

BOARD OF SELECTMEN MEETING AGENDA

MONDAY, JANUARY 22, 2018

SELECTMEN MEETING 7:00 P.M.

Doherty Memorial Auditorium

- I. Call to Order– 7:00 P.M.
- II. Opening Ceremonies – 7:00 P.M.
 - A. Moment of Silence/Pledge of Allegiance
- III. Communications/Announcements/Liaison Reports – 7:05 P.M.
- IV. Citizens Petitions and Presentations – 7:10 P.M.
- V. Public Hearing – 7:15 P.M.
 - A. New Cingular Wireless PCS, LLC (AT & T) – (10 minutes)

This hearing is being held on a petition of New Cingular Wireless PCS, LLC (AT&T) requesting permission to construct and maintain telecommunications wires and wireless attachments and appurtenances, including fiber optic cable(s), remote nodes and pole top antennas to be attached to existing National Grid utility poles, located upon and along the following public ways: **323 Lowell Street**
 - B. New Cingular Wireless PCS, LLC (AT & T) – (10 minutes)

This hearing is being held on a petition of New Cingular Wireless PCS, LLC (AT&T) requesting permission to construct and maintain telecommunications wires and wireless attachments and appurtenances, including fiber optic cable(s), remote nodes and pole top antennas to be attached to existing National Grid utility poles, located upon and along the following public ways: **5 Rasmussen Circle**
- VI. Continued Public Hearing – 7:35 P.M.
 - A. Mobilitie, LLC – (10 minutes)

Hearing is being held on the petition of Mobilitie, LLC for permission to attach small cell backhaul equipment to an existing pole located at the Enmore Street and MA Route 133, Haverhill Street, intersection. The existing pole is owned by National Grid.
- VII. Regular Business of the Board – 7:45 P.M.
 - A. Elm Street Discussions – (45 minutes)

Board to discuss neighborhood concerns regarding construction project on Elm Street.
 - B. 27 - 45 Main Street – (5 minutes)

Channel Building Company will be erecting temporary staging for a renovation scheduled to occur at 27 – 45 Main Street. The staging is expected to be in place from approximately February 1, 2018 through December 31, 2018.
 - C. Andover Senior Property Tax Exemption – (10 minute)

Elder Services Task Force will present a draft warrant article and proposal for an Andover Senior Property Tax Exemption to the Board.

D. Riverside Woods, Pulte's Senior Residential Community – (15 minutes)
Board to review and to consider a vote to approve and sign the following 2 documents relating to Riverside Woods, Pulte's Senior Residential Community (Special Permit SP15-01 Special Permit for Senior Residential Community Overlay District): 1. DHCD Local Initiative Program (LIP) Regulatory Agreement; and 2. Amendment and Restatement of Declaration of Affordable Housing Restriction.

VIII. **Executive Session** – 9:00 P.M.

Board to go into executive session to discuss litigation strategy in the case of Christopher Clemente v. Mark Guziejka, et al., Essex Superior Court Docket No. 1677CV01868.

IX. **Adjournment** – 9:40 P.M.

If any member of the public wishing to attend this meeting seeks special accommodations in accordance with the Americans with Disabilities Act, please contact Wendy Adams at 978-623-8210 or wadams@andoverma.gov in the Town Manager's Office.

MEETINGS ARE TELEVISED ON
COMCAST CHANNEL 22 AND VERIZON CHANNEL 45



TOWN OF ANDOVER

Town Clerk's Office

36 Bartlet Street
Andover, MA 01810
978-623-8230
townclerk@andoverma.gov

NOTICE

You are hereby notified that a Public Hearing will be held by the Andover Board of Selectmen at the Andover Town Offices, 36 Bartlet Street, Selectmen's Room, 3rd Floor, on Monday, January 22, 2018 at 7:00 p.m.

This hearing is being held on a petition of New Cingular Wireless PCS, LLC (AT&T) requesting permission to construct and maintain telecommunications wires and wireless attachments and appurtenances, including fiber optic cable(s), remote nodes and pole top antennas to be attached to existing National Grid utility poles, located upon and along the following public ways:

323 Lowell Street

Plan(s) of the proposed work can be found in the Meeting Packet on the Board of Selectmen page on the Town of Andover website, www.andoverma.gov.

Should you have any major concerns about this proposal, please call Michael Gentile, Centerline Communications, LLC at 508-844-9813 prior to the above-mentioned Selectmen's meeting date. A representative of the utility company will be available at 6:45 P.M. on the above date to answer any other questions you may have relating to the proposed work.

By order of the
Board of Selectmen

Lawrence J. Murphy
Town Clerk

Plan No.: cRAN_Area 6_28A

Date: January 12, 2018



TOWN OF ANDOVER

Town Clerk's Office

36 Bartlet Street
Andover, MA 01810
978-623-8230
townclerk@andoverma.gov

NOTICE

You are hereby notified that a Public Hearing will be held by the Andover Board of Selectmen at the Andover Town Offices, 36 Bartlet Street, Selectmen's Room, 3rd Floor, on Monday, January 22, 2018 at 7:00 p.m.

This hearing is being held on a petition of New Cingular Wireless PCS, LLC (AT&T) requesting permission to construct and maintain telecommunications wires and wireless attachments and appurtenances, including fiber optic cable(s), remote nodes and pole top antennas to be attached to existing National Grid utility poles, located upon and along the following public ways:

5 Rasmussen Circle

Plan(s) of the proposed work can be found in the Meeting Packet on the Board of Selectmen page on the Town of Andover website, www.andoverma.gov.

Should you have any major concerns about this proposal, please call Michael Gentile, Centerline Communications, LLC at 508-844-9813 prior to the above-mentioned Selectmen's meeting date. A representative of the utility company will be available at 6:45 P.M. on the above date to answer any other questions you may have relating to the proposed work.

By order of the
Board of Selectmen

Lawrence J. Murphy
Town Clerk

Plan No.: cRAN_Area 6_42A

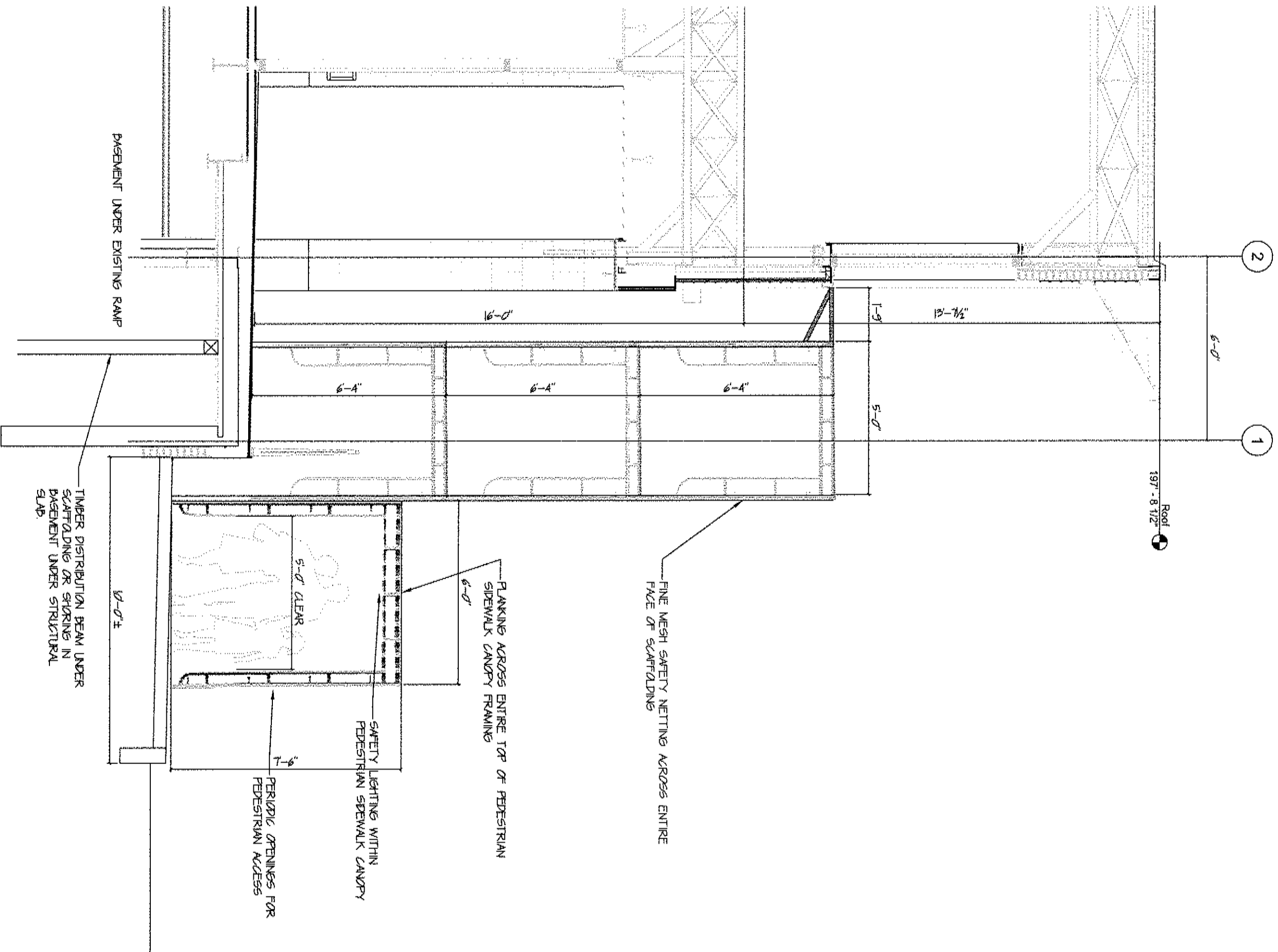
Date: January 12, 2018





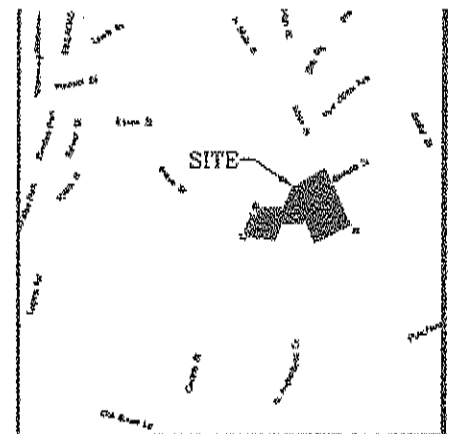




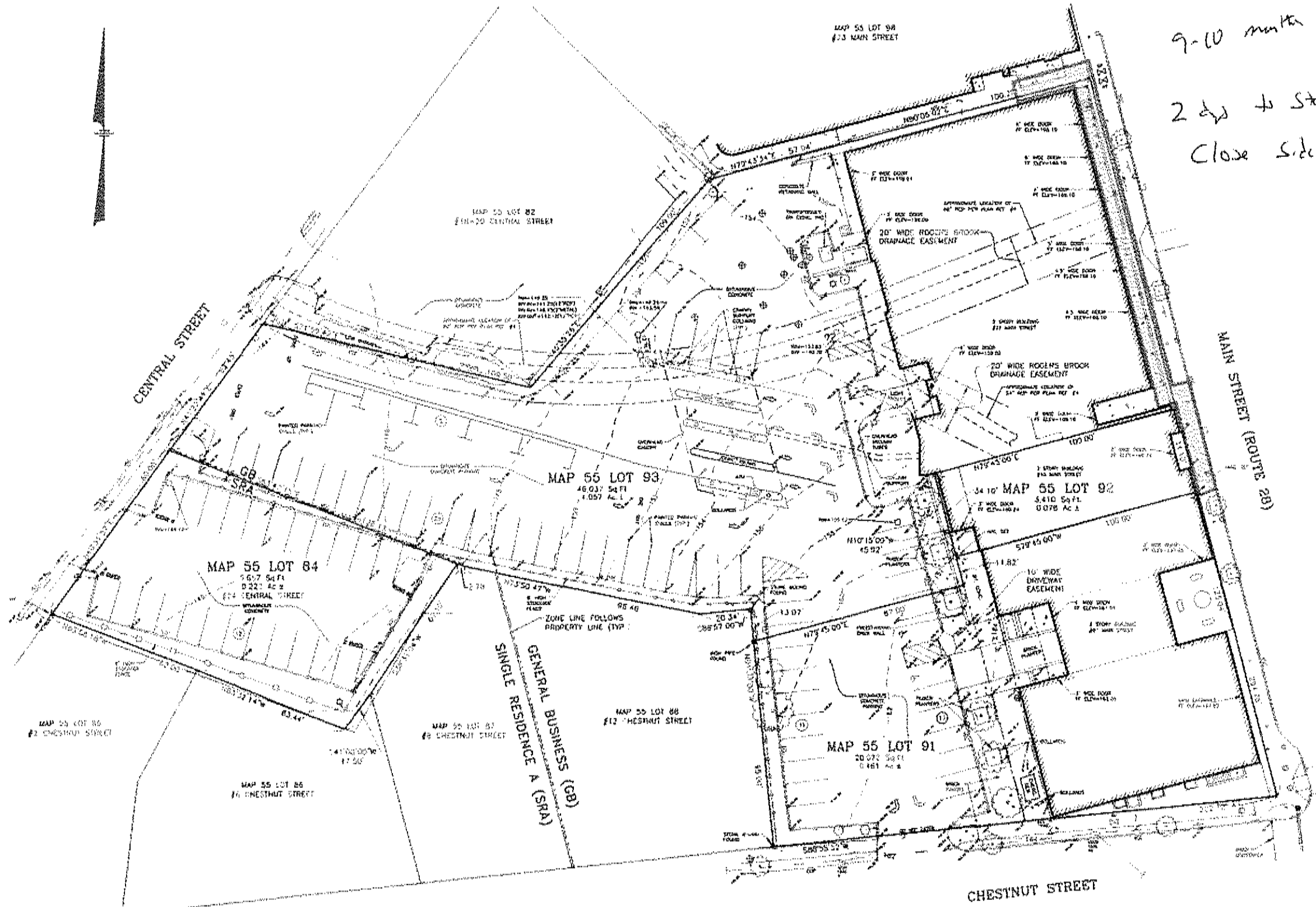


TYPICAL SECTION THRU FRONT WALL STAGING
 1/2" = 1'-0"

Early Feb.
9-10 miles
2 days to stage
Close sidewalk.



