all three income levels as follows: 30% shall serve low income persons, 40% shall serve moderate income persons and 30% shall serve upper-moderate income persons, as those income levels are defined in Section 8.8.5.8 of the Andover Zoning By-Law. If the Project is approved by DHCD under the Local Initiative Program, the asset limitations of the LIP Program shall also apply. Affordable units shall be dispersed throughout the buildings and shall be compatible with and generally comparable to the market-rate units in terms of location, quality and character. In addition, Declarant shall comply with the following condition excerpted from the Special Permit:

32. Recognizing the importance of preserving affordable units for future generations, the Andover Housing Partnership has recommended that a fund be established to assist with rehabbing the thirty (30) units upon resale. As agreed upon by the Declarant one percent (1%) of the sale of each affordable unit shall be deposited into the Andover Affordable Housing Trust Fund Account, specifically identified for the future renovation or rehab of affordable units at Andover Woods;

Prior to marketing or otherwise making available for sale any of the Affordable Units, the Declarant must obtain the Monitoring Agent’s approval of a marketing plan for the Affordable Units. Such marketing plan must set forth a plan for affirmative fair housing marketing of the Affordable Units and effective outreach to protected groups underrepresented in the Municipality. At the option of the Municipality, and provided that the affirmative fair housing marketing plan for the Affordable Units demonstrates (i) the need for the local preference (e.g., a disproportionately low rental or ownership affordable housing stock relative to need in comparison to the regional area), and (ii) that the proposed local preference will not have a disparate impact on protected classes, the marketing plan may also include a preference for local residents for up to seventy percent (70%) of the Affordable Units, subject to all the provisions of 760 CMR 67.00 and DHCD’s Comprehensive Permit Guidelines, provided that any local preference shall apply only to the initial sales of the Affordable Units by the Declarant. The marketing plan must comply with all applicable statutes and regulations.

2. Section 8.8.5.8.h of the Andover Zoning By-Law requires the recording of an “affordable housing restriction,” in a form approved by the Planning Board and town counsel, senior to any liens on the Project Site to protect the continued availability of the requirement for the Affordable Units in the event of any foreclosure, bankruptcy, refinancing or sale.

3. This Restriction shall prohibit the use of the Affordable Units, when constructed on the Project Site, for any use except residential use by persons who qualify as low or moderate or upper-moderate income persons as defined in Section 8.8.5.8 of the Andover Zoning By-Law, and the Special Permit. An Affordable Housing Deed Rider shall be recorded with the Deed for each Affordable Unit. This Restriction shall burden only the Affordable Units, which shall be those units for which an Affordable Housing Deed Rider has been recorded and shall not burden

the remainder of the units in which no such deed rider has been recorded or the Project Site. Declarant shall also record a Local Initiative Program Regulatory Agreement and Declaration of Restrictive Covenants for Ownership Project (“Regulatory Agreement”), if the Project is approved by DHCD under the Local Initiative Program.

Declarant shall comply in all respects with Section 8.8.5.8 of the Andover Zoning Bylaw entitled “Affordability,” to the extent permitted by law and by DHCD. Pursuant to Section 8.8.5.8.k, Declarant shall engage a Monitoring Agent to ensure that the declarant that is abiding by its obligations relative to the affordable units pursuant to the Special Permit, and shall enter into a Monitoring Agreement with the Monitoring Agent that will be subject to the approval of the Andover Planning Board.

The Monitoring Agent shall monitor resales of Affordable Units (including review of income and asset certifications, deeds, Regulatory Agreement, Deed Riders, and Affordable Housing Restrictions) for compliance with the terms of this Affordable Housing Restriction, the Regulatory Agreement and Deed Rider and issuance of certifications, as appropriate, in connection with approval of resales. The Monitoring Agent shall also locate and select, or provide assistance to the Municipality in locating and selecting, Eligible Purchasers, including without limitation, ensuring compliance with the approved Marketing Plan and lottery process. On resale of an Affordable Unit, at the request of the purchaser, the Monitoring Agent shall, if necessary under the terms of the Affordable Housing Restriction, Regulatory Agreement and Deed Rider, issue a new Resale Price Certificate recalculating the Resale Price Multiplier in accordance with the terms of the Affordable Housing Restriction and Deed Riders, and the purchaser may record the new Resale Price Certificate immediately after the recording of the deed to such Affordable Unit. The Resale Price Multiplier set forth in the most recently recorded Resale Price Certificate shall apply to each subsequent resale of the Affordable Unit.

In the event of a violation of the provisions of this Restriction, the Regulatory Agreement or a Deed Rider, the Monitoring Agent shall have the right to take appropriate enforcement action against the affordable unit owner or the affordable unit owner's successors in title, including, without limitation, legal action to compel the affordable unit owner to comply with the requirements of this Restriction, the Regulatory Agreement or the Deed Rider. This Restriction hereby provides for payment by the affordable unit owner of fees and expenses (including legal fees) of the Monitoring Agent in the event enforcement action is taken against the affordable unit owner hereunder. The Monitoring Agent is hereby granted a lien on the unit, junior to the lien of any institutional holder of a first mortgage on the affordable unit to secure payment of such fees and expenses. The Monitoring Agent shall be entitled to seek recovery of its fees and expenses incurred in enforcing this Restriction against the affordable unit owner and to assert a lien on the relevant affordable unit to secure payment by the affordable unit owner of such fees and expenses.

The Municipality shall have the right to enforce this Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, in addition to, and not in limitation of, any other rights and remedies available to the Municipality. Any election by the Municipality as to the manner and timing of its right to enforce this Restriction,

or otherwise exercise its rights hereunder, shall not be deemed or construed to be a waiver of such rights.

The burdens of this Restriction shall run with the land, and shall be enforceable against the Declarant and the successors and assigns of the Declarant holding any interest in the Project Site. The Municipality is authorized to record or file this Restriction, and any other notices or instruments appropriate to assuring the enforceability of this Restriction.

Upon request by the Declarant, the Municipality shall within twenty (20) days execute and deliver to the Declarant any document, including an estoppel certificate, which certifies the Declarant's compliance with any obligation of the Declarant contained herein. Failure by the Municipality to respond such request within said twenty (20) day period shall be deemed a certification of compliance and a waiver by the Municipality of any claims hereunder.

Declarant shall record this Declaration of Affordable Housing Restriction executed by Declarant and the Board of Selectmen with the Essex North District Registry of Deeds, together with a Certificate of Approval executed by DHCD under G.L. c. 184, and provide a certified copy thereof to the Municipality prior to obtaining Declarant's first Building Permit, in accordance with Section 8.8.5.8 of the Andover Zoning Bylaw.

4. Pulte does hereby declare, represent, covenant and warrant as follows:

(a) Pulte (i) is a limited liability company duly organized under the laws of the State of Michigan and is qualified to transact business under the laws of the Commonwealth of Massachusetts, (ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted, and (iii) has the full legal right, power and authority to execute and deliver this Declaration of Affordable Housing Restriction (hereinafter the "Restriction").

(b) The execution and performance of this Restriction by Pulte (i) will not violate or, as applicable, has not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, and (ii) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the is a party or by which it or the Project is bound, and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature.

(c) Pulte will, at the time of the delivery and recording of this Restriction, have good and marketable title to the premises constituting the Project free and clear of any lien or encumbrance which would prevent use of the Property for the Project or which would prevent the execution and recording of this Restriction.

(d) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of Pulte, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would materially impair its right to carry on business substantially as now conducted (and as now contemplated by this Restriction).

5. This Restriction shall be governed by the laws of the Commonwealth of Massachusetts. Any amendments to this Restriction must be in writing and consented to in writing by Pulte and the Municipality acting by its Planning Board. The invalidity of any clause, part, or provision of this Restriction shall not affect the validity of the remaining portions hereof.
6. The Declarant agrees to file this Restriction with the Essex North Registry of Deeds, and to forward recorded copies of this Restriction to the Planning Board within thirty (30) days of recording.
7. This Restriction shall be binding upon and inure to the benefit of the owner of the Property, the owners of Units in the proposed condominium, and any successors in interest to the Property, it being the express intention and understanding and agreement that this Restriction shall constitute a Restriction running with the land. Each and all of the Restrictions and provisions of the Restriction shall be incorporated by reference into and shall be referenced in all future affordable unit deeds for in the Condominium.
8. This Restriction shall also be and is for the benefit of the Municipality, its successors and assigns.
9. This Restriction shall run with the Property in perpetuity from the date of recordation in the Essex North District Registry of Deeds and shall be binding upon Declarant, Declarant's successors and assigns, and any other party having an ownership interest in said Property or claiming to have an interest with respect to said Property as tenants, invitees, licenses or otherwise, and all of the respective heirs, successors, grantees, mortgagees, assigns, agents, contractors, subcontractors and employees of the foregoing. This Restriction is hereby intended and declared to be a Restriction in perpetuity held by a governmental body as defined in and with the benefit of M.G.L. c. 184, § 32 and no re-recordation of this Restriction under G.L. c. 184, §§23-30 or any other law shall ever be necessary in order to maintain the full legal effect and authority thereof and Declarant and its successors and assigns, hereby waive all their legal right to and shall forego any action in law or equity of any kind whatsoever attempting to contest the validity of any provision of this Restriction and shall not, in any enforcement action, raise the invalidity of any provision of this Restriction.
10. This Restriction shall not be modified, amended, changed, or terminated or waived without the consent of the Declarant (or Declarant's successor) and the consent of the Municipality and DHCD. The Declarant as well as the Municipality and DHCD, may enforce and, if necessary, extend this Restriction in accordance with applicable law. Declarant agrees for itself, and its heirs, successors and assigns to execute and record such notices of restriction as are required to extend this Restriction in perpetuity in accordance with applicable law. The Municipality is hereby declared to be a benefited party to and a holder of this Restriction and the Declarant hereby appoints the Municipality as its attorney-in-fact to execute, acknowledge, deliver and record any such notice or instrument on its and/or their behalf, including, but not limited to any notice or instrument which may at any time be necessary to maintain this Restriction in effect in perpetuity. Without limiting the foregoing, the Declarant and its successors and assigns agree to execute any such notices and instruments upon request of the Municipality.