LOCATION MAP
(NOT TO SCALE)



NOTES:

- 1) ZONE GENERAL BUSINESS (GB) & SINGLE RESIDENCE A (SRA)

MIN. LOT SIZE	20	50'
MIN. LOT FRONTAGE	NONE	15.00 54' FL.
SETBACKS	NONE	115' FL.
FRONT	NONE	35' FL.
SIDE	NONE	20' FL.
REAR	NONE	20' FL.

 REFER TO THE TOWN OF ANDOVER ZONING ORDINANCES FOR VERIFICATION, ADDITIONAL RESTRICTIONS AND PERMITTED USES.
- 2) LOCATION OF UNDERGROUND UTILITIES IS APPROPRIATE ONLY. ADDITIONAL UNDERGROUND UTILITIES OTHER THAN THOSE SHOWN MAY BE ENCOUNTERED.
- 3) ELEVATIONS SHOWN HEREON ARE ON NAD 1983. ONLY ELEVATIONS SHOWN ARE AT THE "TOE" OF CURB. CURBS ARE 0.50 ± HIGH.

PLAN REFERENCES:

- 1) NORTH ESSEX REGISTRY OF DEEDS (N.E.R.D.) PLAN #13300
- 2) N.E.R.D. PLAN #12337
- 3) N.E.R.D. PLAN #1309
- 4) N.E.R.D. PLAN #2406
- 5) N.E.R.D. PLAN #4513
- 6) N.E.R.D. PLAN #4231
- 7) N.E.R.D. PLAN BOOK 476 PAGE 688

CERTIFICATIONS:

- 1) I CERTIFY THAT THIS SURVEY PLAN SHOWS THE PROPERTY LINES THAT ARE THE LINES OF EXISTING OWNERSHIPS AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE WAYS ALREADY ESTABLISHED, THAT NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIP OR FOR NEW WAYS ARE SHOWN.
- 2) I CERTIFY THAT THIS SURVEY AND PLAN CONFORMS TO THE ETHICAL, PROCEDURAL AND TECHNICAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH OF MASSACHUSETTS.
- 3) I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMANCE WITH THE RULES AND REGULATIONS OF THE REGISTER OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.



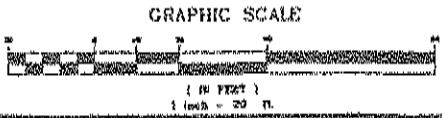
9/26/14

DATE

FOR REGISTRY USE

LEGEND

IRON PIN FOUND	WATER POLE
CONCRETE BOUND FOUND	CHAIN MARKER
ROCK/STONE FOUND	SEWER MARKER
DRILL HOLE FOUND	TELEPHONE MARKER
VERTICAL GRANITE CLAIM	EARTH BATH
BRICK/CONCRETE LP CURBING	WATER LINE
OPENING STORAGE WAYS	WATER VALVE
DOUBLE SOLID YELLOW LINE	SEWER MAIN
SINGLE SOLID WHITE LINE	WAS. WAVE
DOUBLE WHITE LINE	SEWER LINE
IRON PIN FOUND	UNDERGROUND TELEPHONE LINE
OBSTRUCTION WELL	UNDERGROUND TELEPHONE AND TELEPHONE
TEST PIT	METLAND LINE
TEST BORING	SPOT ELEVATION
MEASUREMENT TEST	BOUNDARY EVIDENCE
TRAILLINE	



OWNER OF RECORD:
TD BANK, N.A.
2055 LIMESTONE ROAD
WILMINGTON, DELAWARE 19805
BOOK 11225 PAGE 157 (MERCEN)
BOOK 478 PAGE 161 (LOT 91)
BOOK 1841 PAGE 243 (LOT 92)
BOOK 6458 PAGE 213 (PORTION OF LOT 93)
BOOK 6798 PAGE 258 (PORTION OF LOT 93)
BOOK 8498 PAGE 216 (LOT 84)

NO.	DESCRIPTION	BY	DATE	SCALE	DATE	CREATED BY	PROJECT NO.	SHEET NO.
				1" = 20'	SEPTEMBER 26, 2014	JAN	339913	1 OF 1

EXISTING CONDITIONS PLAN
ASSESSORS MAP 55 - LOTS 84, 91, 92 & 93
27, 45 & 61 MAIN STREET AND 24 CENTRAL STREET,
ANDOVER, MASSACHUSETTS
PREPARED FOR:
TD BANK N.A.
305 SECOND AVENUE
WALTHAM, MASSACHUSETTS 02451

MHF Design Consultants, Inc.
As Shown Per Set Site Data
Scale, New Hampshire 03070
(603) 881-0720
ENGINEERS - PLANNERS - SURVEYORS

ARTICLE X To see if the Town will vote to authorize the Board of Selectmen, on behalf of the Town, to petition the General Court for passage of a special law substantially as provided below. The Legislature may make clerical or editorial changes in form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the Legislature. The Board of Selectmen is hereby authorized to approve amendments that shall be within the scope of the general public objectives of this petition.

AN ACT AUTHORIZING THE TOWN OF ANDOVER TO ESTABLISH A MEANS TESTED
SENIOR CITIZEN PROPERTY TAX EXEMPTION

SECTION 1. With respect to each qualifying parcel of real property classified as class one, residential in the town of Andover there shall be an exemption from the property tax in an amount to be set annually by the board of selectmen as provided in section 3. The exemption shall be applied to the domicile of the taxpayer only. For the purposes of this act, "parcel" shall be a unit of real property as defined by the board of assessors under the deed for the property and shall include a condominium unit. The exemption provided for herein shall be in addition to any and all other exemptions allowed by the General Laws.

SECTION 2. Real property shall qualify for the exemption under section 1 if all of the following criteria are met:

- (a) The qualifying real property is owned and occupied by a person who qualified and received the circuit breaker income tax credit the previous year under section 6(k) of chapter 62 of the General Laws;
- (b) The qualifying real property is owned by a single applicant age 65 or older at the close of the previous year or jointly by persons either of whom is age 65 or above at the close of the previous year and if the joint applicant is 60 years of age or older;
- (c) The qualifying real property is owned and occupied by the applicant or joint applicants as their domicile;
- (d) The applicant or at least 1 of the joint applicants has been domiciled and owned a home in the town of Andover for at least the 10 consecutive years preceding the filing of an application for the exemption;
- (e) The maximum prior year assessed value of the domicile is no greater than the prior year's maximum assessed value for qualification for the circuit breaker income tax credit under Section 6(k) of chapter 62 of the General Laws as adjusted annually by the Department of Revenue; and
- (f) The board of assessors has approved the application.

SECTION 3. The board of selectmen shall annually set the exemption amount provided for in section 1, provided that the amount of the exemption shall be up to a 100% match, and no less than a 50% match, of the amount of the circuit breaker income tax credit under section 6(k) of chapter 62 of the General Laws for which the applicant received in the previous year. The total amount exempted by this act shall be allocated proportionally within the tax levy on all residential taxpayers.

SECTION 4. A person who seeks to qualify for the exemption under section 1 shall, before the deadline established by the board of assessors, file an application, on a form to be adopted by the board of assessors, with the supporting documentation of the filed income tax return of the applicant showing the Circuit Breaker tax credit. The application shall be filed each year for which the applicant seeks the exemption.

SECTION 5. No exemption shall be granted under this act until the Department of Revenue certifies a residential tax rate for the applicable tax year where the total exemption amount is raised by a burden shift within the residential tax levy.

SECTION 6. This act shall expire after 3 years of implementation of the exemption with program implementation beginning in Fiscal Year 2020.

or take any other action with respect thereto.

Board of Selectmen

DRAFT

Background:

To be eligible for the Andover property tax exemption, the senior:

- (1) has filed and been deemed eligible for a prior year Schedule CB (Circuit Breaker) for the purpose of state income taxes;
- (2) has owned property in Andover for at least the 10 consecutive years preceding the filing of an application for the exemption ; and
- (3) applies annually to the Board of Assessors for the exemption.

Using the state’s Schedule CB takes local government out of the business of determining eligibility. Placing local eligibility determinants beyond the Schedule CB will require additional workload on the already busy Assessors Division. The CB state income tax break serves as the basis for determining the local property tax relief. Annually the Board of Selectmen at or before their Tax Classification Hearing (usually in November, to be effective that December), will set the exemption amount of the Schedule CB income tax relief. The exact amount will be determined by how many seniors qualify for the exemption, and the total amount of senior tax relief (discussed below) desired by the Board. Please see the following Table for some examples of possible local property tax relief seen by applicants:

Schedule CB benefit
\$1,080 (Maximum)
\$908 (Based on 2010-2014 Average CB Credit)

The only data we have from the state was from 2001 –2014. The average CB income tax benefit in Andover between 2010 -2014 was \$908.186, and an average of 481 local residents qualified. Thus the average total income tax relief between these time periods was 481 x \$908.186 = \$436,837. We know some of those that qualified under CB rent property and others have not owned property in Andover for the last ten consecutive years. Both factors shrink the pool that is eligible for local property tax relief. We also don’t know how many seniors did not file Schedule CB that might otherwise do so in order to obtain a local property tax benefit. Based on the available information we are estimating a maximum local tax relief of \$436,837.

Here is an example of what this proposed senior tax relief will cost the average taxpayer under this scenario:

Average Single Family Homes	Full match of relief - \$436,837 tax benefit	Increase per \$1,000
\$613,261	\$30.66	.05

Here are the qualifications for state income tax relief Schedule CB for 2017.

- (1) You, or your spouse if married filing jointly, must be at least 65 years of age before December 31, 2017 to qualify for this credit. Also, you must file as single, married filing jointly or head of household to qualify for this credit. If married filing separately, you do not qualify for this credit;
- (2) The assessed value of principal residence as of December 31, 2017 must be \$747,000 or less;

(3) Qualifying income (includes MA Adjusted Gross Income (AGI) + social security benefits + untaxed pensions + miscellaneous income - certain income tax exemptions) is capped at \$57,000 (single); \$72,000 (head of household); or \$86,000 (married filing jointly). Income calculated if from all sources.

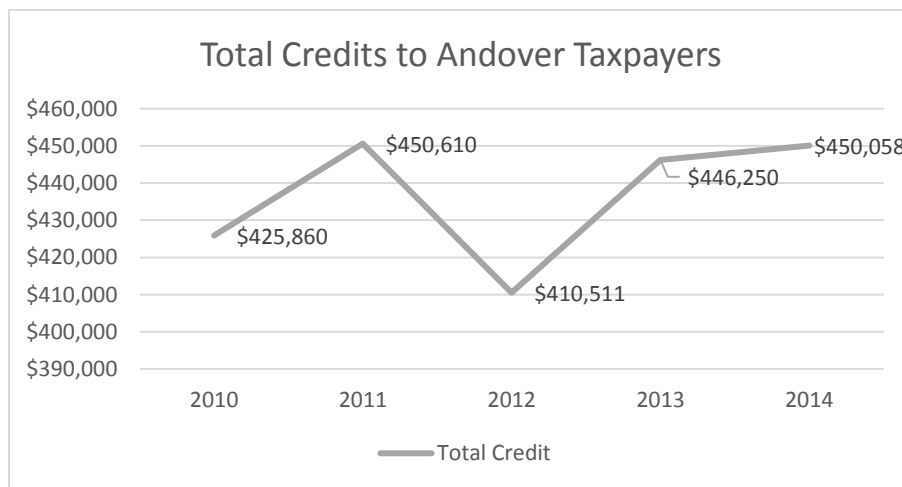
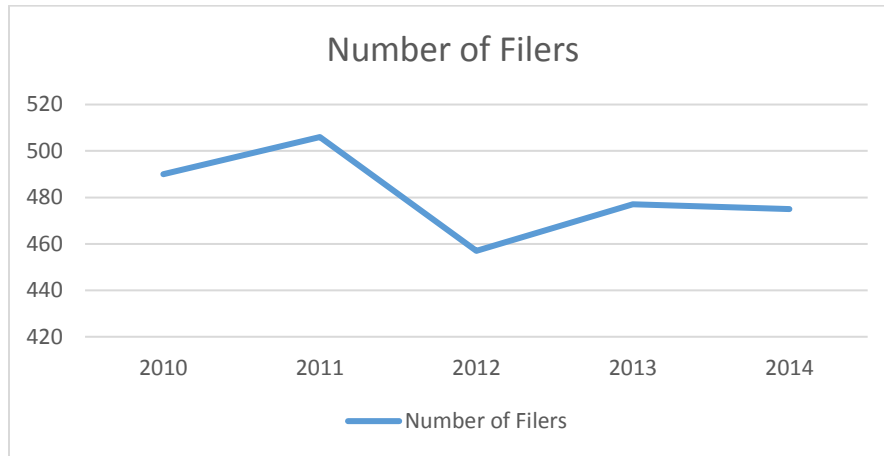
(4) If you are a homeowner, your Massachusetts property tax payments, together with half of your water and sewer expense, must exceed 10% of your total Massachusetts income for the tax year.