11. The Municipality shall have the authority and right to enforce this Restriction as a benefited party. The Municipality shall have the right to enter the Property in a reasonable manner and at reasonable times, for the purposes of (i) inspecting the Property to determine compliance with this Restriction; (ii) enforcing this Restriction; and (iii) taking any other action which may be necessary or appropriate. The Municipality shall have the right to bring proceedings at law or equity against any party or parties violating or attempting to violate the terms of this Restriction to enjoin them from so doing and to cause any such violation to be remedied, after providing written notice to such party or parties and the Municipality shall recover its attorney's fees and costs in any action of enforcement.

12. If any court or other tribunal of competent jurisdiction determines that any provision of this Restriction is invalid or unenforceable, such provision shall be deemed to have been modified automatically to conform to the requirements for validity and enforceability as determined by such court or tribunal. In the event the provision invalidated is of such a nature that it cannot be so modified, the provision shall be deemed deleted from this instrument as though it had never been included herein. In either case, the remaining provisions of this instrument shall remain in full force and effect.

13. Any election by the Municipality as to the manner and timing of its right to enforce this Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

14. Declarant and Declarant's successors and assigns, including all subsequent owners of the Property or portions thereof, shall inform a potential purchaser in writing of this Declaration of Restriction and shall incorporate this Declaration of Restriction, in full or by reference, into all deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer by which an interest in and/or a right to use the Property or any portion thereof is conveyed.. Any such deed purporting to convey any portion of the Property or interest therein without including this Restriction in full or by reference shall be deemed and taken to include said Restriction in full even though said Restriction is not expressly described or referenced therein.

15. No amendment or release of this Restriction shall be effective unless it has been approved in writing by the Municipality acting by its Planning Board (hereinafter the "Town Approval") and by the DHCD and said amendment or release and the requisite Town Approval and DHCD Approval have been recorded with the appropriate Registry of Deeds and/or Land Registration Office.

16. Pulte intends, declares and Restrictions on behalf of itself and its successors and assigns (i) that this Restriction and the Restrictions, agreements and restrictions contained herein shall be and are Restrictions running with the land, encumbering the Project for the duration of this Restriction, and are binding upon Pulte's successors in title, (ii) are not merely personal Restrictions of Pulte, and (iii) shall bind Pulte, its successors and assigns and inure to the benefit of Andover and its successors and assigns for the for the duration of this Restriction. Pulte hereby agrees that any and all requirements of the laws of the Commonwealth of Massachusetts required to be satisfied in order for the provisions of this Restriction to constitute restrictions and Restrictions running with

the land shall be deemed to be satisfied in full and that any requirements of privity of estate are also deemed to be satisfied in full.

17. Pulte represents and warrants that it has not mortgaged the Property and does not require the consent of any mortgagees of the Project to the execution and recording of this Restriction.

For Declarant's title to the the Project Site, see the deed recorded at the Essex North Registry of Deeds in Book 14713, Page 190.

[Signature page follows]

EXECUTED as an instrument under seal as of the ____ day of _____ 2017.

DECLARANT:

Pulte Homes of New England, LLC,
a Michigan limited liability company

By: _____
Name:
Title: Duly Authorized Signatory

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

January __, 2017

On this ____ day of January, 2017, before me, the undersigned notary public, personally appeared _____, Authorized Signatory for **Pulte Homes of New England, LLC**, proved to me through satisfactory evidence of identification, which was that he is personally known to me to be the person whose name is signed on this document and acknowledged to me that he signed it voluntarily for its stated purpose, and that he has the authority to sign in that capacity.

Notary Public

My Commission Expires:

APPROVAL OF BOARD OF SELECTMEN

We, the undersigned Board of Selectmen of the Town of Andover, Massachusetts, approve the foregoing conveyance to said Town.

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this _____ day of _____, 201___ before me, the undersigned notary public, personally appeared _____, member of the Andover Board of Selectmen, who proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily, in the capacity indicated, and that he has the authority to sign in that capacity.

Notary Public
My Commission Expires:

**RIVERSIDE WOODS
ANDOVER, MA
DEVELOPED BY PULTE HOMES OF NEW ENGLAND
AFFORDABLE HOUSING LOTTERY PROGRAM
JWO CONSULTANT SERVICES
P.O. BOX 323
WESTWOOD, MA 02090
781.329.8201**

November 30, 2016

Andrew P. Flanagan
Andover Town Manager
36 Bartlet Street
Andover, MA 01810


Dear Mr. Flanagan:

I am submitting to you the Local Action Units (LAU) application for the Riverside Woods development. I have completed the application and marketing materials in my role as the Lottery Agent for the project. I am also attaching copies of the Special Permit for the project, and the preliminary price worksheet that was completed by Monitoring Agent (Andover Community Trust) and approved by DHCD. The other documents that are listed on page 5 of the LAU application will be provided to DHCD and the Town with the Regulatory Agreement (RA). The RA is being prepared by the developer's legal counsel and should be forwarded to the Town shortly.

The LAU application must be submitted to DHCD as soon as possible so that their review can be completed in a timely manner. We hope to begin marketing by late spring or summer so that affordable buyers will be qualified for the first phase of units that will be completed in 2017.

Thanks you for your assistance with this application. Please contact me at 781-329-8201 or by email at jillonderdonk@gmail.com if you have any questions.

Sincerely yours,


Jill Onderdonk
Lottery Agent

**RIVERSIDE WOODS
ANDOVER, MA
DEVELOPED BY PULTE HOMES OF NEW ENGLAND
AFFORDABLE HOUSING LOTTERY PROGRAM
JWO CONSULTANT SERVICES
P.O. BOX 323
WESTWOOD, MA 02090
781.329.8201**

November 30, 2016

Rieko Hayashi
Dept. of Housing & Community Development
100 Cambridge Street, Suite 300
Boston, MA 02114


Dear Rieko:

I am submitting to you the Local Action Units (LAU) application for the Riverside Woods development. I have completed the application and marketing materials in my role as the Lottery Agent for the project. I am also attaching copies of the Special Permit for the project, and the preliminary price worksheet that was completed by Monitoring Agent (Andover Community Trust) and approved by DHCD. The other documents that are listed on page 5 of the LAU application will be provided to DHCD and the Town with the Regulatory Agreement (RA). The RA is being prepared by the developer's legal counsel and should be forwarded to the Town shortly.

The LAU application must be submitted to DHCD as soon as possible so that their review can be completed in a timely manner. We hope to begin marketing by late spring or summer so that affordable buyers will be qualified for the first phase of units that will be completed in 2017.

Thanks you for your assistance with this application. Please contact me at 781-329-8201 or by email at jillonderdonk@gmail.com if you have any questions.

Sincerely yours,


Jill Onderdonk
Lottery Agent

Community Support Narrative, Project Description and Documentation

Please provide a description of the project, including a summary of the project's history and the ways in which the community fulfilled the local action requirement.

Riverside Woods is a new Senior Housing development located at 459 River Road in Andover, MA. This seventy acre parcel of land was formerly the site of St. Francis Seminary and has been sold and divided into this senior housing development and housing units for the Melmark School. Riverside Woods will include over seven acres of protected open space when all of the housing units are completed. A total of two hundred units of Senior Housing will be constructed.

This project was approved by Special Permit under the Andover Senior Residential Overlay District zoning for senior residents 62 years old or older. This development will include four buildings with garden style condominium units and fourteen detached town homes along the frontage area of River Road. The garden style units will be a mixture of one and two bedroom units with fifteen percent of each building providing a combination of one and two bedroom affordable units. Parking will be provided underneath each building with four levels of housing units above the parking. The affordable units will be marketed to three income categories in order to serve a wide variety of senior applicants. Each building will have affordable units for applicants at sixty percent of the Area Median Income, eighty percent of the Area Median Income, and one hundred and twenty percent of the Area Median Income. None of the town houses will be sold as affordable units.

Signatures of Support for the Local Action Units Application

Chief Executive Officer:

defined as the mayor in a city and the board of selectmen in a town, unless some other municipal officer is designated to be the chief executive officer under the provisions of a local charter

Signature: _____

Print Name: Paul J. Salfia

Date: _____

Chair, Local Housing Partnership:
(as applicable)

Signature: _____

Print Name: _____

Date: _____

Municipal Contact Information

Chief Executive Officer

Name Paul J. Salfia
Address Andover Town Hall, 36 Bartlet Street, Andover, MA 01810
Phone 978-623-8227
Email selectmen@andoverma.gov

Town Administrator/Manager

Name Andrew P. Flanagan
Address Andover Town Hall, 36 Bartlet Street, Andover, MA 01810
Phone 978-623-8227
Email aflanagan@andoverma.gov

City/Town Planner (if any)

Name Lisa LaGrasse Schwarz
Address Andover Town Hall, 36 Bartlet Street, Andover, MA 01810
Phone 978-623-8310
Email planning@andoverma.gov

City/Town Counsel

Name _____
Address _____
Phone _____
Email _____

Chairman, Local Housing Partnership (if any)

Name _____
Address _____
Phone _____
Email _____

Community Contact Person for this project

Name Lisa LaGrasse Schwarz
Address Andover Town Hall, 36 Bartlet Street, Andover, MA 01810
Phone 978-623-8310
Email planning@andoverma.gov

The Project

Developer

Name Pulte Homes of New England, LLC
 Address 115 Flanders Road, Suite 200, Westborough, MA 01581
 Phone 508-621-0408
 Email mark.mastrolanni@pultegroup.com

Is your municipality utilizing any HOME or CDBG funding for this project? Yes No

Local tax rate per thousand \$ 14.82 for Fiscal Year 2016

Site Characteristics

<u>Project Style</u>	<u>Total # of Units</u>	<u># of Units Proposed for LAU Certification</u>
Detached single-family house	<u>14</u>	<u>0</u>
Rowhouse/townhouse	<u> </u>	<u> </u>
Duplex	<u> </u>	<u> </u>
Multifamily house (3+ family)	<u>186</u>	<u>21</u>
Multifamily rental building	<u> </u>	<u> </u>
Other (specify)	<u>9</u>	<u>9 at 120%</u>

Unit Composition

Type of Unit:	# of Units	# of BRs	# of Baths	Gross Square Feet	Livable Square Feet	Proposed Sales Prices/ Rents	Proposed Condo Fee
Condo Ownership							
Fee Simple Ownership							
Rental							
Affordable:	8	1	1			\$110,000 \$155,000	\$130
	13	2	2			\$125,000 \$170,000	\$150
Market:	170	2+	2 1/2				

Income level	1 Person household income		2 person household income		3 person household income	
	1 BR 60%	2 BR 60%	1 BR 80%	2 BR 80%	1 BR 120%	2 BR 120%
50%	29,450	736	33,650	841	37,850	946
60%	35,340	884	40,380	1,010	45,420	1,136
70%	41,230	1,031	47,110	1,178	52,990	1,325
80%	46,000	1,150	52,600	1,315	59,150	1,479
100%	58,900	1,472	67,300	1,682	75,700	1,892
110%	64,790	1,620	74,030	1,851	83,270	2,082
120%	70,680	1,767	80,760	2,019	90,840	2,271
House Price	110,000	125,000	155,000	170,000	\$255,000	\$280,000
Real Estate Taxes \$14.97						
HOA Fee						
1 BR \$130						
2 BR \$150						

(1-17-17 w/easements)

QUITCLAIM DEED

PULTE HOMES OF NEW ENGLAND, LLC, a Michigan limited liability company, with an address of 115 Flanders Road, Suite 200, Westborough, Massachusetts 01581 (together with its successors and assigns with respect to the rights and easements reserved herein, "**Grantor**"),

for consideration paid and in consideration of less than one hundred dollars,

grants to the Inhabitants of the Town of Andover under the care, custody and control of the Andover Conservation Commission pursuant to Massachusetts General Laws Chapter 40, Section 8C solely for passive recreation and conservation purposes, having an address of 36 Bartlet Street, Andover, MA 01810 (together with its successors and assigns with respect to the real property, easements and rights granted herein, "**Grantee**"),

with *QUITCLAIM* covenants,

The land and improvements thereon (if any) located on River Road, Andover, Essex County, Massachusetts and being:

Proposed Lot 2 (containing 7.207 Acres/313,978 square feet) (the "Premises") on Plan of Land Entitled "Plan of Land Pulte Homes, 0 & 459 River Road, Lot 4, Map 228, and Lot 5, Map 229, Town of Andover, Essex County, Commonwealth of Massachusetts, dated 03/08/16 by Control Point Associates, Inc., which Plan is recorded with the Essex County North Registry of Deeds (the "Registry") as Plan #17443 on June 16, 2016 (the "**ANR Plan**").

Together with access rights to said **Proposed Lot 2** as more fully set forth in **Exhibit A** attached hereto and incorporated herein by reference.

This conveyance is made pursuant to Subsection 8.8.5.7 of the Andover Zoning Bylaw, and the Planning Board Special Permit Decision: SP 15-01 dated October 30, 2015 with the Registry at Book 14713 Page 278.

This conveyance is subject to the following permanent Restrictions, which Grantor hereby imposes for the benefit of Grantor's remaining property (being Proposed Lot 1 on the ANR Plan):

The Premises will be maintained in perpetuity as Open Space pursuant to Subsection 8.8.5.7 of the Andover Zoning Bylaw, and the Planning Board Special Permit Decision: SP 15-01 dated October 30, 2015 with the Registry at Book 14713 Page 278 and used solely for passive recreation and conservation purposes, in a natural, scenic and undeveloped condition, which shall not be altered to any use that would materially impair or interfere with its conservation and preservation values (“conservation values”), and the Grantee will not perform or allow other to perform the following acts and uses which are prohibited on, above, and below the Premises:

- (1) The use of the Premises for commercial recreation, business, residential or industrial use;
- (2) Hunting, except that Grantee may permit deer hunting on the Premises by archery from tree stands so long as conducted at least 500 feet from any adjacent residential structure and in accordance with Conservation Commission Policies.

Subject to the matters of record set forth on Exhibit C attached hereto, to the extent now in force and applicable.

Except as otherwise expressly herein provided, the rights and easements granted herein to Grantee, and the restrictions reserved herein by Grantor, shall run with title to the land described herein and be binding upon and inure to the benefit of the successors and assigns of Grantor and Grantee with respect thereto.

For Grantor’s title to Proposed Lot 2 on the ANR Plan, see Quitclaim Deed from Melmark, Inc. dated June 30, 2016, and recorded with the Registry in Book 14713, Page 190; also see Notice of Voluntary Withdrawal of Land from the Registration System, M.G.L. c. 185, Sec 52, which Notice is filed with the Essex North Registry District of the Land Court as Document No. 113,049.

This is a conveyance in the ordinary course of business and is not in contravention of the filed Certificate of Organization for the Limited Liability Company, as it may be amended. Neither this instrument nor any other record at the Registry of Deeds discloses anything in contravention of the laws of the Commonwealth of Massachusetts and the grantor limited liability company appears from the records of the Commonwealth of Massachusetts Office of the Secretary of State to exist.

By execution hereof, the undersigned further certifies that he is named in the Operating Agreement and Certificate of Organization as one of the persons authorized to execute, acknowledge, deliver and record any recordable instrument purporting to affect an interest in real property on behalf of the limited liability company and such authority has not been amended, modified or revoked; that the Operating Agreement authorizes him to take all steps necessary to sell the premises described above on the terms and conditions contained in the deed recorded herewith; and that no member of Pulte Homes of New England LLC has filed for bankruptcy protection.

This conveyance does not constitute all or substantially all of the Massachusetts assets of the grantor.

THE REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK

Grantor signature page to Proposed Lot 2 Deed

IN WITNESS WHEREOF, the said Pulte Homes of New England LLC, has caused its seal to be hereto affixed and in these presents signed by _____, its Authorized Signatory, as of the day of _____, 2017.

Pulte Homes of New England LLC

By:
Its: Authorized Signatory

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss. _____, 2017

On this _____ day of January, 2017, before me, the undersigned notary public, personally appeared _____, Authorized Signatory for Pulte Homes of New England LLC, proved to me through satisfactory evidence of identification, which was photographic identification with signature issued by a federal or state governmental agency, oath or affirmation of a credible witness, personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose in his capacity as Authorized Signatory for Pulte Homes of New England LLC, and that he has the authority to act in that capacity.