DRAFT

Senior Circuit Breaker Tax Credit - Andover

Year	Number of Filers	Average Credit	Total Credit
2010	490	\$869	\$425,860
2011	506	\$891	\$450,610
2012	457	\$898	\$410,511
2013	477	\$936	\$446,250
2014	475	\$947	\$450,058

Most current information available from Massachusetts Department of Revenue



- To raise \$450,000, the average single family tax bill would increase by \$30.66
- To raise \$225,000, the average single family tax bill would increase by \$18.40
- To raise \$150,000, the average single family tax bill would increase by \$12.27



TOWN OF ANDOVER

Town Offices
36 Bartlet Street
Andover, MA 01810
(978) 623-8200
www.andoverma.gov

Johnson & Borenstein LLC
Attorney Robert Lavoie
12 Chestnut Street
Andover MA 01810

Re: Pulte Restatement of Affordability Restriction

Dear Bob,

On January 9, 2018, at a regularly scheduled public meeting, the Andover Planning Board reviewed and approved the Amendment and Restatement of Declaration of Affordable Housing Restriction by Pulte Homes for Riverside Woods. The document as approved by the Board had been reviewed and approved by Town Counsel. After signature by the Board of Selectmen and recording at the North Essex Registry of Deeds please provide this office with a copy of the recorded document.

If you have any questions regarding the Board's action, please do not hesitate to call.

Regards,

Jacki Byerley, AICP
Planner

(for recording)

AMENDMENT AND RESTATEMENT

of

DECLARATION OF AFFORDABLE HOUSING RESTRICTION

This **Amendment and Restatement of Declaration of Affordable Housing Restriction** (herein referred to as the “**Amendment**”) is made as of the ___ day of _____, 2018 by Pulte Homes of New England, LLC, a Michigan Corporation of 115 Flanders Road, Westborough, MA 01581 (“**Pulte**” or the “**Declarant**”). This Amendment relates to that certain Declaration of Affordable Housing Restriction dated as of February 13, 2017 and recorded with Essex North Registry of Deeds at Book 15017 Page 67 (the “**Original Restriction**”) made by Declarant in favor 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 the Andover Town Office building at 36 Bartlet Street, Andover MA 01810 (“**Andover**” or the “**Municipality**”).

RECITALS

A. The purpose of this Amendment is to clarify how Declarant and Andover will administer the thirty (30) Affordable Units (as that term is defined below), 21 of which are comprised of so-called “60% AMI Units” and “80% AMI Units” to be administered under Department Of Housing and Community Development’s (“**DHCD**”) LIP Program (as that term is defined below), and to be covered by a conventional DHCD Regulatory Agreement (as that term is defined below), while 9 Affordable Units comprised of so-called “120% AMI Units” will be administered under this Amendment.

B. The Original Restriction, as affected by this Amendment, relates to and burdens a portion of the improvements constructed and 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 Proposed 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.

C. Pulte is constructing a senior housing residential development for residents who have attained the age of 62 on the Property known as “**Riverside Woods**” (the “**Project or Project Site**”) consisting of a total of two hundred (200) condominium units (the “**Units**”), pursuant to the Special Permit issued by the Planning Board under Section 8.8 of the Andover Zoning Bylaw under the Senior Residential Community Overlay District as Decision: SP 15-01 issued on October 30, 2015 and recorded with Essex North District Registry of Deeds in Book 14713 Page 278 (the “**Special Permit**”).

D. Condition Number 26 of the Special Permit requires that 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**”). The Affordable Units are described in the Special Permit and the plans referenced therein, and are more particularly described herein. Of the 30 Affordable Units, the Declarant has set aside units representing all three (3) income levels as follows:

--30% serve persons whose annual income does not exceed 60% of the Area Median Income (“**AMI**”) adjusted for family size as determined by the U. S. Department of Housing and Urban Development as those income levels are defined in Section 8.8.5.8 of the Andover Zoning By-Law (the “**60% AMI Units**”), while

-- 40% serve moderate income persons whose annual income does not exceed 80% AMI (the “**80% AMI Units**”), and

--30% serve upper-moderate income persons whose annual income does not exceed 120% AMI (the “**120% AMI Units**”).

E. With respect to the Project’s 60% AMI Units and 80% AMI Units, Declarant pursuant to DHCD’s regulations promulgated at 760 CMR 56.00 (the “**Regulations**”) governing the Local Initiative Program (“**LIP**”), has worked with DHCD to have Declarant’s LIP Application approved by DHCD. Consequently, the Declarant, the Municipality and DHCD have entered into a separate, standard DHCD Regulatory Agreement and Declaration of Restrictive Covenants of even or near date herewith (the “**Regulatory Agreement**”), governing the twenty-one (21) 60% AMI Units and 80% AMI Units (the “**LIP Units**”) to be sold at prices specified in the DHCD Regulatory Agreement (and as also set forth in **Exhibit A** attached hereto) to persons or households with incomes, as applicable, at or below sixty (60%) percent or eighty (80%) percent of the regional median household.

F. Section 3 of the Original Restriction in part provided that:

“It is expressly intended that this Declaration will be replaced, amended, restated and suspended in effect by a conventional Regulatory Agreement which will explicitly provide that it is a MGL c. 184 Affordable Housing Restriction; at such time and in such case, the effect of this Declaration will be suspended and of no force and effect but only so long as, and only during the period of time that, the Regulatory Agreement continues to operate as a MGL c. 184 Affordable Housing Restriction” (herein referred to as the “**Affordability Coordination Provision**”).

G. A central purpose of this Amendment is to refine, adjust and amend this Affordability Coordination Provision of the Original Restriction, in order to clarify that the Regulatory Agreement (while it is in effect) shall apply solely to the Project's 60% AMI Units and 80% AMI Units. The Declarant and the Municipality, with the consent of DHCD (as set out in **Exhibit D** attached hereto), intend and hereby declare that

(i) the Regulatory Agreement shall apply solely to the twenty-one (21) LIP Units (being the Project's 60% AMI units and 80% % AMI Units, as set out and identified in **Exhibit B**) and the Municipality's right to enforce the provisions of the Original Restriction, as affected by this Amendment, shall become effective with respect to the LIP Units only if and when the Regulatory Agreement is terminated, expires, or is otherwise no longer in effect;

(ii) the Regulatory Agreement shall at no time have any effect on the Project's nine (9) 120% AMI Units (which 120% AMI Units are set out and identified in Exhibit B, and which shall continue to be governed and regulated by the Original Restriction, as affected by this Amendment); and

(iii) upon any termination or suspension of the Regulatory Agreement, the Project's 60% AMI Units and 80% AMI Units shall be governed and regulated by the Original Restriction, as affected by this Amendment, until such time (if any) that a new Regulatory Agreement is entered into.

Consequently, Declarant and Andover (with the consent of DHCD attached hereto as Exhibit D and as more fully described below), hereby agree to amend and restate the Original Restriction as follows:

1. General Affordability Requirements.

A. (i) The Special Permit; DHCD Lip Units; and 120% AMI Units. The Special Permit authorizes the construction of 200 age restricted dwelling units and other improvements on the Property. Condition Number 26 of the Special Permit requires that 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**"). The Affordable Units are described in the Special Permit and the plans referenced therein, and are more particularly described herein. Of the 30 Affordable Units, the Declarant has set aside units representing all three (3) income levels as follows:

--30% serve persons whose annual income does not exceed 60% of the Area Median Income ("**AMI**") adjusted for family size as determined by the U. S. Department of Housing and Urban Development as those income levels are defined in Section 8.8.5.8 of the Andover Zoning By-Law (the "**60% AMI Units**"), while

-- 40% serve moderate income persons whose annual income does not exceed 80% AMI (the "**80% AMI Units**"), and

--30% serve upper-moderate income persons whose annual income does not exceed 120% AMI (the “**120% AMI Units**”).

With respect to the Project’s 60% AMI Units and 80% AMI Units, Declarant pursuant to DHCD’s regulations promulgated at 760 CMR 56.00 (the “**Regulations**”) governing the Local Initiative Program (“**LIP**”), has worked with DHCD to have Declarant’s LIP Application approved by DHCD. Consequently, the Declarant, the Municipality and DHCD have entered into a separate, standard DHCD Regulatory Agreement and Declaration of Restrictive Covenants of even or near date herewith (the “**Regulatory Agreement**”), governing the twenty-one (21) 60% AMI Units and 80% AMI Units (the “**LIP Units**”) to be sold at prices specified in the DHCD Regulatory Agreement (and as also set forth in **Exhibit A** attached hereto) to persons or households with incomes, as applicable, at or below sixty (60%) percent or eighty (80%) percent of the regional median household. 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).

(ii) Identification of 60% AMI Units, 80% AMI Units and 120% AMI Units. The Affordable Units are described in more detail in the Special Permit and the plans referenced therein.

The thirty (30) Affordable Units are identified and located as follows:

A. 60% AMI Units (9 Units)

Building #1 1105, 1112, 1212

Building #3 3104, 3112, 3212

Building #4 4104, 4112, 4211

B. 80% AMI Units (12 Units)

Building #1 1101, 1205, 1402

Building #2 2102, 2108, 2202

Building #3 3113, 3205, 3404

Building #4 4106, 4205, 4404

C. 120% AMI Units (9 Units)

Building #1 1305, 1311

Building #2 2208, 2302, 2406

Building #3 3305, 3311

Building #4 4305, 4311

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.

(iii) Contributions to the Affordable Unit Renovation/Rehab Fund (Special Permit Condition #32). Declarant hereby confirms that for all 30 of the Affordable Units, Declarant shall comply with the following Condition # 32 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 (the “**Affordable Unit Renovation/Rehab Fund**”).

(iv) Monitoring Agreement with the Monitoring Agent. Prior to marketing or otherwise making available for sale any of the Affordable Units, the Declarant must enter into a Monitoring Agreement with a Monitoring Agent subject to the approval of the Andover Planning Board and shall obtain the Monitoring Agent’s approval of a marketing plan for the Affordable Units. Pursuant to the Special Permit, Declarant entered into a Monitoring Agreement dated as of January 18, 2017 (the “**Monitoring Agreement**”), by and among Declarant, 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 (as the “Municipality”). As required, the Andover Planning Board voted to approve the contents of the Monitoring Agreement, and the Declarant obtained the Monitoring Agent’s approval of a marketing plan for the Affordable Units (the “**Marketing Plan**”). Such Marketing Plan set forth a plan for affirmative fair housing marketing of the Affordable Units and effective outreach to protected groups underrepresented in the Municipality, and the Marketing Plan shall at all times comply with all applicable statutes and regulations. 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 (“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.

B. Approval of the Original Declaration by DHCD as an Affordable Housing Restriction under the provisions of Massachusetts Gen. Laws Chapter 184, Section 32.

As evidenced by the DHCD Certificate of Approval (the “**DHCD Chapter 184 Approval**”) dated April 3, 2017 and recorded with the Registry of Deeds on April 4, 2017 at Book 15039, Page 1, the Undersecretary of the Massachusetts Department Of Housing and Community

Development certified that the Original Declaration was in the public interest and was approved pursuant to the provisions of Massachusetts Gen. Laws Chapter 184, Section 32.

As evidenced by DHCP's Consent attached hereto as Exhibit D, the refinements and changes made to the original declaration by this Amendment are acceptable to DHCD and do not alter in any respect the DHCD Chapter 184 Approval of the Original Declaration as affected by this Amendment and as set forth in said Exhibit D, DHCD has declared this amendment to be in the public interest and is approved pursuant to the provisions of Massachusetts General Laws Chapter 184, Section 32.

Except as noted below, no aspect of this Amendment shall in any way alter or affect the following requirements originally set forth in Section 2 of the Original Declaration:

(i) Each Low, Moderate, and Upper Moderate Income Unit will be initially sold for no more than the price set forth in Exhibit A attached hereto and made a part hereof to an Eligible Purchaser. An Eligible Purchaser is a Family (i) , in the case of a Low Income Family, whose annual income does not exceed sixty percent (60%); in the case of a Moderate Income Family, whose annual income does not exceed eighty percent (80%); and, in the case of an Upper Moderate Income Family, whose annual income does not exceed one hundred twenty (120%), of the Area median income adjusted for family size as determined by the U. S. Department of Housing and Urban Development and (ii) whose assets do not exceed the limits specified in the Guidelines. A "Family" shall mean two or more persons who will live regularly in the Low or Moderate Income Unit as their primary residence and who are related by blood, marriage, or operation of law or who have otherwise evidenced a stable inter-dependent relationship; or an individual. The "Area" is defined as the Lawrence MSA.