Notary Public
My Commission Expires:

ACCEPTANCE OF GRANT BY CONSERVATION COMMISSION

By their signatures below, the undersigned members of the Conservation Commission for the Town of Andover acknowledge acceptance of the foregoing grant on the terms and conditions outlined therein.

IN WITNESS WHEREOF the undersigned hereunto sets its hand and seal this ____ day of _____, 20_____.

**Grantee
Conservation Commission
Town of Andover**

Commonwealth of Massachusetts

County of Essex, ss.

On this _____ day of _____, 2017, before me, the undersigned notary public, personally appeared

all being members of the Conservation Commission for the Town of Andover, Massachusetts, each of whom proved to me through satisfactory evidence of identification, which were that they are personally know to me to be the persons whose names are signed on the preceding or attached document, and who swore or affirmed to me that each executed the foregoing document as his or her free act and deed as aforesaid.

Notary Public

My commission expires _____

ACCEPTANCE OF GRANT BY BOARD OF SELECTMEN

By their signatures below, the undersigned members of the Board of Selectmen for the Town of Andover acknowledge acceptance of the foregoing grant on the terms and conditions outlined therein.

IN WITNESS WHEREOF the undersigned hereunto sets its hand and seal this ____ day of _____, 20____.

**Grantee
Board of Selectmen
Town of Andover**

Commonwealth of Massachusetts

County of Essex, ss.

On this _____ day of _____, 2017, before me, the undersigned notary public, personally appeared

all being members of the Board of Selectmen for the Town of Andover, Massachusetts, each of whom proved to me through satisfactory evidence of identification, which were that they are personally know to me to be the persons whose names are signed on the preceding or attached document, and who swore or affirmed to me that each executed the foregoing document as his or her free act and deed as aforesaid.

Notary Public

My commission expires _____

Exhibit A

Access Rights to Proposed Lot 2

There is hereby granted as appurtenant to Proposed Lot 2 a perpetual, non-exclusive easement in gross for pedestrian access over the area on Proposed Lot 3 on the ANR Plan identified as “Proposed Trail Access Easement” on the Trail Access Easement Exhibit attached hereto as **Exhibit B** (the “2017 Trail Plan”) (a similar version of which was attached as Exhibit B to Grantors Deed from Melmark, Inc. dated June 30, 2016, and recorded with the Registry in Book 14713, Page 190 (the “2016 Trail Plan”); (the 2017 Trail Plan differs only with respect to the addition of the “Additional Access Trail Easement” which continues on through Proposed Lot 1 to reach Proposed Lot 2.), which easement shall be for the benefit of Grantee and of the public at large and shall be used for passive recreational and educational purposes, without a charge or fee therefore being imposed, such that said uses constitute recreational, conservation, scientific, educational, environmental, ecological, research, or charitable purposes, as provided under the so-called Massachusetts “Recreational Use” statute, M.G.L. c. 21, Section 17C, and the Grantee by acceptance and recordation of this Deed covenants and agrees that Grantee and or its successors and or assigns shall at all times permit the public to use the same for such uses at no charge so that Grantor and Grantee (and their respective successors and or assigns) shall be entitled at all times to enjoy the limitations on liability provided by the laws of the Commonwealth of Massachusetts for any injuries incurred by others while using and accessing the Easement Area, including M.G.L. c. 21, Section 17C. The foregoing easement in gross is being conveyed and assigned by Grantor to the Grantee pursuant to Grantor’s right to so convey or assign to the Town of Andover or any political subdivision thereof this access right pursuant to said Deed to Grantor from Melmark, Inc. dated June 30, 2016, and recorded with the Registry in Book 14713, Page 190.

No other easements, except those expressly set forth herein, are hereby implied or created; and in that regard, and without limiting the foregoing, no easements for access or any type whatsoever, or for parking or for cross access between or through any other portion of other property now or in the future owned by Grantor, including without limitation, the parcel shown as Proposed Lot 1 on the ANR Plan, is hereby granted or implied. In particular, Grantor and Grantee expressly acknowledge that except for the perpetual, non-exclusive easement in gross for pedestrian access granted in the foregoing paragraph, Grantee is not being granted any of the other easement rights (“Non-Applicable Easements”) which Grantor obtained from Melmark Inc. in the Deed to Grantor from Melmark, Inc. dated June 30, 2016, and recorded with the Registry in Book 14713, Page 190; consequently, none of the indemnification requirements associated with such other Non-Applicable Easements shall apply to Grantee, and Grantor hereby covenants and agrees with Grantee to hold Grantee harmless from any indemnification claims asserted by Melmark, Inc. in connection with Grantor’s exercise of said Non-Applicable Easements.

Provided, however, that Grantor acknowledges that pursuant to Conditions #47 and #49 as set forth in the Planning Board Special Permit Decision: SP 15-01 dated October 30, 2015 with the Registry at Book 14713 Page 278, prior to the receipt of Grantor's final building permit for its Riverside Woods senior housing condominium project, Grantor shall have granted to Grantee mutually agreeable easements recorded by Grantor in order to provide Grantee with the additional access and parking rights for the general public noted in Conditions #47 and #49 as set forth in the Planning Board Special Permit Decision: SP 15-01 dated October 30, 2015 with the Registry at Book 14713 Page 278. In addition, as agreed between the parties Grantor had offered to grant an additional pedestrian easement for the general public over Grantor's Proposed Lot 1 shown on the attached Exhibit B as "Additional Access Trail Easement". Collectively, these additional easements are referred to hereinafter as the "Deferred Easements" and in accordance with said conditions #47 and #49, the effective date of The Deferred Easements is intended to occur in the future, prior to the receipt of Grantor's final building permit for its Riverside Woods senior housing condominium project

Consequently, Grantor hereby conveys to Grantee, to be effective only upon the **Effective Date** (as defined below) as appurtenant to **Proposed Lot 2** (containing 7.207 Acres/313,978 square feet) ("Lot 2") on Plan of Land Entitled "Plan of Land Pulte Homes, 0 & 459 River Road, Lot 4, Map 228, and Lot 5, Map 229, Town of Andover, Essex County, Commonwealth of Massachusetts, dated 03/08/16 by Control Point Associates, Inc., which Plan is recorded with the Essex County North Registry of Deeds (the "Registry") as Plan #17443 on June 16, 2016 (the "Plan") a perpetual pedestrian-only access easement, which is for the benefit of, appurtenant to, and shall run with the title to Lot 2, over and across that portion of the remaining land of the Grantor (being Proposed Lot 1 on the Plan) designated as "Proposed 10' Wide Pedestrian Easement" on a sketch plan of land entitled, "Proposed Easement Exhibit, Andover, Massachusetts, 459 River Road _____, Essex County, Prepared for: Pulte Homes of New England LLC" (the "Easement Sketch Plan") a copy of which is attached hereto as Exhibit A and incorporated herein by reference ("Pedestrian Easement"). The purpose of this easement is to provide pedestrian access to and egress from Lot 2 over Proposed Lot 1. Grantee shall be responsible for any maintenance of the easement area to make the easement area suitable for this purpose. Grantor shall have no maintenance obligations relative to the Pedestrian Easement area. Grantee shall post and maintain permanent signs at both ends of the easement area stating that use of the easement area is pursuant to written easement granted to the Grantee. This easement is granted for recreational, conservation, scientific, educational, environmental, ecological, and research purposes associated with Lot B, with the intent that the Grantor benefit from the protections contained or referred to in M.G.L. c. 21 § 17C.

Grantor also hereby grants to Grantee to be effective only upon the Effective Date (as defined below) a non-exclusive access easement for pedestrian and vehicular access solely for the purpose of parking 5 vehicles in the area designated as "Parking Area" on the Easement Sketch Plan (the "Parking Lot Easement") only for the benefit of Lot 2 as shown on the Plan, over that portion of Proposed Lot 1 as shown on the Easement Sketch Plan

attached hereto and designated thereon as "Parking Area." Once effective, the Parking Lot Easement shall survive in perpetuity and shall be for the benefit of, appurtenant to, and shall run with the title to Lot 2.

Grantor shall have no responsibility for maintenance, repair or replacement, including paving or snow removal, within the easement areas except as otherwise provided herein. If any improvements need to be made to the easement areas to permit access to Grantee's Property, Grantee may do so at its sole cost and expense. Grantee further covenants and agrees that it shall comply with any laws, ordinances and federal, state and municipal regulations, now or hereafter in force, applicable to the easement area, relating to the use and occupancy thereof or to the making of alterations, additions, improvements or repairs thereon.

The "Effective Date" shall be the date on which Grantor provides Grantee evidence of grantor's that Grantor's construction of Grantor's senior housing condominium project known as "Riverside Woods" has been substantially completed to the point where only Grantor's last building permit remains to be issued, which evidence shall be in the form "Effective Date Certificate" attached hereto as Exhibit D, which Grantee may record with the Essex North District Registry of Deeds to evidence the occurrence of the Effective Date.