(ii) At the time of initial sale of each Low, Moderate and Upper Moderate Income Unit by the Declarant, the Declarant shall execute and shall as a condition of the sale cause the purchaser of the Low, Moderate and Upper Moderate Income Unit to execute an Affordable Housing Deed Rider, in form and substance approved by the Municipality and DHCD.

--For the LIP Units, such Deed Rider shall be in the form attached to the Regulatory Agreement and is to be attached to and made a part of the deed from the Declarant to the Low (60% AMI), or Moderate (80% AMI), Unit Purchaser.

--For the 120% AMI Units, the Deed Rider shall be in the form attached hereto as Exhibit C and is to be attached to and made a part of the deed from the Declarant to the 120% AMI Unit Purchaser.

Each such Deed Rider shall require the Unit Purchaser at the time he desires to sell the Low, Moderate and Upper Moderate Income Unit (hereinafter in this paragraph referred to as the "Affordable Unit") to offer the Affordable Unit to the Municipality at a discounted purchase price which is affordable to Low, Moderate, and Upper Moderate Families within the applicable income levels and which is more particularly described therein. The Municipality shall have the option upon terms more particularly described in the Deed Rider to either purchase the Affordable Unit or to find an Eligible Purchaser. The Deed Rider shall require the Unit Purchaser and the Eligible Purchaser to execute at the time of resale a Deed Rider identical in form and substance to the Deed

Rider then in effect with respect to the Affordable Units which will be attached and made a part of the deed from the Unit Purchaser to the Eligible Purchaser, so that the affordability of the Affordable Unit will be preserved each time that subsequent resales of the Affordable Unit occur. The various requirements and restrictions regarding resale of an Affordable Unit contained in the Deed Rider are hereinafter referred to as the (“Resale Restrictions”). If upon the initial resale or any subsequent resale of an Affordable Unit, the Municipality is unable to find an Eligible Purchaser for the Low and Moderate Income Unit, and the Municipality elects not to exercise its right to purchase the Affordable Unit, then the then current owner of the Affordable Unit shall have the right to sell the Affordable Unit to any person, regardless of his income (an “Ineligible Purchaser”) at a discounted purchase price which is affordable to Low, Moderate, and Upper Moderate Families within their respective income levels and subject to all rights and restrictions contained in the Deed Rider, and provided that the Unit is conveyed subject to a Deed Rider identical in form and substance to the Deed Rider then in effect with respect to the Affordable Unit which will be attached and made part of the deed from the Unit Purchaser to the Ineligible Purchaser.

(iii) For each sale of an Affordable Income Unit, the Municipality must approve the terms of the Eligible Purchaser’s mortgage financing as evidenced by the Municipality’s issuance of the Resale Price Certificate described in the Deed Rider.

(iv) The Municipality agrees that in the event that it purchases an Affordable Unit pursuant to its right to do so contained in the Deed Rider then in effect with respect to such Affordable Unit, that the Municipality shall within six (6) months of its acceptance of a deed of such Affordable Unit, either (i) sell the Affordable Unit to an Eligible Purchaser at the same price for which it purchased the Affordable Unit plus any expenses incurred by the Municipality during its period of ownership, or (ii) rent the Affordable Unit to a person who meets the income guidelines set forth above.

2. Seniority of the Original Restriction as affected by this Amendment

As required under Section 8.8.5.8.h of the Andover Zoning By-Law, there being no mortgages or other outstanding liens on the Property, the Original Restriction as affected by this Amendment is and shall continue to be 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. Intent and operation of the Affordability Coordination Provision of the Original Restriction as affected by this Amendment

A central purpose of this Amendment is to refine, adjust and amend the Affordability Coordination Provision which had appeared in Section 3 of the Original Restriction. In order to avoid any confusion as to the relationship between the Regulatory Agreement and the Original Restriction as affected by this Amendment, it is hereby expressly declared that the Regulatory Agreement (while it is in effect) shall apply solely to the Project’s 60% AMI Units and 80% AMI Units.

Further, the Declarant and the Municipality, with the consent of DHCD (as set out in Exhibit D attached hereto), intend and hereby declare that

(i) the Regulatory Agreement shall apply solely to the twenty-one (21) LIP Units (being the Project's 60% AMI units and 80% % AMI Units, as set out and identified in **Exhibit B**) and the Municipality's right to enforce the provisions of the Original Restriction, as affected by this Amendment, shall become effective with respect to the LIP Units only if and when the Regulatory Agreement is terminated, expires, or is otherwise no longer in effect;

(ii) the Regulatory Agreement shall at no time have any effect on the Project's nine (9) 120% AMI Units (which 120% AMI Units are set out and identified in Exhibit B, and which shall continue to be governed and regulated by the Original Restriction, as affected by this Amendment); and

(iii) upon any termination or suspension of the Regulatory Agreement, the Project's 60% AMI Units and 80% AMI Units shall governed and regulated by the Original Restriction, as affected by this Amendment, until such time (if any) that a new Regulatory Agreement is entered into.

Consequently, the Affordability Coordination Provision which had appeared in Section 3 of the Original Restriction is hereby deleted and replaced with the foregoing provisions of this Section 3 of the Amendment.

4. Continued application of central provisions of the Original Declaration.

The Original Restriction as affected by this Amendment continues to 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.

The Original Restriction as affected by this Amendment continues to burden only the Affordable Units, which shall be those units for which an Affordable Housing Deed Rider has been recorded; the Original Restriction as affected by this Amendment shall not burden the remainder of the units for which no such deed rider has been recorded or the Project Site. 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 at all times engage a Monitoring Agent to ensure that the Declarant is abiding by its obligations relative to the affordable units pursuant to the Special Permit.

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 the Original Restriction as affected by this Amendment, 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 the Original Restriction as affected by this Amendment, the Regulatory Agreement or the Deed Rider. The Original Restriction as affected by this Amendment 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 the Original Restriction as affected by this Amendment 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 the Original Restriction as affected by this Amendment 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 the Original Restriction as affected by this Amendment, or otherwise exercise its rights hereunder, shall not be deemed or construed to be a waiver of such rights.

The burdens of the Original Restriction as affected by this Amendment 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 the Original Restriction as affected by this Amendment, and any other notices or instruments appropriate to assuring the enforceability of the Original Restriction as affected by this Amendment.

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 duly recorded the Original 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 provided 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. Declarant shall record with said Deeds a copy of this Amendment together with Exhibit D's consent and approval executed by DHCD under the provisions of Massachusetts General Laws Chapter 184, Section 32, and Declarant shall provide a certified copy thereof to the Municipality prior to the sale of any Affordable Unit.

5. 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 Amendment.

(b) The execution and performance of the Original Restriction as affected by this Amendment 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 Amendment, 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 Amendment.

(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 Amendment).

6. The Original Restriction as affected by this Amendment shall be governed by the laws of the Commonwealth of Massachusetts. Any amendments to the Original Restriction as affected by this Amendment 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.

7. The Declarant agrees to file this Amendment (including DHCD's consent and MGL Chapter 184 determination as contained in Exhibit D) promptly with the Essex North Registry of Deeds, and to forward a certified copy of the recorded Amendment to the Planning Board within thirty (30) days of recording.

8. The Original Restriction as affected by this Amendment 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.

9. The Original Restriction as affected by this Amendment shall also be and is for the benefit of the Municipality, its successors and assigns.

10. The Original Restriction as affected by this Amendment 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. The Original Restriction as affected by this Amendment 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 the Original Restriction as affected by this Amendment 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 the Original Restriction as affected by this Amendment and shall not, in any enforcement action, raise the invalidity of any provision of the Original Restriction as affected by this Amendment.

11. The Original Restriction as affected by this Amendment 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 the Original Restriction as affected by this Amendment 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 the Original Restriction as affected by this Amendment in perpetuity in accordance with applicable law. The Municipality is hereby declared to be a benefited party to and a holder of the Original Restriction as affected by this Amendment 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 the Original Restriction as affected by this Amendment in effect in perpetuity. Without limiting the forgoing, the Declarant and its successors and assigns agree to execute any such notices and instruments upon request of the Municipality.

12. The Municipality shall have the authority and right to enforce the Original Restriction as affected by this Amendment 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 the Original Restriction as affected by this Amendment; (ii) enforcing the Original Restriction as affected by this Amendment; 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 the Original Restriction as affected by this Amendment 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.

13. If any court or other tribunal of competent jurisdiction determines that any provision of the Original Restriction as affected by this Amendment 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.

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

15. 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 the Original Restriction as affected by this Amendment and shall incorporate the Original Restriction as affected by this Amendment, 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 the Original Restriction as affected by this Amendment in full or by reference shall be deemed and taken to include said Original Restriction as affected by this Amendment in full even though said Original Restriction as affected by this Amendment is not expressly described or referenced therein.

16. No amendment or release of the Original Restriction as affected by this Amendment 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.

17. Pulte intends, declares and covenants on behalf of itself and its successors and assigns (i) that the Original Restriction as affected by this Amendment and the restrictions, agreements and restrictions contained herein shall be and are Restrictions running with the land, encumbering the Project for the duration of the Original Restriction as affected by this Amendment, 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 duration of the Original Restriction as affected by this Amendment. 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 the Original Restriction as affected by this Amendment to constitute 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.

18. 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 Amendment.

For Declarant's title to 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 _____ 2018.

DECLARANT:

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

By: _____
Name:
Title: Duly Authorized Signatory

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss. _____, 2018

On this ____ day of _____, 2018, 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 _____, 2018 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:

EXHIBIT A

Re: Riverside Woods
(Project name)
Andover
(City/Town)
Pulte
(Developer)

Maximum Selling Prices and Initial Condominium Fees Assigned to Low, Moderate, and Upper Moderate Income Units

Low Income Units (60% AMI)

	<u>Sales Price</u>	<u>Condo Fee</u>
One bedroom units	\$106,000	\$130/month
Two bedroom units	\$119,000	\$150/month

Moderate Income Units (80% AMI)

	<u>Sales Price</u>	<u>Condo Fee</u>
One bedroom units	\$150,000	\$130/month
Two bedroom units	\$169,000	\$150/month

Upper Moderate Income Units (120% AMI)

	<u>Sales Price</u>	<u>Condo Fee</u>
One bedroom units	\$255,000	\$130/month
Two bedroom units	\$287,000	\$150/month

EXHIBIT B

LIP Units

A. 60% AMI Units (9 Units)

Building #1 1105, 1112, 1212

Building #3 3104, 3112, 3212

Building #4 4104, 4112, 4211

B. 80% AMI Units (12 Units)

Building #1 1101, 1205, 1402

Building #2 2102, 2108, 2202

Building #3 3113, 3205, 3404

Building #4 4106, 4205, 4404

120% AMI Units (9 Units)

Building #1 1305, 1311

Building #2 2208, 2302, 2406

Building #3 3305, 3311

Building #4 4305, 4311

EXHIBIT C

[FORM DEED RIDER]

AFFORDABLE HOUSING DEED RIDER

(120% AMI Units)

***For Projects in Which
Affordability Restrictions Survive Foreclosure***

made part of that certain deed (the "Deed") of certain property (the "Property") from _____ ("Grantor") to _____ ("Owner") dated _____, 20___. The Property is located in the City/Town of Andover (the "Municipality").

RECITALS

WHEREAS, the Grantor is conveying that certain real property more particularly described in the Deed to the Owner at a consideration which is less than the fair market value of the Property; and

WHEREAS, the Property is part of a project approved by the Andover Planning Board, under a Special Permit issued 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**"), such Project consisting of a total number of 200 residential condominium townhouse and garden style dwellings (the "Units") with 9 of the Units (the "**Andover Moderate Income Units**") to be sold at prices specified in that certain **First Amendment of Declaration of Affordable Housing Restriction** (herein referred to as the "**Amendment**") (made by Pulte Homes of New England, LLC, a Michigan Corporation of 115 Flanders Road, Westborough, MA 01581 dated on or about _____, 2017 and recorded with said Registry Of Deeds in Book _____ Page _____) to persons or households with incomes at or below one hundred twenty percent (120%) of the regional median household income (the "Program"); and

WHEREAS, pursuant to the Program, eligible purchasers such as the Owner are given the opportunity to purchase residential property at less than its fair market value if the purchaser agrees to certain use and transfer restrictions, including an agreement to occupy the property as a principal residence and to convey the property for an amount not greater than a maximum resale price, all as more fully provided herein; and

WHEREAS, _____ (singly, or if more than one entity is listed, collectively, the “Monitoring Agent”) is obligated by the Program or has been retained to monitor compliance with and to enforce the terms of this Deed Rider, and eligible purchasers such as the Owner may be required to pay to the Monitoring Agent, or its successor, a small percentage of the resale price upon the Owner’s conveyance of the Property, as set out in the Regulatory Agreement and as more fully provided herein; and

WHEREAS, the rights and restrictions granted herein to the Monitoring Agent and the Municipality serve the public’s interest in the creation and retention of affordable housing for persons and households of low and moderate income and in the restricting of the resale price of property in order to assure its affordability by future low and moderate income purchasers.

NOW, THEREFORE, as further consideration for the conveyance of the Property at less than fair market value, the Grantor and the Owner, including his/her/their heirs, successors and assigns, hereby agree that the Property shall be subject to the following rights and restrictions which are imposed for the benefit of, and shall be enforceable by, the Municipality and the Monitoring Agent.

1. Definitions. In this Deed Rider, in addition to the terms defined above, the following words and phrases shall have the following meanings:

Affordable Housing Fund means a fund established by the Municipality for the purpose of reducing the cost of housing for Eligible Purchasers or for the purpose of encouraging, creating, or subsidizing the construction or rehabilitation of housing for Eligible Purchasers or, if no such fund exists, a fund established by the Municipality pursuant to Massachusetts General Laws Chapter 44 Section 53A, et seq.

Applicable Foreclosure Price shall have the meaning set forth in Section 7(b) hereof.

Appropriate Size Household means a household containing a number of members equal to the number of bedrooms in the Property plus one.

Approved Capital Improvements means the documented commercially reasonable cost of extraordinary capital improvements made to the Property by the Owner;

provided that the Monitoring Agent shall have given written authorization for incurring such cost prior to the cost being incurred and that the original cost of such improvements shall be discounted over the course of their useful life.

Area means the Primary Metropolitan Statistical Area or non-metropolitan area that includes the Municipality, as determined by HUD, which in this case is the _____MSA/HMFA.

Area Median Income means the most recently published median income for the Area adjusted for household size as determined by HUD. If HUD discontinues publication of Area Median Income, the income statistics used by MassHousing for its low and moderate income housing programs shall apply.

Base Income Number means the Area Median Income for a four (4)-person household. Currently, the AMI for the _____ MSA/HMFA is \$_____.

Chief Executive Officer shall mean the Mayor in a city or the Board of Selectmen in a town unless some other municipal office is designated to be the chief executive officer under the provisions of a local charter.

Closing shall have the meaning set forth in Section 5(b) hereof.

Compliance Certificate shall have the meaning set forth in Section 6(a) hereof.

Conveyance Notice shall have the meaning set forth in Section 4(a) hereof.

Eligible Purchaser means an individual or household earning no more than one hundred twenty percent (120%) of Area Median Income and owning assets not in excess of the limit set forth in the Program Guidelines. To be considered an Eligible Purchaser, the individual or household must intend to occupy and thereafter must occupy the Property as his, her or their principal residence and must provide to the Monitoring Agent such certifications as to income, assets and residency as the Monitoring Agent may require to determine eligibility as an Eligible Purchaser. An Eligible Purchaser shall be a First-Time Homebuyer if required by the Program and as specified in the Regulatory Agreement.

First-Time Homebuyer means an individual or household, of which no household member has had an ownership interest in a principal residence at any time during the three (3)-year period prior to the date of qualification as an Eligible Purchaser, except that (i) any individual who is a displaced homemaker (as may be defined by DHCD) (ii) and any individual age 55 or over (applying for age 55 or over housing) shall not be excluded from consideration as a First-Time Homebuyer under this definition on the basis that the individual, owned a home or had an ownership interest in a principal residence at any time during the three (3)-year period.

Foreclosure Notice shall have the meaning set forth in Section 7(a) hereof.

HUD means the United States Department of Housing and Urban Development.

Ineligible Purchaser means an individual or household not meeting the requirements to be eligible as an Eligible Purchaser.

Maximum Resale Price means the sum of (i) the Base Income Number (at the time of resale) multiplied by the Resale Price Multiplier, plus (ii) the Resale Fee and any necessary marketing expenses (including broker's fees) as may have been approved by the Monitoring Agent, plus (iii) Approved Capital Improvements, if any (the original cost of which shall have been discounted over time, as calculated by the Monitoring Agent); provided that in no event shall the Maximum Resale Price be greater than the purchase price for which a credit-worthy Eligible Purchaser earning one hundred twenty percent (120%) of Area Median Income, as required by the Program) for an Appropriate Size Household could obtain mortgage financing (as such purchase price is determined by the Monitoring Agent using the same methodology then used by DHCD for its Local Initiative Program or similar comprehensive permit program); and further provided that the Maximum Resale Price shall not be less than the purchase price paid for the Property by the Owner unless the Owner agrees to accept a lesser price.

Monitoring Services Agreement means any Monitoring Services Agreement for monitoring and enforcement of this Deed Rider among some or all of the Developer, the Monitoring Agent, the Municipality, MassHousing and DHCD.

Mortgage Satisfaction Amount shall have the meaning set forth in Section 7(b) hereof.

Mortgagee shall have the meaning set forth in Section 7(a) hereof.

Program Guidelines means the regulations and/or guidelines issued for the applicable Program and controlling its operations, as amended from time to time.

Resale Fee means a fee of **Two Percent (2%)** of the Base Income Number (at the time of resale) multiplied by the Resale Price Multiplier, to be paid to the Monitoring Agent as compensation for monitoring and enforcing compliance with the terms of this Deed Rider, including the supervision of the resale process.

Resale Price Certificate means the certificate issued as may be specified in the Regulatory Agreement and recorded with the first deed of the Property from the Developer, or the subsequent certificate (if any) issued as may be specified in the Regulatory Agreement, which sets forth the Resale Price Multiplier to be applied on the Owner's sale of the Property, as provided herein, for so long as the restrictions set forth herein continue. In the absence of contrary specification in the Regulatory Agreement the Monitoring Agent shall issue the certificate.

Resale Price Multiplier means the number calculated by dividing the Property's initial sale price by the Base Income Number at the time of the initial sale from the Developer to the first Eligible Purchaser. The Resale Price Multiplier will be multiplied by the Base Income Number at the time of the Owner's resale of the Property to determine the Maximum Resale Price on such conveyance subject to adjustment for the Resale Fee, marketing expenses and Approved Capital Improvements. In the event that the purchase price paid for the Property by the Owner includes such an adjustment a new Resale Price Multiplier will be recalculated by the Monitoring Agent by dividing the purchase price so paid by the Base Income Number at the time of such purchase, and a new Resale Price Certificate will be issued and recorded reflecting the new Resale Price Multiplier. A Resale Price Multiplier of _____ is hereby assigned to the Property.

Term means in perpetuity, unless earlier terminated by (i) the termination of the term of affordability set forth in the Regulatory Agreement or Comprehensive Permit, whichever is longer; or (ii) the recording of a Compliance Certificate and a new Deed Rider executed by the purchaser in form and substance substantially identical to this Deed Rider establishing a new term.

2. Owner-Occupancy/Principal Residence. The Property shall be occupied and used by the Owner's household exclusively as his, her or their principal residence. Any use of the Property or activity thereon which is inconsistent with such exclusive residential use is expressly prohibited.

3. Restrictions Against Leasing, Refinancing and Junior Encumbrances. The Property shall not be leased, rented, refinanced, encumbered (voluntarily or otherwise) or mortgaged without the prior written consent of the Monitoring Agent; provided that this provision shall not apply to a first mortgage granted on the date hereof in connection with this conveyance from Grantor to Owner securing indebtedness not greater than one hundred percent (100%) of the purchase price. Any rents, profits, or proceeds from any transaction described in the preceding sentence which transaction has not received the requisite written consent of the Monitoring Agent shall be paid upon demand by Owner to the Municipality for deposit to its Affordable Housing Fund. The Monitoring Agent or Municipality may institute proceedings to recover such rents, profits or proceeds, and costs of collection, including attorneys' fees. Upon recovery, after payment of costs, the balance shall be paid to the Municipality for deposit to its Affordable Housing Fund. In the event that the Monitoring Agent consents for good cause to any such lease, refinancing, encumbrance or mortgage, it shall be a condition to such consent that all rents, profits or proceeds from such transaction, which exceed the actual carrying costs of the Property as determined by the Monitoring Agent, shall be paid to the Municipality for deposit to its Affordable Housing Fund.

4. Options to Purchase.

(a) When the Owner or any successor in title to the Owner shall desire to sell, dispose of or otherwise convey the Property, or any portion thereof, the Owner shall notify the Monitoring Agent and the Municipality in writing of the Owner's intention to so convey the Property (the "Conveyance Notice"). Upon receipt of the Conveyance Notice, the Monitoring Agent shall (i) calculate the Maximum Resale Price which the Owner may receive on the sale of the Property based upon the Base Income Number in effect as of the date of the Conveyance Notice and the Resale Price Multiplier set forth in the most recently recorded Resale Price Certificate together with permissible adjustments for the Resale Fee, marketing expenses and Approved Capital Improvements (as discounted), and (ii) promptly begin marketing efforts. The Owner shall fully cooperate with the Monitoring Agent's efforts to locate an Eligible Purchaser and, if so requested by the Monitoring Agent, shall hire a broker selected by the Monitoring Agent to assist in locating an Eligible Purchaser ready, willing and able to purchase the Property at the Maximum Resale Price after entering a purchase and sale agreement. Pursuant to such agreement, sale to the Eligible Purchaser at the Maximum Resale Price shall occur within ninety (90) days after the Monitoring Agent receives the Conveyance Notice or such further time as reasonably requested to arrange for details of closing. If the Owner fails to cooperate in such resale efforts, including a failure to agree to reasonable terms in the purchase and sale agreement, the Monitoring Agent may extend the 90-day period for a period commensurate with the time the lack of cooperation continues, as determined by the Monitoring Agent in its reasonable discretion. In such event, the Monitoring Agent shall give Owner written notice of the lack of cooperation and the length of the extension added to the 90-day period.

(b) The Monitoring Agent shall ensure that diligent marketing efforts are made to locate an Eligible Purchaser ready, willing and able to purchase the Property at the Maximum Resale Price within the time period provided in subsection (a) above and to enter the requisite purchase and sale agreement. If more than one Eligible Purchaser is located, the Monitoring Agent shall conduct a lottery or other like procedure to determine which Eligible Purchaser shall be entitled to enter a purchase and sale agreement with Owner and to purchase the Property. Preference shall be given to Appropriate Size Households. The procedure for marketing and selecting an Eligible Purchaser shall be approved as provided in the Regulatory Agreement and any applicable Program Guidelines. If an Eligible Purchaser is located within ninety (90) days after receipt of the Conveyance Notice, but such Eligible Purchaser proves unable to secure mortgage financing so as to be able to complete the purchase of the Property pursuant to the purchase and sale agreement, following written notice to Owner within the 90-day period the Monitoring Agent shall have an additional sixty (60) days to locate another Eligible Purchaser who will enter a purchase and sale agreement and purchase the Property by the end of such sixty (60)-day period or such further time as reasonably requested to carry out the purchase and sale agreement.

(c) In lieu of sale to an Eligible Purchaser, the Monitoring Agent or the Municipality or designee shall also have the right to purchase the Property at the Maximum Resale Price, in which event the purchase and sale agreement shall be entered, and the purchase shall occur within ninety (90) days after receipt of the Conveyance Notice or, within the additional sixty (60)-day period specified in subsection (b) above, or such further time as reasonably requested to carry out the purchase and sale agreement. Any lack of cooperation by Owner in measures reasonably necessary to effect the sale shall extend the 90-day period by the length of the delay caused by such lack of cooperation. The Monitoring Agent shall promptly give Owner written notice of the lack of cooperation and the length of the extension added to the 90-day period. In the event of such a sale to the Monitoring Agent or Municipality or designee, the Property shall remain subject to this Deed Rider and shall thereafter be sold or rented to an Eligible Purchaser as may be more particularly set forth in the Regulatory Agreement.

(d) If an Eligible Purchaser fails to purchase the Property within the 90-day period (or such further time determined as provided herein) after receipt of the Conveyance Notice, and the Monitoring Agent or Municipality or designee does not purchase the Property during said period, then the Owner may convey the Property to an Ineligible Purchaser no earlier than thirty (30) days after the end of said period at the Maximum Resale Price, but subject to all rights and restrictions contained herein; provided that the Property shall be conveyed subject to a Deed Rider identical in form and substance to this Deed Rider which the Owner agrees to execute, to secure execution by the Ineligible Purchaser and to record with the Deed; and further provided that, if more than one Ineligible Purchaser is ready, willing and able to purchase the Property the Owner will give preference and enter a purchase and sale agreement with any individuals or households identified by the Monitoring Agent as an Appropriate Size Household earning more than eighty percent (80%) but less than one hundred twenty percent (120%) of the Area Median Income.

(e) The priority for exercising the options to purchase contained in this Section 4 shall be as follows: (i) an Eligible Purchaser located and selected by the Monitoring Agent, as provided in subsection (b) above, (ii) the Municipality or its designee, as provided in subsection (c) above, and (iii) an Ineligible Purchaser, as provided in subsection (d) above.

(f) Nothing in this Deed Rider or the Regulatory Agreement constitutes a promise, commitment or guarantee by DHCD, MassHousing, the Municipality or the Monitoring Agent that upon resale the Owner shall actually receive the Maximum Resale Price for the Property or any other price for the Property.

(g) The holder of a mortgage on the Property is not obligated to forbear from exercising the rights and remedies under its mortgage, at law or in equity, after delivery of the Conveyance Notice.