Grantor reserves the following rights (i) to cross and use the Pedestrian Easement and Parking Area Easement areas, (ii) to prune trees within the easement areas, and (iii) to construct, install, maintain, operate, repair, replace and/or remove overhead or underground utilities in, through, on, over, under or across the easement areas provided that the exercise of such rights by Grantor does not unreasonably interfere with Grantee's right to use the easement areas for the purposes set forth herein. Grantor shall have responsibility for maintenance, repair or replacement of any of such utilities, and Grantor shall repair any damage to the easement area as a result of Grantor's exercise of such rights, or caused by any of its agents or invitees, to substantially the same condition as existed prior thereto.

Exhibit B

Trail Plan

Exhibit C

Existing matters of Record

1. Flowage rights reserved in Deed from Essex Company to George A. McCormack dated June 24, 1929 and recorded with Essex North District Registry of Deeds in Book 547, Page 265.
2. Easements set forth in Deed from Essex Company to George A. McCormack dated June 24, 1929 and recorded with Essex North District Registry of Deeds in Book 547, Page 265.
3. Subject to all public rights in the Merrimack River as set forth in Decree of the Land Court dated April 22, 1931 and filed as Document No. 4990 on Certificate of Title No. 1847.
4. License Agreement from The Society of the Friars Minor of the Order of St. Francis to Andover Village Improvement Society for the establishment and maintenance of a trail for the use of the general public dated May 31, 1994 and recorded with Essex North District Registry of Deeds in Book 4058, Page 312.
5. Matters shown on plan of land entitled "Subdivision Plan of Land in Andover, Cuoco & Cormier Engineering Assoc. Inc., Surveyors, dated May 29, 1998, and which plan is filed with Essex County (Northern District) Registry District of the Land Court as Plan No. 14506B.
6. Matters shown on plan of land entitled "Land Court Subdivision Plan of Land, Subdivision of Lot 5 of Land Court Case 14506B, Cuoco & Cormier Engineering Assoc. Inc., Surveyors, dated November 2, 2004, and which plan is filed with Essex County (Northern District) Registry District of the Land Court as Plan No. 14506C.
7. Record of Decision by the Andover Board of Health dated March 11, 2008 and filed with Essex County (Northern District) Registry District of the Land Court as Document #95985 on Certificate of Title #1847.
8. Covenants and restrictions described in deed from Melmark, Inc., a Delaware non-profit corporation, to Pulte Homes of New England, LLC dated June 30, 2016 and recorded in Book 14713, Page 190.
9. Terms and conditions contained in the Reciprocal Easement Agreement dated March 16, 2006 and filed with Essex County (Northern District) Registry District of the Land Court as Document #91486.

EXHIBIT D

FORM of EFFECTIVE DATE CERTIFICATE

(Space Above this Line Reserved for Registry of Deeds)

EFFECTIVE DATE CERTIFICATE

PULTE HOMES OF NEW ENGLAND, LLC, a Michigan limited liability company, with an address of 115 Flanders Road, Suite 200, Westborough, Massachusetts 01581 being the grantor named in that certain Easement Deed from Pulte homes of New England LLC To the Inhabitants of the Town of Andover

_____, dated _____, 20___, recorded with the Essex North District Registry of Deeds at Book _____, Page _____,

hereby certifies that Grantor's construction of Grantor's senior housing condominium project located on Proposed Lot 1 on Registry of Deeds Plan #17443 known as "Riverside Woods" has been substantially completed to the point where only Grantor's last building permit remains to be issued.

For title to Grantor's Proposed Lot 1 see deed recorded at Book 14713, Page 190. For Grantee's title to Proposed Lot 2 on Registry of Deeds Plan #17443 see deed recorded at Book _____, Page _____.

This certificate is given to evidence the Effective Date as that term is defined in the Easement Deed dated January _____, 2017 and recorded at Book _____, Page _____

END OF TEXT

SIGNATURE PAGE FOLLOWS

(Grantor signature page to Easement Deed)

IN WITNESS WHEREOF, the said Pulte Homes of New England LLC, has caused its seal to be hereto affixed and in these presents signed by _____, its Authorized Signatory, as of the day of _____, 2017.

Pulte Homes of New England LLC

By:
Its: Authorized Signatory

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss. _____, 2017

On this _____ day of January, 2017, before me, the undersigned notary public, personally appeared _____, Authorized Signatory for Pulte Homes of New England LLC, proved to me through satisfactory evidence of identification, which was photographic identification with signature issued by a federal or state governmental agency, oath or affirmation of a credible witness, personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose in his capacity as Authorized Signatory for Pulte Homes of New England LLC, and that he has the authority to act in that capacity.

Notary Public
My Commission Expires:

(1-10-17)

**DECLARATION OF
AGE RESTRICTION COVENANT**

This Age Restriction Covenant (the "**Covenant**") is made as of the ____ day of January, 2017 by Pulte Homes of New England, LLC, a Michigan Corporation of 115 Flanders Road, Westborough, MA 01581 ("**Pulte**" or the "**Declarant**"), for the benefit of the Town of Andover, a Massachusetts municipal corporation acting by and through its Planning Board (the "**Planning Board**") with a usual place of business at Andover Town Office building at 36 Bartlet Street, Andover MA 01810 ("**Andover or Town**"), with respect to the following:

RECITALS

WHEREAS, Pulte is the owner of that certain parcel of land located in Andover, Massachusetts, known as 459 River Road, which constitutes a portion of Andover Assessor's Map 228, Lot 4-5 as more particularly described in a Deed recorded herewith at Essex North District Registry of Deeds and being more particularly shown as Lot 1 (the "**Property**") on a Plan entitled "Plan of Land -- Pulte Homes -- dated 03/08/16 prepared by Control Point Associates, Inc. (the "**2016 ANR Plan**") recorded with Essex North District Registry of Deeds as Plan #17443;

WHEREAS, Pulte intends to construct a senior housing residential development on the Property to be known as "**Riverside Woods**" (the "**Project**");

WHEREAS, the Project is to consist of a Condominium Project including a total number of two hundred (200) condominium units (the "**Units**");

WHEREAS, the Andover Planning Board, following notice and public hearing, approved a Special Permit pursuant to Section 8.8 of the Andover Zoning Bylaw under the Senior Residential Community Overlay District, namely Decision: SP 15-01 which was issued on October 30, 2015 and filed that date with the Andover Town Clerk's Office and is recorded with Essex North District Registry of Deeds in Book 14713, Page 278 (the "**Special Permit**");

WHEREAS, the Special Permit In Condition #34 requires that the units in Riverside Woods be designated as "Age Restricted Dwelling Units" with the restriction that each unit be occupied by at least one resident who is sixty-two (62) years of age or older and that no resident of a dwelling unit shall be under the age of 18;

WHEREAS, the Town and the Declarant desire for the Declarant to make and record a Restrictive Covenant on the Property to comply with the age restrictions on the Project required by the Special Permit; and

WHEREAS, Pulte intends to submit the Property to the condominium form of ownership and intends to record a Condominium Master Deed (the "Master Deed") under the provisions of Massachusetts Gen. Laws Chapter 183A.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, and in order to comply with the provisions of Special Permit Condition 34, Pulte does, for itself and its successors and assigns hereby forever covenant and agree for the benefit of the Town, acting through its Planning Board, and for the benefit of all future owners of the Property and Units within Riverside Woods as follows:

1. In accordance with Condition 34 of the Special Permit, Pulte hereby forever declares, covenants and agrees for the benefit of the Town, acting through its Planning Board, and for the benefit of all future owners of the Property and all Units within Riverside Woods, that all Units within Riverside Woods regardless of form of ownership or whether or not the Units are condominium units or held in any other form of ownership, shall require at least one resident to have attained the age of 62 and that no resident shall be under the age of 18.

2. The Master Deed for any Condominium to be established at Riverside Woods shall provide that each of the Units shall be age restricted and must be occupied by one or more persons age 62 and over and that no resident shall be under the age of 18. The Trustee of the Condominium Trust will establish and adhere to policies to carry out the above-referenced age restriction. The age restriction language set forth in the Master Deed and Declaration of Trust, which shall govern the Condominium, shall comply with requirements of Massachusetts Gen. Law Chapter 151B and with the Housing For Older Persons Act of 1995 (HOPA) of the Federal Fair Housing Act. The Master Deed shall be submitted to the Town, acting by its Planning Board, for approval of the age restriction language before recording of the Master Deed and no amendments to the Master Deed relating to the age restriction language shall be effective until approved by the Town, acting by its Planning Board.

3. Subject to the foregoing, the Declarant hereby reserves the right under this Covenant to record a Master Deed (and to amend said Master Deed) so that same is consistent with 42 USCS Section 3607 (b)(2)(c) and the rules issued by the Secretary of HUD, is consistent with applicable Massachusetts law and regulations regarding the age-restriction of residential real estate, and/or is consistent the terms of the Special Permit.