5. Delivery of Deed.

(a) In connection with any conveyance pursuant to an option to purchase as set forth in Section 4 above, the Property shall be conveyed by the Owner to the selected purchaser by a good and sufficient quitclaim deed conveying a good and clear record and marketable title to the Property free from all encumbrances except (i) such taxes for the then current year as are not due and payable on the date of delivery of the deed, (ii) any lien for municipal betterments assessed after the date of the Conveyance Notice, (iii) provisions of local building and zoning laws, (iv) all easements, restrictions, covenants and agreements of record specified in the deed from the Owner to the selected purchaser, (v) such additional easements, restrictions, covenants and agreements of record as the selected purchaser consents to, such consent not to be unreasonably withheld or delayed, (vi) the Regulatory Agreement, and (vii), except as otherwise provided in the Compliance Certificate, a Deed Rider identical in form and substance to this Deed Rider which the Owner hereby agrees to execute, to secure execution by the selected purchaser, and to record with the deed. **Said deed shall clearly state that it is made subject to the Deed Rider which is made part of the deed.** Failure to comply with the preceding sentence shall not affect the validity of the conveyance from the Owner to the selected purchaser or the enforceability of the restrictions herein.

(b) Said deed, including the approved Deed Rider, shall be delivered and the purchase price paid (the "Closing") at the Registry, or at the option of the selected purchaser, exercised by written notice to the Owner at least five (5) days prior to the delivery of the deed, at such other place as the selected purchaser may designate in said notice. The Closing shall occur at such time and on such date as shall be specified in a written notice from the selected purchaser to the Owner, which date shall be at least five (5) days after the date on which such notice is given, and no later than the end of the time period specified in Section 4(a) above.

(c) To enable Owner to make conveyance as herein provided, Owner may, if Owner so desires at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, all instruments with respect thereto to be recorded simultaneously with the delivery of said deed. Nothing contained herein as to the Owner's obligation to remove defects in title or to make conveyance or to deliver possession of the Property in accordance with the terms hereof, as to use of proceeds to clear title or as to the election of the selected purchaser to take title, nor anything else in this Deed Rider shall be deemed to waive, impair or otherwise affect the priority of the rights herein over matters appearing of record, or

occurring, at any time after the recording of this Deed Rider, all such matters so appearing or occurring being subject and subordinate in all events to the rights herein.

(d) Water and sewer charges and taxes for the then current tax period shall be apportioned and fuel value shall be adjusted as of the date of Closing and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable by the selected purchaser.

(e) Full possession of the Property free from all occupants is to be delivered at the time of the Closing, the Property to be then in the same condition as it is in on the date of the execution of the purchase and sale agreement, reasonable wear and tear only excepted.

(f) If Owner shall be unable to give title or to make conveyance as above required, or if any change of condition in the Property not included in the above exception shall occur, then Owner shall be given a reasonable time not to exceed thirty (30) days after the date on which the Closing was to have occurred in which to remove any defect in title or to restore the Property to the condition herein required. The Owner shall use best efforts to remove any such defects in the title, whether voluntary or involuntary, and to restore the Property to the extent permitted by insurance proceeds or condemnation award. The Closing shall occur fifteen (15) days after notice by Owner that such defect has been cured or that the Property has been so restored. The selected purchaser shall have the election, at either the original or any extended time for performance, to accept such title as the Owner can deliver to the Property in its then condition and to pay therefor the purchase price without deduction, in which case the Owner shall convey such title, except that in the event of such conveyance in accordance with the provisions of this clause, if the Property shall have been damaged by fire or casualty insured against or if a portion of the Property shall have been taken by a public authority, then the Owner shall, unless the Owner has previously restored the Property to its former condition, either:

(A) pay over or assign to the selected purchaser, on delivery of the deed, all amounts recovered or recoverable on account of such insurance or condemnation award less any amounts reasonably expended by the Owner for any partial restoration, or

(B) if a holder of a mortgage on the Property shall not permit the insurance proceeds or the condemnation award or part thereof to be used to restore the Property to its former condition or to be so paid over or assigned, give to the selected purchaser a credit against the purchase price, on delivery of the deed, equal to said amounts so retained by the holder of the said mortgage less any amounts reasonably expended by the Owner for any partial restoration.

6. Resale and Transfer Restrictions.

(a) Except as otherwise provided herein, the Property or any interest therein shall not at any time be sold by the Owner, or the Owner's successors and assigns, and no attempted sale shall be valid, unless the aggregate value of all consideration and payments of every kind given or paid by the selected purchaser of the Property for and in connection with the transfer of such Property, is equal to or less than the Maximum Resale Price for the Property, and unless a certificate (the "Compliance Certificate") is obtained and recorded, signed and acknowledged by the Monitoring Agent which Compliance Certificate refers to the Property, the Owner, the selected purchaser thereof, and the Maximum Resale Price therefor, and states that the proposed conveyance, sale or transfer of the Property to the selected purchaser is in compliance with the rights, restrictions, covenants and agreements contained in this Deed Rider, and unless there is also recorded a new Deed Rider executed by the selected purchaser, which new Deed Rider is identical in form and substance to this Deed Rider.

(b) The Owner, any good faith purchaser of the Property, any lender or other party taking a security interest in such Property and any other third party may rely upon a Compliance Certificate as conclusive evidence that the proposed conveyance, sale or transfer of the Property to the selected purchaser is in compliance with the rights, restrictions, covenants and agreements contained in this Deed Rider, and may record such Compliance Certificate in connection with the conveyance of the Property.

(c) Within ten (10) days of the closing of the conveyance of the Property from the Owner to the selected purchaser, the Owner shall deliver to the Monitoring Agent a copy of the Deed of the Property, including the deed rider, together with recording information. Failure of the Owner, or Owner's successors or assigns to comply with the preceding sentence shall not affect the validity of such conveyance or the enforceability of the restrictions herein.

7. Survival of Restrictions Upon Exercise of Remedies by Mortgagees.

(a) The holder of record of any mortgage on the Property (each, a "Mortgagee") shall notify the Monitoring Agent, the Municipality and any senior Mortgagee(s) in the event of any default for which the Mortgagee intends to commence foreclosure proceedings or similar remedial action pursuant to its mortgage (the "Foreclosure Notice"), which notice shall be sent to the Monitoring Agent and the Municipality as set forth in this Deed Rider, and to the senior Mortgagee(s) as set forth in such senior Mortgagee's mortgage, not less than one hundred twenty (120) days prior to the foreclosure sale or the acceptance of a deed in lieu of foreclosure. The Owner expressly agrees to the delivery of the Foreclosure Notice and any other communications and disclosures made by the Mortgagee pursuant to this Deed Rider.

(b) The Owner grants to the Municipality or its designee the right and option to purchase the Property upon receipt by the Municipality of the Foreclosure Notice. In the event that the Municipality intends to exercise its option, the Municipality or its designee shall purchase the Property within one hundred twenty (120) days of receipt of such notice, at a price equal to the greater of (i) the sum of the outstanding principal balance of the note secured by such foreclosing Mortgagee's mortgage, together with the outstanding principal balance(s) of any note(s) secured by mortgage(s) senior in priority to such mortgage (but in no event shall the aggregate amount thereof be greater than one hundred percent (100%) of the Maximum Resale Price calculated at the time of the granting of the mortgage) plus all future advances, accrued interest and all reasonable costs and expenses which the foreclosing Mortgagee and any senior Mortgagee(s) are entitled to recover pursuant to the terms of such mortgages (the "Mortgage Satisfaction Amount"), and (ii) the Maximum Resale Price (which for this purpose may be less than the purchase price paid for the Property by the Owner)(the greater of (i) and (ii) above herein referred to as the "Applicable Foreclosure Price"). The Property shall be sold and conveyed in its then-current "as is, where is" condition, without representation or warranty of any kind, direct or indirect, express or implied, and with the benefit of and subject to all rights, rights of way, restrictions, easements, covenants, liens, improvements, housing code violations, public assessments, any and all unpaid federal or state taxes (subject to any rights of redemption for unpaid federal taxes), municipal liens and any other encumbrances of record then in force and applicable to the Property having priority over such foreclosing Mortgagee's mortgage, and further subject to a Deed Rider identical in form and substance to this Deed Rider which the Owner hereby agrees to execute, to secure execution by the Municipality or its designee, and to record with the deed, except that (i) during the term of ownership of the Property by the Municipality or its designee the owner-occupancy requirements of Section 2 hereof shall not apply (unless the designee is an Eligible Purchaser), and (ii) the Maximum Resale Price shall be recalculated based on the price paid for the Property by the Municipality or its designee, but not greater than the Applicable Foreclosure Price. **Said deed shall clearly state that it is made subject to the Deed Rider which is made part of the deed.** Failure to comply with the preceding sentence shall not affect the validity of the conveyance from the Owner to the Municipality or its designee or the enforceability of the restrictions herein.

(c) Not earlier than one hundred twenty (120) days following the delivery of the Foreclosure Notice to the Monitoring Agent, the Municipality and any senior Mortgagee(s) pursuant to subsection (a) above, the foreclosing Mortgagee may conduct the foreclosure sale or accept a deed in lieu of foreclosure. The Property shall be sold and conveyed in its then-current "as is, where is" condition, without representation or warranty of any kind, direct or indirect, express or implied, and with the benefit of and subject to all rights, rights of way, restrictions, easements, covenants, liens, improvements, housing code violations, public assessments, any and all unpaid federal or state taxes (subject to

any rights of redemption for unpaid federal taxes), municipal liens and any other encumbrances of record then in force and applicable to the Property having priority over the foreclosing Mortgagee's mortgage, and further subject to a Deed Rider, as set forth below.

(d) In the event that the foreclosing Mortgagee conducts a foreclosure sale or other proceeding enforcing its rights under its mortgage and the Property is sold for a price in excess of the greater of the Maximum Resale Price and the Mortgage Satisfaction Amount, such excess shall be paid to the Municipality for its Affordable Housing Fund after (i) a final judicial determination, or (ii) a written agreement of all parties who, as of such date hold (or have been duly authorized to act for other parties who hold) a record interest in the Property, that the Municipality is entitled to such excess. The legal costs of obtaining any such judicial determination or agreement shall be deducted from the excess prior to payment to the Municipality. To the extent that the Owner possesses any interest in any amount which would otherwise be payable to the Municipality under this paragraph, to the fullest extent permissible by law, the Owner hereby assigns its interest in such amount to the Mortgagee for payment to the Municipality.

(e) If any Mortgagee shall acquire the Property by reason of foreclosure or upon conveyance of the Property in lieu of foreclosure, then the rights and restrictions contained herein shall apply to such Mortgagee upon such acquisition of the Property and to any purchaser of the Property from such Mortgagee, and the Property shall be conveyed subject to a Deed Rider identical in form and substance to this Deed Rider, which the Mortgagee that has so acquired the Property agrees to annex to the deed and to record with the deed, except that (i) during the term of ownership of the Property by such Mortgagee the owner-occupancy requirements of Section 2 hereof shall not apply, and (ii) the Maximum Resale Price shall be recalculated based on the price paid for the Property by such Mortgagee at the foreclosure sale, but not greater than the Applicable Foreclosure Price. **Said deed shall clearly state that it is made subject to the Deed Rider which is made part of the deed.** Failure to comply with the preceding sentence shall not affect the validity of the conveyance to the Mortgagee or the enforceability of the restrictions herein.

(f) If any party other than a Mortgagee shall acquire the Property by reason of foreclosure or upon conveyance of the Property in lieu of foreclosure, the Property shall be conveyed subject to a Deed Rider identical in form and substance to this Deed Rider, which the foreclosing Mortgagee agrees to annex to the deed and to record with the deed, except that (i) if the purchaser at such foreclosure sale or assignee of a deed in lieu of foreclosure is an Ineligible Purchaser, then during the term of ownership of the Property by such Ineligible Purchaser, the owner-occupancy requirements of Section 2 hereof shall not apply, and (ii) the Maximum Resale Price shall be recalculated based on the price paid for the Property by such third party purchaser at the foreclosure sale, but not greater than the Applicable Foreclosure Price. **Said deed shall clearly state that**

it is made subject to the Deed Rider which is made part of the deed. Failure to comply with the preceding sentence shall not affect the validity of the conveyance to such third party purchaser or the enforceability of the restrictions herein.

(g) Upon satisfaction of the requirements contained in this Section 7, the Monitoring Agent shall issue a Compliance Certificate to the foreclosing Mortgagee which, upon recording in the Registry, may be relied upon as provided in Section 6(b) hereof as conclusive evidence that the conveyance of the Property pursuant to this Section 7 is in compliance with the rights, restrictions, covenants and agreements contained in this Deed Rider.

(h) The Owner understands and agrees that nothing in this Deed Rider or the Regulatory Agreement (i) in any way constitutes a promise or guarantee by MassHousing, DHCD, the Municipality or the Monitoring Agent that the Mortgagee shall actually receive the Mortgage Satisfaction Amount, the Maximum Resale Price for the Property or any other price for the Property, or (ii) impairs the rights and remedies of the Mortgagee in the event of a deficiency.

(i) If a Foreclosure Notice is delivered after the delivery of a Conveyance Notice as provided in Section 4(a) hereof, the procedures set forth in this Section 7 shall supersede the provisions of Section 4 hereof.

8. Covenants to Run With the Property.

(a) This Deed Rider, including all restrictions, rights and covenants contained herein, is an affordable housing restriction as that term is defined in Section 31 of Chapter 184 of the Massachusetts General Laws, having the benefit of Section 32 of such Chapter 184, and is enforceable as such.

(b) In confirmation thereof the Grantor and the Owner intend, declare and covenant (i) that this Deed Rider, including all restrictions, rights and covenants contained herein, shall be and are covenants running with the land, encumbering the Property for the Term, and are binding upon the Owner and the Owner's successors in title and assigns, (ii) are not merely personal covenants of the Owner, and (iii) shall enure to the benefit of and be enforceable by the Municipality, and the Monitoring Agent and their successors and assigns, for the Term. Owner hereby agrees that any and all requirements of the laws of the Commonwealth of Massachusetts have been satisfied in order for the provisions of this Deed Rider to constitute restrictions and covenants running with the land and that any requirements of privity of estate have been satisfied in full.

9. Notice. Any notices, demands or requests that may be given under this Deed Rider shall be sufficiently served if given in writing and delivered by hand or mailed by certified or registered mail, postage prepaid, return receipt requested, to the following entities and parties in interest at the addresses set forth below, or such other addresses as may be specified by any party (or its successor) by such notice.

Municipality:

Grantor:

Owner:

Monitoring Agent:

Others:

Any such notice, demand or request shall be deemed to have been given on the day it is hand delivered or mailed.

10. Further Assurances. The Owner agrees from time to time, as may be reasonably required by the Monitoring Agent, to furnish the Monitoring Agent upon its request with a written statement, signed and, if requested, acknowledged, setting forth the condition and occupancy of the Property, information concerning the resale of the Property and other material information pertaining to the Property and the Owner's conformance with the requirements of the Comprehensive Permit, Program and Program Guidelines, as applicable.

11. Enforcement. (a) The rights hereby granted shall include the right of the Municipality and the Monitoring Agent to enforce this Deed Rider independently by appropriate legal proceedings and to obtain injunctive and other appropriate relief on account of any violations including without limitation relief requiring restoration of the Property to the condition, affordability or occupancy which existed prior to the violation impacting such condition, affordability or occupancy (it being agreed that there shall be no adequate remedy at law for such violation), and shall be in addition to, and not in limitation of, any other rights and remedies available to the Municipality and the Monitoring Agent.

(b) Without limitation of any other rights or remedies of the Municipality and the Monitoring Agent, or their successors and assigns, in the event of any sale, conveyance or other transfer or occupancy of the Property in violation of the provisions of this Deed Rider, the Municipality and Monitoring Agent shall be entitled to the following remedies, which shall be cumulative and not mutually exclusive:

- (i) specific performance of the provisions of this Deed Rider;
- (ii) money damages for charges in excess of the Maximum Resale Price, if applicable;

(iii) if the violation is a sale of the Property to an Ineligible Purchaser except as permitted herein, the Monitoring Agent and the Municipality shall have the option to locate an Eligible Purchaser to purchase or itself purchase the Property from the Ineligible Purchaser on the terms and conditions provided herein; the purchase price shall be a price which complies with the provisions of this Deed Rider; specific performance of the requirement that an Ineligible Purchaser shall sell, as herein provided, may be judicially ordered.

(iv) the right to void any contract for sale or any sale, conveyance or other transfer of the Property in violation of the provisions of this Deed Rider in the absence of a Compliance Certificate, by an action in equity to enforce this Deed Rider; and

(v) money damages for the cost of creating or obtaining a comparable dwelling unit for an Eligible Purchaser.

(c) In addition to the foregoing, the Owner hereby agrees and shall be obligated to pay all fees and expenses (including legal fees) of the Monitoring Agent and/or the Municipality in the event successful enforcement action is taken against the Owner or Owner's successors or assigns. The Owner hereby grants to the Monitoring Agent and the Municipality a lien on the Property, junior to the lien of any institutional holder of a first mortgage on the Property, to secure payment of such fees and expenses in any successful enforcement action. The Monitoring Agent and the Municipality shall be entitled to seek recovery of fees and expenses incurred in a successful enforcement action of this Deed Rider against the Owner and to assert such a lien on the Property to secure payment by the Owner of such fees and expenses.

(d) The Owner for himself, herself or themselves and his, her or their successors and assigns, hereby grants to the Monitoring Agent and the Municipality the right to take all actions with respect to the Property which the Monitoring Agent or Municipality may determine to be necessary or appropriate pursuant to applicable law, court order, or the consent of the Owner to prevent, remedy or abate any violation of this Deed Rider.

12. Monitoring Agent Services; Fees. The Monitoring Agent shall monitor compliance of the Project and enforce the requirements of this Deed Rider. As partial compensation for providing these services, a Resale Fee [] shall [] shall not be payable to the Monitoring Agent on the sale of the Property to an Eligible Purchaser or any other purchaser in accordance with the terms of this Deed Rider. This fee, if imposed, shall be paid by the Owner herein as a closing cost at the time of Closing, and payment of the fee to the Monitoring Agent shall be a condition to delivery and recording of its certificate, failing which the Monitoring Agent shall have a claim against the new purchaser, his, her or their

instrument and acknowledged the foregoing instrument to be his or her free act and deed and the free act and deed of _____ as _____ of _____.

Notary Public
My commission expires:

COMMONWEALTH OF MASSACHUSETTS

_____ County, ss.

On this _____ day of _____, 20__, before me, the undersigned _____ notary public, _____ personally appeared _____, proved to me through satisfactory evidence of identification, which was [*check one*]: [] a current driver's license, [] a current U.S. passport, [] my personal knowledge, to be the person whose name is signed on the preceding document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
My commission expires:

EXHIBIT D

**Consent of the Department of Housing and Community
Development**

Reference is made to the DHCD Certificate of Approval (the “**DHCD Chapter 184 Approval**”) dated April 3, 2017 and recorded with the Registry of Deeds on April 4, 2017 at Book 15039, Page 1. The refinements and changes made to the Original Declaration by this Amendment are acceptable to DHCD and do not alter in any respect the DHCD Chapter 184 Approval of the Original Declaration as affected by this Amendment, and DHCD hereby certifies that the foregoing Amendment is declared to be in the public interest and is approved pursuant to the provisions of Massachusetts General Laws Chapter 184, Section 32.

Dated this ____ day of _____, 2018.

Department of Housing and Community Development

By _____

(for signing)

**LOCAL INITIATIVE PROGRAM
REGULATORY AGREEMENT
AND
DECLARATION OF RESTRICTIVE COVENANTS
FOR
OWNERSHIP PROJECT**

This Regulatory Agreement and Declaration of Restrictive Covenants (the “Agreement”) is made this ___ day of _____ 2018 by and among the Commonwealth of Massachusetts, acting by and through the Department of Housing and Community Development (“DHCD”), pursuant to G.L. c. 23B §1 as amended by Chapter 19 of the Acts of 2007, the Town of Andover (“the Municipality”), and Pulte Homes of New England LLC, a Michigan limited liability company, having an address at 115 Flanders Road, Westborough, MA, and its successors and assigns (“Project Sponsor”).

WITNESSETH:

WHEREAS, pursuant to G.L. c. 40B, §§ 20-23 (the “Act”) and the final report of the Special Legislative Commission Relative to Low and Moderate Income Housing Provisions issued in April 1989, regulations have been promulgated at 760 CMR 56.00 (the “Regulations”) which establish the Local Initiative Program (“LIP”);

WHEREAS, the Project Sponsor intends to construct a housing development known as Riverside Woods Condominium at a 16.712 ±-acre site on River Road in the Municipality, more particularly described in Exhibit A attached hereto and made a part hereof (the “Project”);

WHEREAS, such Project is to consist of a total number of 200 residential condominium townhouse and garden style dwellings (the “Units”) and 12 of the Units will be sold at prices specified in this Agreement to persons or households with incomes at or below eighty percent (80%) of the regional median household income (the “80% AMI Units”) and 9 of the Units will be sold at prices specified in this Agreement to persons or households with incomes at or below

sixty percent (60%) of the regional median household income (the “60% AMI Units”)(together, the 80% AMI Units and the 60% AMI Units are referred as the “Low and Moderate Income Units”);

WHEREAS, the Project contains 9 Units that are to be sold at prices specified in and subject to a Declaration of Affordable Housing Restriction in favor of the Municipality, but that are not subject to the restrictions contained in this Agreement;

WHEREAS, the Project is an age-restricted community and all units within the Project are subject to the restriction that each unit must be occupied by at least one or more persons at 62 or over, as more particularly set forth in the Master Deed recorded for the condominium;

WHEREAS, the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) and the Project Sponsor have made application to DHCD to certify that the units in the Project are Local Action Units (as that term is defined in the *Comprehensive Permit Guidelines* (the “Guidelines”) published by DHCD with the LIP Program; and

WHEREAS, in partial consideration of the execution of this Agreement, DHCD has given and will give technical and other assistance to the Project;

NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which each of the parties hereto hereby acknowledge to the other, DHCD, the Municipality, and the Project Sponsor hereby agree and covenant as follows:

1. The Project Sponsor agrees to construct the Project in accordance with plans and specifications approved by the Municipality (the “Plans and Specifications”). In addition, all Low and Moderate Income Units to be constructed as part of the Project must be indistinguishable from other Units in the Project from the exterior (unless the Project has an approved “Alternative Development Plan” as set forth in the *Comprehensive Permit Guidelines* (the “Guidelines”)) published by DHCD, and must contain complete living facilities including but not limited to a stove, refrigerator, kitchen cabinets, plumbing fixtures, and washer/dryer hookup, all as more fully shown in the Plans and Specifications.

- 9 of the Low and Moderate Income Units shall be one bedroom units;
- 12 of the Low and Moderate Income Units shall be two bedroom units;
- of the Low and Moderate Income Units shall be three bedroom units; and,
- of the Low and Moderate Income Units shall be four bedroom units.

All Low and Moderate Income Units to be occupied by families must contain two or more bedrooms. Low and Moderate Income Units must have the following minimum areas:

- one bedroom units - 700 square feet
- two bedroom units - 900 square feet
- three bedroom units – 1200 square feet

The Project must fully comply with the State Building Code and with all applicable state and federal building, environmental, health, safety and other laws, rules, and regulations, including without limitation all applicable federal and state laws, rules and regulations relating to the operation of adaptable and accessible housing for the handicapped. The Project must also comply with all applicable local codes, ordinances and by-laws.

Each Low and Moderate Income Unit will be sold for no more than the price set forth in Exhibit B attached hereto and made a part hereof to an Eligible Purchaser. An Eligible Purchaser is (a) in the case of an 80% AMI Unit, a Family (i) whose annual income does not exceed eighty percent (80%) of the Area median income adjusted for family size as determined by the U. S. Department of Housing and Urban Development and (ii) whose assets do not exceed the limits specified in the Guidelines, and (b) in the case of a 60% AMI Unit, a Family (i) whose annual income does not exceed sixty (60%) of the Area median income adjusted for family size as determined by the U.S. Department of Housing and Urban Development and (ii) whose assets do not exceed the limits specified in the Guidelines. A “Family” shall mean two or more persons who will live regularly in the Low or Moderate Income Unit as their primary residence and who are related by blood, marriage, or operation of law or who have otherwise evidenced a stable inter-dependent relationship; or an individual. The “Area” is defined as the Boston-Cambridge-Quincy MSA/HMFA/County.

2. Upon the occurrence of one of the events described in 760 CMR 56.03(2), the Project will be included in the Subsidized Housing Inventory as that term is described in 760 CMR 56.01. Only Low and Moderate Income Units will be counted as SHI Eligible Housing as that term is described in 760 CMR 56.01 for the purposes of the Act.

3. (a) At the time of sale of each Low and Moderate Income Unit by the Project Sponsor, the Project Sponsor shall execute and shall as a condition of the sale cause the purchaser of the Low and Moderate Income Unit to execute an Affordable Housing Deed Rider in the form of Exhibit C attached hereto and made a part hereof (the “Deed Rider”). Such Deed Rider shall be attached to and made a part of the deed from the Project Sponsor to the Unit Purchaser. Each such Deed Rider shall require the Unit Purchaser at the time he desires to sell the Low and Moderate Income Unit to offer the Low and Moderate Income Unit to the Municipality and to DHCD at a discounted purchase price more particularly described therein. The Municipality and DHCD shall have the option upon terms more particularly described in the Deed Rider to either purchase the Low and Moderate Income Unit or to find an Eligible Purchaser. The Deed Rider shall require the Unit Purchaser and the Eligible Purchaser to execute at the time of resale a Deed Rider identical in form and substance to the Deed Rider then in effect with respect to the Low and Moderate Income Unit which will be attached and made a part of the deed from the Unit Purchaser to the Eligible Purchaser, so that the affordability of the Low and Moderate Income unit will be preserved each time that subsequent resales of the Low and Moderate Income unit occur. (The various requirements and restrictions regarding resale of a Low and Moderate Income Unit contained in the Deed Rider are hereinafter referred to as the (“Resale Restrictions”). If upon the initial resale or any subsequent resale of a Low and Moderate Income Unit, the Municipality and DHCD are unable to find an Eligible Purchaser for the Low and Moderate Income Unit, and the Municipality and DHCD each elect not to exercise its right to purchase the Low and Moderate Income Unit, then the then current owner of the Low and Moderate Income Unit shall have the right to sell the Low and Moderate Income Unit to any person, regardless of his income (an “Ineligible Purchaser”) at the Maximum Resale Price and subject to all rights and restrictions

contained in the Deed Rider, and provided that the Unit is conveyed subject to a Deed Rider identical in form and substance to the Deed Rider then in effect with respect to the Low and Moderate Income Unit which will be attached and made part of the deed from the Unit Purchaser to the Ineligible Purchaser.