4. Pulte does hereby declare, represent, covenant and warrant as follows:

(a) Pulte (i) is a limited liability company duly organized under the laws of the State of Michigan and is qualified to transact business under the laws of the

Commonwealth of Massachusetts, (ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted, and (iii) has the full legal right, power and authority to execute and deliver this Declaration of Restrictive Covenant.

(b) The execution and performance of this Covenant by Pulte (i) will not violate or, as applicable, has not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, and (ii) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the is a party or by which it or the Project is bound, and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature.

(c) Pulte will, at the time of the delivery and recording of this Covenant, have good and marketable title to the premises constituting the Project free and clear of any lien or encumbrance which would prevent use of the Property for the Project or which would prevent the execution and recording of this Covenant.

(d) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of Pulte, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would materially impair its right to carry on business substantially as now conducted (and as now contemplated by this Covenant).

5. This Covenant shall be governed by the laws of the Commonwealth of Massachusetts. Any amendments to this Covenant must be in writing and consented to in writing by Pulte and the Town acting by its Planning Board. The invalidity of any clause, part, or provision of this Covenant shall not affect the validity of the remaining portions hereof.

6. The Declarant agrees to file this Covenant with the Essex North Registry of Deeds, and to forward recorded copies of this Covenant to the Planning Board within thirty (30) days of recording.

7. This Covenant shall be binding upon and inure to the benefit of the owner of the Property, the owners of Units in the proposed condominium, and any successors in interest to the Property, it being the express intention and understanding and agreement that this Declaration of Age Restriction Covenant shall constitute a covenant running with the land. Each and all of the covenants and provisions of the Covenant shall be incorporated by reference into and shall be referenced in all future deeds for the Property and all Units in the Condominium.

8. This Covenant shall also be and is for the benefit of the Town, its successors and assigns.

9. This Covenant shall run with the Property in perpetuity from the date of recordation in the Essex North District Registry of Deeds and shall be binding upon Declarant, Declarant's successors and assigns, and any other party having an ownership interest in

said Property or claiming to have an interest with respect to said Property as tenants, invitees, licenses or otherwise, and all of the respective heirs, successors, grantees, mortgagees, assigns, agents, contractors, subcontractors and employees of the foregoing. This Covenant is hereby intended and declared to be a covenant in perpetuity held by a governmental body as defined in and with the benefit of M.G.L. c. 184, § 32 and no re-recordation of this Declaration of Covenant under G.L. c. 184, §§23-30 or any other law shall ever be necessary in order to maintain the full legal effect and authority thereof and Declarant and its successors and assigns, hereby waive all their legal right to and shall forego any action in law or equity of any kind whatsoever attempting to contest the validity of any provision of this Covenant and shall not, in any enforcement action, raise the invalidity of any provision of this Covenant.

10. This Covenant shall not be modified, amended, changed, or terminated or waived without the consent of the Declarant (or Declarant's successor) and the consent of the Town. The Declarant as well as the Town, may enforce and, if necessary, extend this Covenant in accordance with applicable law. Declarant agrees for itself, and its heirs, successors and assigns to execute and record such notices of restriction as are required to extend this Covenant in perpetuity in accordance with applicable law. The Town is hereby declared to be a benefited party to and a holder of this Covenant and the Declarant hereby appoints the Town as its attorney-in-fact to execute, acknowledge, deliver and record any such notice or instrument on its and/or their behalf, including, but not limited to any notice or instrument which may at any time be necessary to maintain this Covenant in effect in perpetuity. Without limiting the foregoing, the Declarant and its successors and assigns agree to execute any such notices and instruments upon request of the Town.

11. The Town shall have the authority and right to enforce this Covenant as a benefited party. The Town shall have the right to enter the Property in a reasonable manner and at reasonable times, for the purposes of (i) inspecting the Property to determine compliance with this Declaration of Covenant; (ii) enforcing this Declaration of Covenant; and (iii) taking any other action which may be necessary or appropriate. The Town shall have the right to bring proceedings at law or equity against any party or parties violating or attempting to violate the terms of this Covenant to enjoin them from so doing and to cause any such violation to be remedied, after providing written notice to such party or parties and the Town shall recover its attorney's fees and costs in any action of enforcement.

12. If any court or other tribunal of competent jurisdiction determines that any provision of this Covenant is invalid or unenforceable, such provision shall be deemed to have been modified automatically to conform to the requirements for validity and enforceability as determined by such court or tribunal. In the event the provision invalidated is of such a nature that it cannot be so modified, the provision shall be deemed deleted from this instrument as though it had never been included herein. In either case, the remaining provisions of this instrument shall remain in full force and effect.

13. Any election by the Town as to the manner and timing of its right to enforce this Covenant or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

14. Declarant and Declarant's successors and assigns, including all subsequent owners of the Property or portions thereof, shall inform a potential purchaser in writing of this Declaration of Covenant and shall incorporate this Declaration of Covenant, in full or by reference, into all deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer by which an interest in and/or a right to use the Property or any portion thereof is conveyed.. Any such deed purporting to convey any portion of the Property or interest therein without including this Restriction in full or by reference shall be deemed and taken to include said Restriction in full even though said Restriction is not expressly described or referenced therein.

15. No amendment or release of this Covenant shall be effective unless it has been approved in writing by the Town acting by its Planning Board (hereinafter the "Town Approval") and said amendment or release and the requisite Town Approval has been recorded with the appropriate Registry of Deeds and/or Land Registration Office.

16. Pulte intends, declares and covenants on behalf of itself and its successors and assigns (i) that this Covenant and the covenants, agreements and restrictions contained herein shall be and are covenants running with the land, encumbering the Project for the duration of this Covenant, and are binding upon Pulte's successors in title, (ii) are not merely personal covenants of Pulte, and (iii) shall bind Pulte, its successors and assigns and inure to the benefit of Andover and its successors and assigns for the for the duration of this Covenant. Pulte hereby agrees that any and all requirements of the laws of the Commonwealth of Massachusetts required to be satisfied in order for the provisions of this Covenant to constitute restrictions and covenants running with the land shall be deemed to be satisfied in full and that any requirements of privity of estate are also deemed to be satisfied in full.

17. Pulte represents and warrants that it has not mortgaged the Property and does not require the consent of any mortgagees of the Project to the execution and recording of this covenant.

[Signature page follows]

Executed as a sealed instrument as of the date first above written.

Pulte Homes of New England, LLC

By: _____

Its Authorized Signatory

COMMONWEALTH OF MASSACHUSETTS

_____, ss.

On this _____ day of _____, 200____, before me, the undersigned Notary Public, personally appeared _____, Authorized Signatory for Pulte Homes of New England, LLC, proved to me through satisfactory evidence of identification, which was that he is _____ personally known to me _____ to be the person whose name is signed on the preceding or attached document and acknowledged to me that he signed it voluntarily for its stated purpose, and that he has the authority to sign in that capacity.

(Official Signature and Seal of Notary)

My Commission Expires:

APPROVAL OF BOARD OF SELECTMEN

We, the undersigned Board of Selectmen of the Town of Andover, Massachusetts accept the foregoing Age Restriction Covenant for the benefit of the Town of Andover.

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this _____ day of _____, 201__ before me, the undersigned notary public, personally appeared _____, member of the ~~Norfolk-Andover~~ Board of Selectmen, who proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily, in the capacity indicated, and that he has the authority to sign in that capacity.

Notary Public

My Commission Expires:

**AFFORDABLE HOUSING MONITORING AGREEMENT
FOR
RIVERSIDE WOODS IN ANDOVER, MA**

This Affordable Housing Monitoring Agreement (the "Agreement") is made this _____ day of January, 2016 by and among Pulte Homes of New England, LLC a Michigan limited liability company, having an address at 115 Flanders Road, Suite 200, Westborough, MA 01581, and its successors and assigns (the "Developer"), Andover Community Trust, Inc., having an address at Two Dundee Park, Suite B02A, P.O. Box 5038, Andover MA 01810 (the "Monitoring Agent") and the Town of Andover (the "Municipality").

WITNESSETH:

WHEREAS, the Municipality has adopted a Senior Residential Community Overlay District (the "Approved District") in Section 8.8 of the Municipality's Zoning Bylaw (the "Bylaw");

WHEREAS, the Developer intends to construct a senior housing development known as Riverside Woods at a 23.92 acre site on River Road in the Municipality known as 459 River Road as more particularly described in the Deed recorded at Essex North District Registry of Deeds (the "Registry") Book 14713, Page 190 and being more particularly shown as Lot 1 on Plan entitled "Plan of Land – Pulte Homes – dated 03/08/16 prepared by Control Point Associates and recorded at the Registry as Plan #17443" (the "Project");

WHEREAS, the Project is subject to a Regulatory Agreement between the Department of Housing and Community Development ("DHCD") and the Developer (the "Regulatory Agreement");

WHEREAS, the Approved District covers the entire 23.92 acre site. The Project is located within the Approved District. The Project shall consist of a total number of 200 for-sale condominium units (the "Units") and pursuant to the requirements of the Bylaw, fifteen percent (15%) of the Units (30 units) will be set aside as affordable housing units for seniors who qualify as low, moderate, or upper-moderate income persons as specified in the Bylaw (the "Affordable Units") and shall be subject to resale restrictions as defined in the Declaration of Affordable Housing Restriction and Deed Rider attached to the Regulatory Agreement (the "Affordability Requirement");

WHEREAS, the Developer has received a Special Permit Approval Decision for the Project from the Municipality's Planning Board, which decision is recorded at the Registry in Book 14713, Page 278 (the "Special Permit Decision");

WHEREAS, pursuant to the requirements of the Bylaw, for the purposes of ensuring that the Developer is abiding by its obligations relative to the Affordable Units pursuant to the

Special Permit Decision, a Monitoring Agent shall be assigned by the Planning Board and a Monitoring Agreement shall be provided;

WHEREAS, pursuant to the Special Permit Decision, the Andover Community Trust has been assigned by the Planning Board as the Monitoring Agent to perform certain administration, monitoring and enforcement services regarding compliance of the Project's Affordable Units.

NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Monitoring Services. Monitoring Agent shall monitor the compliance of the Project with the Affordability Requirement, as more fully described herein.

(a) Affordability Requirement.

(i) Initial Sales. The Developer agrees to deliver to the Monitoring Agent the income, asset and age certifications, deeds and Affordable Housing Restrictions with respect to initial sales of Affordable Units as required under the Regulatory Agreement (the "Initial Sales Data"). The Monitoring Agent agrees to review the Initial Sales Data and determine the substantive compliance of the Project with the Affordability Requirement in accordance with the rules of DHCD. The Monitoring Agent shall also ensure substantive compliance with the approved Marketing Plan and lottery process. Upon completion of its review of Initial Sales Data, the Monitoring Agent shall deliver to DHCD and the Municipality a copy of such data together with the Monitoring Agent's determination of whether the Affordability Requirement has been met. The DHCD shall make the final determination of whether the Affordability Requirement has been met and shall notify the Municipality of its determination.

(ii) Resales. The Monitoring Agent also agrees to monitor resales of Affordable Units (including review of income and asset certifications, deeds, Deed Riders, and Declaration of Affordable Housing Restriction and Regulatory Agreement) for compliance with the terms of the Declaration of Affordable Housing Restriction, Deed Rider and Regulatory Agreement, and issuance of certifications, as appropriate, in connection with approval of resales. The Monitoring Agent shall also locate and select, or provide assistance to the Municipality in locating and selecting, Eligible Purchasers, including without limitation, ensuring compliance with the approved Marketing Plan and lottery process.

On resale of an Affordable Unit, at the request of the purchaser, the Monitoring Agent shall, if necessary under the terms of the Declaration of Affordable Housing Restriction, Deed Rider and Regulatory Agreement, issue a new Resale Price Certificate recalculating the Resale Price Multiplier in accordance with the terms of the Declaration of Affordable Housing Restriction and Regulatory Agreement and Deed Riders, and the purchaser may record the new Resale Price Certificate immediately after the recording of the deed to such Affordable Unit. The Resale Price Multiplier set forth in the most recently recorded Resale Price Certificate shall apply to each subsequent resale of the Affordable Unit.

(b) Annual Reports. The Monitoring Agent agrees to prepare and deliver annually a report (the "Annual Compliance Report") to the Municipality on compliance of the Project with the Affordability Requirement. The Annual Compliance Report shall indicate the extent of noncompliance with the relevant reporting and/or substantive requirements, describe efforts being made by the Developer to remedy such noncompliance and, if appropriate, recommend possible enforcement action by the Monitoring Agent and/or Municipality against the Developer. The Monitoring Agent shall deliver the Annual Compliance Report within one hundred twenty (120) days of the end of each calendar year during the term of this Agreement.

(c) Supplemental Monitoring Services. The Monitoring Agent shall provide reasonable supplemental monitoring on its own initiative in order to ensure to the extent practicable (i) the compliance by the Developer with the Affordability Requirement, and (ii) the compliance by the owners of the Affordable Units with the requirements of the Declaration of Affordable Housing Restriction, Deed Rider and the Regulatory Agreement, including without limitation the owner-occupancy requirement and the Resale Restrictions (including recalculating the Resale Price Multiplier, if necessary). The services hereunder shall also include considerations of requests for refinancing, approval of capital improvements, further encumbrances and leasing an Affordable Unit. The services hereunder shall not include any construction monitoring. The services hereunder shall include follow-up discussions with the Developer and/or owners of the Affordable Units, if appropriate, after an event of noncompliance. The Monitoring Agent shall be entitled to a reasonable fee for supplemental monitoring services as set forth in the Homebuyer Disclosure Statement executed by the buyer of the Affordable Unit.

2. **Developer Obligations.** The Developer agrees to deliver to the Monitoring Agent the income, asset and age certifications, deeds and

Affordable Housing Restrictions with respect to initial sales of Affordable Units as required under the Declaration of Affordable Housing Restriction, Deed Rider and the Regulatory Agreement on a timely basis.

3. **Monitoring Services Fee.** The Monitoring Agent shall receive a fee of \$22,500 from the Developer. Such fee shall constitute payment for the services of the Monitoring Agent with respect to compliance by the Developer with the Affordability Requirement in connection with initial sales of the Affordable Units. Such fee shall be due and payable upon invoice from the Monitoring Agent according to the following schedule:
 - \$6000 at the time of execution of the Agreement;
 - \$4500 at the time of commencement of Building 2 construction
 - \$6000 at the time of commencement of Building 3 construction
 - \$6000 at the time of commencement of Building 4 construction.

As provided in the Regulatory Agreement and Deed Rider for each Affordable Unit, the Monitoring Agent shall receive a Resale Fee of up to two and one-half percent (2.5%) of the product of the Base Income Number (at the time of resale) multiplied by the Resale Price Multiplier, to be paid by the seller of the Affordable Unit at each closing as a condition precedent to closing, for the services with respect to monitoring each subsequent sales transaction for compliance with the Resale Restrictions and the other terms of the Declaration of Affordable Housing Restriction, Deed Rider and Regulatory Agreement. Such fee shall be payable for all transfers of Affordable Units, including those to an Eligible Purchaser or any other purchaser. If the Monitoring Agent's fee is not paid at the time of closing, the Monitoring Agent shall be entitled to payment from the purchaser of the Affordable Unit and to bring an action and seek an attachment of the interest of the purchaser in the Affordable Unit. Neither the Project Administrator nor the Municipality shall have any responsibility for payment of any fee to Monitoring Agent hereunder.

4. **Enforcement Services.** In the event of serious or repeated violations of the substantive or reporting requirements of the Declaration of Affordable Housing Restriction, Deed Rider and Regulatory Agreement (with respect to the Affordability Requirement) or a failure by the Developer to take appropriate actions to cure a default under the Declaration of Affordable Housing Restriction, Deed Rider and Regulatory Agreement (with respect to the Affordability Requirement), the Monitoring Agent shall have the right, with the prior consent of the Municipality, to take appropriate enforcement action against the Developer, including, without limitation, legal action to compel the Developer to comply with the Affordability Requirement. The Regulatory Agreement provides for payment by the Developer of fees and expenses (including legal fees) of the Monitoring Agent in the event enforcement action is taken against the Developer thereunder and grants to the Monitoring Agent a lien on the Project, junior

to the lien of any institutional holder of a first mortgage on the Affordable Unit, to secure payment of such fees and expenses. The Monitoring Agent shall be entitled to seek recovery of its fees and expenses incurred in enforcing the Regulatory Agreement, the Deed Rider and the Declaration of Affordable Housing Restriction against the Developer and to assert a lien on the Project to secure payment by the Developer of such fees and expenses.

In the event of a violation of the provisions of the Declaration of Affordable Housing Restriction, Deed Rider or Regulatory Agreement, the Monitoring Agent shall have the right, with the prior consent of the Project Administrator, to take appropriate enforcement action against the unit owner or the unit owner's successors in title, including, without limitation, legal action to compel the unit owner to comply with the requirements of the relevant Affordable Housing Restriction. The Declaration of Affordable Housing Restriction shall provide for payment by the unit owner of fees and expenses (including legal fees) of the Monitoring Agent in the event enforcement action is taken against the unit owner thereunder and shall grant to the Monitoring Agent a lien on the unit, junior to the lien of any institutional holder of a first mortgage on the unit to secure payment of such fees and expenses. The Monitoring Agent shall be entitled to seek recovery of its fees and expenses incurred in enforcing the Declaration of Affordable Housing Restriction, Deed Rider or Regulatory Agreement against the unit owner and to assert a lien on the relevant unit to secure payment by the unit owner of such fees and expenses.

The Monitoring Agent shall not be entitled to seek any compensation or reimbursement from DHCD or the Municipality in connection with the enforcement services under this Section, it being understood that the Monitoring Agent shall look solely to the reimbursement rights described above for payment of the Monitoring Agent's costs and expenses.

5. **Term.** The term and the monitoring services provided under this Agreement, continue for so long as there is any Affordable Unit subject to the Declaration of Affordable Housing Restriction, Deed Rider or Regulatory Agreement.
6. **Responsibility of Monitoring Agent.** 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.
7. **Successor Monitoring Agent/Further Delegation/Conflict of Interest.**
 - (a) This Agreement is terminable at will by the Monitoring Agent or the Municipality with sixty (60) days notice to the other parties. In addition, this Agreement is terminable immediately by the Municipality should the Monitoring Agent be dissolved or become incapable of fulfilling its

obligations during the term of this Agreement. In the event of termination of this Agreement, the Municipality shall promptly appoint a successor monitoring agent to serve as Monitoring Agent for the remaining term of this Agreement.

(b) The Monitoring Agent shall not delegate all or any portion of its obligations hereunder without the prior approval of the Municipality. If the Monitoring Agent performs any functions for the Developer, such as running the lottery, which would be subject to oversight by the Monitoring Agent, the Monitoring Agent must delegate oversight of such functions to a Municipality-approved entity.

8. **Indemnity.** The Developer agrees to indemnify and hold harmless the Monitoring Agent, DHCD and the Municipality against all damages, costs and liabilities, including reasonable attorney's fees, asserted against the Monitoring Agent, DHCD or the Municipality by reason of its relationship with the Project under this Agreement and not involving the Monitoring Agent, DHCD or the Municipality acting in bad faith and with gross negligence.
9. **Applicable Law.** This Agreement, and the application or interpretation hereof, shall be governed by the laws of The Commonwealth of Massachusetts.
10. **Binding Agreement.** This Agreement shall be binding on the parties hereto, their heirs, executors, personal representatives, successors and assigns.
11. **Headings.** All paragraph headings in this Agreement are for the convenience of reference only and are not intended to qualify the meaning of the paragraph.
12. **Third-Party Beneficiaries.** The DHCD and the Municipality shall be entitled to enforce this Agreement and may rely on the benefits of this Agreement.
13. **Entire Agreement.** This Agreement supersedes all prior agreements between the parties with respect to the Project, whether oral or written, including without limitation, all correspondence between the parties and between counsel for their respective parties. This Agreement constitutes the sole and entire agreement between the parties hereto with respect to the subject transaction, and the rights, duties, and obligations of the parties with respect thereto. In executing this Agreement, the Monitoring Agent acknowledges that the Monitoring Agent is not relying on any statement, representation, warranty, covenant or agreement of any kind made by the

Developer, DHCD or the Municipality or any employee or agent of any of the foregoing, except for the agreements set forth herein.

- 14. Definitions.** Any capitalized term used and not defined herein shall have the same meaning as set forth in the Regulatory Agreement.

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

Developer,
Pulte Homes of New England, LLC

By: _____
Its _____

Municipality,
Town of Andover

By: _____
Its _____

Monitoring Agent,
Andover Community Trust, Inc.

By: _____
Its _____

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF _____, Ss. _____, 201__

On this _____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____ of _____, proved to me through satisfactory evidence of identification, which were Mass. Drivers License to be the person whose name is signed on the preceding document, as _____ [Developer], and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
Print Name:
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF _____, Ss. _____, 201__

On this _____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____ of _____, proved to me through satisfactory evidence of identification, which were Mass. Drivers License to be the person whose name is signed on the preceding document, as _____ [Municipality], and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
Print Name:
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF _____, Ss. _____, 201__

On this _____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____ of _____, proved to me through satisfactory evidence of identification, which were Mass. Drivers License to be the person whose name is signed on the preceding document, as _____ [Monitoring Agent], and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
Print Name:
My Commission Expires:

C I T A T I O N

WHEREAS: THE ROMAN CATHOLIC ARCHDIOCESE OF BOSTON founded the PARISH OF ST. AUGUSTINE in 1866; and

WHEREAS: The present Roman Catholic Church on Essex Street was completed on August 18, 1895 and has been home to **ST. AUGUSTINE'S PARISH**; and

WHEREAS: The Augustinian Friars and Parishioners of **ST. AUGUSTINE'S** have served the Catholic Community of the Town of Andover for **One Hundred and Fifty (150) Years** providing a space for worship, a mission church for the people of Ballardvale and a vibrant elementary/middle school; and

WHEREAS: THE PARISH OF ST. AUGUSTINE'S is fulfilling its mission as a welcoming Roman Catholic faith community, united by its baptismal vows, and striving to enrich itself, the parish, and the greater community through worship, evangelization, education and service; and

WHEREAS: THE PARISH OF ST. AUGUSTINE'S has evolved over the last One Hundred and Fifty (150) years strengthened by its belief in God and commitment to one another.

NOW THEREFORE: Be it hereby resolved that the Board of Selectmen of the Town of Andover congratulates **THE PARISH OF ST. AUGUSTINE'S** on the occasion of its 150th Anniversary with thanks and prayers for an abundance of God's good blessings well into the future.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the seal of the Town of Andover to be affixed this twenty-third day of January in the year two thousand seventeen.

Paul J. Salafia, Chairman

Alex J. Vispoli, Vice-Chairman

Mary T. O'Donoghue, Secretary

Daniel H. Kowalski, Selectman

Robert A. Landry, Selectman



TOWN OF ANDOVER

Town Offices
36 Bartlet Street
Andover, MA 01810
(978) 623-8200

www.andoverma.gov

Honorable Robert DeLeo, Speaker of the House
Massachusetts State House
Room 356
Boston, MA 02133

Honorable Stanley Rosenberg, Senate President
Massachusetts State House
Room 332
Boston, MA 02133

Dear Speaker DeLeo, Senate President Rosenberg, & Honorable Members of the
Massachusetts Legislature:

We write to you as municipal leaders from communities across the Commonwealth, who, through energy efficiency upgrades, clean energy projects, and the adoption of effective policies and programs, are leading the charge against the deleterious effects wrought by climate change. We commend the Legislature's rejection last session of the utility proposed "pipeline tax" and urge you to stand united against efforts to undermine the August ruling by the Supreme Judicial Court (SJC), as well as local and state climate gains achieved to date.

Toward that end and on behalf of our shared constituents, our communities, and our state's future, we ask you to support legislation that will:

- Prohibit the harmful and unnecessary "pipeline tax."
- Prevent any other scheme to force consumers to accept unnecessary pipelines that we cannot afford and that would prevent us from complying with the law.
- Prioritize greater investment in energy efficiency/demand response, renewable resources, and energy storage.

These provisions will benefit the residents in our communities and are in line with the clean energy visions we share for our cities and towns.

The court's ruling that the pipeline tax violates the 1997 Restructuring Act was unambiguous. Yet, despite this decision, overwhelming public opposition, and rejection by this Legislature, investors in Spectra's Access Northeast project are undeterred from pursuing alternate avenues to financing their pipeline.

New pipelines pose multiple threats to our communities. Residents living along the proposed routes face destruction of local natural resources and a devaluation of their property. Families living near related infrastructure, like compressor stations, also face serious negative health impacts. Everyone will face the impacts of the substantial increase in our state's greenhouse gas (GHG) emissions that conflict with the Global Warming Solutions Act (GWSA). Our constituents will also be harmed financially. The adoption of a "pipeline tax" – whether by electric utilities or by gas utilities contracting for excessive pipeline capacity – will burden all ratepayers, regardless of where they live. They will be

exposed to the price volatility of natural gas, and be responsible for paying for the pipelines even if they turn out to be unneeded, or are used to export natural gas abroad.

Massachusetts must take decisive action to meet the requirements of the Global Warming Solutions Act (GWSA). As noted in the reliability assessment commissioned by Attorney General Healey's office, increasing reliance on fossil fuel consumption takes us in the entirely wrong direction. Moreover, not only do we not need additional pipelines to power the grid, but there are more cost effective ways to meet our energy needs – namely energy efficiency and demand response.

Expanded gas infrastructure also contradicts the vision our residents have for their communities. Our cities and towns are leading by example, achieving substantial GHG emission reductions. This in turn contributes to Massachusetts' ability to meet its GWSA mandate and its commitments to clean energy growth. There are many opportunities to reduce consumption and costs even further. Thus, we remain steadfast in our opposition to any proposal that attempts to circumvent the SJC ruling, particularly when doing so will result in an oversized natural gas pipeline whose costs and risks will be borne by people in our communities. We look to you to also hold the line in the interest of our shared constituents.

Massachusetts must lead by example in pursuit of clean energy and climate action, propelled by the work of cities and towns like ours. Together we must safeguard against efforts to reimagine the pipeline tax, to enable oversubscription schemes, or to facilitate the buildout of unnecessary, oversized gas infrastructure.

Thank you for your consideration.

Sincerely,

CC:
Honorable House Members
Honorable Senators