(b) For each sale of a Low and Moderate Income Unit, DHCD must approve the terms of the Eligible Purchaser's mortgage financing as evidenced by DHCD's issuance of the Resale Price Certificate described in the Deed Rider.

(c) The Municipality agrees that in the event that it purchases a Low and Moderate Income Unit pursuant to its right to do so contained in the Deed Rider then in effect with respect to such Low and Moderate Income Unit, that the Municipality shall within six (6) months of its acceptance of a deed of such Low and Moderate Income Unit, either (i) sell the Low and Moderate Income Unit to an Eligible Purchaser at the same price for which it purchased the Low and Moderate Income Unit plus any expenses incurred by the Municipality during its period of ownership, such expenses to be approved by DHCD, subject to a Deed Rider satisfactory in form and substance to DHCD and the recording of an Eligible Purchaser Certificate satisfactory in form and substance to DHCD, the method for selecting such Eligible Purchaser to be approved by DHCD or (ii) rent the Low and Moderate Income Unit to a person who meets the income guidelines of the LIP Program, upon terms and conditions satisfactory to DHCD and otherwise in conformity with the requirements of the LIP Program. If the Municipality fails to sell or rent the Low and Moderate income unit as provided herein within said six (6) month period, or if at any time after the initial rental of the Low and Moderate Income Unit by the Municipality as provided herein the Low and Moderate Income Unit becomes vacant and remains vacant for more than ninety (90) days, then such Low and Moderate Income Unit shall cease to be counted as SHI Eligible Housing, and shall no longer be included in the Subsidized Housing Inventory.

(d) Each Low and Moderate Income Unit will remain SHI Eligible Housing and continue to be included in the Subsidized Housing Inventory for as long as the following three conditions are met: (1) this Agreement remains in full force and effect and neither the Municipality nor the Project Sponsor is in default hereunder; (2) the Project and Low and Moderate Income Unit each continue to comply with the Regulations and the Guidelines as the same may be amended from time to time; and (3) either (i) a Deed Rider binding the then current owner of the Low and Moderate Income Unit to comply with the Resale Restrictions is in full force and effect and the then current owner of the Low and Moderate Income Unit is either in compliance with the terms of the Deed Rider, or the Municipality is in the process of taking such steps as may be required by DHCD to enforce the then current owner's compliance with the terms of the Deed Rider or (ii) the Low and Moderate Income Unit is owned by the Municipality and the Municipality is in compliance with the terms and conditions of the last preceding paragraph, or (iii) the Low and Moderate Income Unit is owned by DHCD.

4. Intentionally Deleted.

5. (a) Prior to marketing or otherwise making available for sale any of the Units, the Project Sponsor must obtain DHCD's approval of a marketing plan (the "Marketing Plan") for the Low and Moderate Income Units. Such Marketing Plan must describe the buyer selection process for the Low and Moderate Income Units and must set forth a plan for affirmative fair marketing of Low and Moderate Income Units and effective outreach to protected groups

underrepresented in the municipality, including provisions for a lottery, consistent with the Regulations and Guidelines. At the option of the Municipality, and provided that the Marketing Plan 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 Low and Moderate Income Units, subject to all provisions of the Regulations and Guidelines, provided that any local preference shall apply only to the initial unit sales by the Project Sponsor. When submitted to DHCD for approval, the Marketing Plan should be accompanied by a letter from the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) which states that the buyer selection and local preference (if any) aspects of the Marketing Plan have been approved by the Municipality and which states that the Municipality will perform any aspects of the Marketing Plan which are set forth as responsibilities of the Municipality in the Marketing Plan. The Marketing Plan must comply with the Regulations and Guidelines and with all other applicable statutes, regulations and executive orders, and DHCD directives reflecting the agreement between DHCD and the U.S. Department of Housing and Urban Development in the case of *NAACP, Boston Chapter v. Kemp*. **If the Project is located in the Boston-Cambridge-Quincy, MA-NH MSA, the Project Sponsor must list all Low and Moderate Income Units with the Boston Fair Housing Commission's MetroList (Metropolitan Housing Opportunity Clearing Center); other requirements for listing of units are specified in the Guidelines.** All costs of carrying out the Marketing Plan shall be paid by the Project Sponsor.

(b) The Project Sponsor may use in-house staff to draft and/or implement the Marketing Plan, provided that such staff meets the qualifications described in the Guidelines. The Project Sponsor may contract for such services provided that any such contractor must be experienced and qualified under the standards set forth in the Guidelines. A failure to comply with the Marketing Plan by the Project Sponsor or by the Municipality shall be deemed to be a default of this Agreement. The Project Sponsor agrees to maintain for at least five years following the sale of the last Low and Moderate Income Unit, a record of all newspaper ads, outreach letters, translations, leaflets, and any other outreach efforts (collectively "Marketing Documentation") as described in the Marketing Plan as approved by DHCD which may be inspected at any time by DHCD. All Marketing Documentation must be approved by DHCD prior to its use by the Project Sponsor or the Municipality. The Project Sponsor and the Municipality agree that if at any time prior to or during the process of marketing the Low and Moderate Income Units, DHCD determines that the Project Sponsor, or the Municipality with respect to aspects of the Marketing Plan that the Municipality has agreed to be responsible for, has not adequately complied with the approved Marketing Plan, that the Project Sponsor or Municipality as the case may be, shall conduct such additional outreach or marketing efforts as shall be determined by DHCD.

6. Neither the Project Sponsor nor the Municipality shall discriminate on the basis of race, religion, color, sex, sexual orientation, familial status, age, handicap, marital status, national origin, genetic information, ancestry, children, receipt of public assistance, or any other basis prohibited by law in the selection of buyers for the Units; and the Project Sponsor shall not so discriminate in connection with the employment or application for employment of persons for the construction, operation or management of the Project.

7. (a) The Project Sponsor agrees to comply and to cause the Project to comply with all requirements of the Regulations and Guidelines and all other applicable laws, rules, regulations, and executive orders. DHCD and the Chief Executive Officer of the municipality shall have access during normal business hours to all books and records of the Project Sponsor and the Project in order to monitor the Project Sponsor's compliance with the terms of this Agreement.

(b) Throughout the term of this Agreement, the Chief Executive Officer shall annually certify in writing to DHCD that each of the Low and Moderate Income Units continues to be occupied by a person who was an Eligible Purchaser at the time of purchase; that any Low and Moderate Income Units which have been resold during the year have been resold in compliance with all of the terms and provisions of the Deed Rider then in effect with respect to each such Low and Moderate Income Unit, and in compliance with the Regulations and Guidelines and this Agreement; and that the Project and the Low and Moderate Income Units have otherwise been maintained in a manner consistent with the Regulations and Guidelines, this Agreement, and the Deed Rider then in effect with respect to each Low and Moderate Income Unit.

8. Upon execution, the Project Sponsor shall immediately cause this Agreement and any amendments hereto to be recorded/filed with the Registry, and the Project Sponsor shall pay all fees and charges incurred in connection therewith. Upon recording or filing, as applicable, the Project Sponsor shall immediately transmit to DHCD and the Municipality evidence of such recording or filing including the date and instrument, book and page or registration number of the Agreement.

9. The Project Sponsor hereby represents, covenants and warrants as follows:

(a) The Project Sponsor (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 Agreement.

(b) The execution and performance of this Agreement by the Project Sponsor (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 Project Sponsor 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) The Project Sponsor will, at the time of execution and delivery of this Agreement, have good and marketable title to the premises constituting the Project free and clear of any lien or encumbrance (subject to encumbrances created pursuant to this Agreement, any loan documents relating to the Project the terms of which are approved by DHCD, or other permitted encumbrances, including mortgages referred in paragraph 17, below).

(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 the Project Sponsor, 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 Agreement) or would materially or adversely affect its financial condition.

10. Except for sales of Low and Moderate Income Units to Eligible Purchasers and sales of other Units to unit owners in the ordinary course of business as permitted by the terms of this Agreement, the Project Sponsor will not sell, transfer, lease, or exchange the Project or any portion thereof or interest therein (collectively, a “Sale”) or (except as permitted under Section (c) below) mortgage the Property without the prior written consent of DHCD and the Municipality.

(a) A request for consent to a Sale shall include:

- A signed agreement stating that the transferee will assume in full the Project Sponsor’s obligations and duties under this Agreement, together with a certification by the attorney or title company that it will be held in escrow and, in the case of any transfer other than a transfer of Beneficial Interests, recorded in the Registry of Deeds with the deed and/or other recorded documents effecting the Sale;
- The name of the proposed transferee and any other entity controlled by or controlling or under common control with the transferee, and names of any affordable housing developments in the Commonwealth owned by such entities;
- A certification from the Municipality that the Project is in compliance with the affordability requirements of this Agreement.

(b) Consent to the proposed Sale shall be deemed to be given unless DHCD or the Municipality notifies the Project Sponsor within thirty (days) after receipt of the request that either

- The package requesting consent is incomplete, or
- The proposed transferee (or any entity controlled by or controlling or under common control with the proposed transferee) has a documented history of serious or repeated failures to abide by agreements of affordable housing funding or regulatory agencies of the Commonwealth or the federal government or is currently in violation of any agreements with such agencies beyond the time permitted to cure the violation, or
- The Project is not being operated in compliance with the affordability requirements of this Agreement at the time of the proposed Sale.

(c) The Project Sponsor shall provide DHCD and the Municipality with thirty (30) day’s prior written notice of the following:

- (i) any change, substitution or withdrawal of any general partner, manager, or agent of the Project Sponsor; or

- (ii) the conveyance, assignment, transfer, or relinquishment of a majority of the Beneficial Interests (herein defined) in the Project Sponsor (except for such a conveyance, assignment, transfer or relinquishment among holders of Beneficial Interests as of the date of this Agreement).
- (iii) the sale, mortgage, conveyance, transfer, ground lease, or exchange of the Project Sponsor's interest in the Project or any party of the Project.

For purposes hereof, the term "Beneficial Interest" shall mean: (i) with respect to a partnership, any partnership interests or other rights to receive income, losses, or a return on equity contributions made to such partnership; (ii) with respect to a limited liability company, any interests as a member of such company or other rights to receive income, losses, or a return on equity contributions made to such company; or (iii) with respect to a company or corporation, any interests as an officer, board member or stockholder of such company or corporation to receive income, losses, or a return on equity contributions made to such company or corporation.

Notwithstanding the above, DHCD's consent under this Section 9 shall not be required with respect to the grant by the Project Sponsor of any mortgage or other security interest in or with respect to the Project to a state or national bank, state or federal savings and loan association, cooperative bank, mortgage company, trust company, insurance company or other institutional lender made at no greater than the prevailing rate of interest or any exercise by any such mortgagee of any of its rights and remedies (including without limitation, by foreclosure or by taking title to the Project by deed in lieu of foreclosure), subject, however to the provisions of Section 14 hereof.

The Project Sponsor hereby agrees that it shall provide copies of any and all written notices received by the Project Sponsor from a mortgagee exercising or threatening to exercise its foreclosure rights under the mortgage.

11. Until such time as decisions regarding repair of damage due to fire or other casualty, or restoration after taking by eminent domain, shall be made by a condominium association or trust not controlled by the Project Sponsor, (or if the Project consists of detached dwellings, by homebuyers) Project Sponsor agrees that if the Project, or any part thereof, shall be damaged or destroyed or shall be condemned or acquired for public use, the Project Sponsor will use its best efforts to repair and restore the Project to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and thereafter to operate the Project in accordance with the terms of this Agreement, subject to the approval of the Project's lenders, which lenders have been approved by DHCD and the Municipality.

12. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. Any amendments to this Agreement must be in writing and executed by all of the parties hereto. The invalidity of any clause, part, or provision of this Agreement shall not affect the validity of the remaining portions hereof.

13. All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when delivered by hand or when mailed by certified or registered mail, postage prepaid, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate by written notice:

DHCD: Department of Housing and Community Development
Attention: Local Initiative Program Director
100 Cambridge St., Suite 300
Boston, MA 02114

Municipality: Town of Andover
Town Offices
36 Bartlett Street
Andover, MA 01810

Project Sponsor: Pulte Homes of New England LLC
115 Flanders Road, Suite 200
Westborough, MA 01730

14. (a) This Agreement and all of the covenants, agreements and restrictions contained herein shall be deemed to be an affordable housing restriction as that term is defined in G.L. c. 184, § 31 and as that term is used in G.L. c. 184, § 26, 31, 32 and 33. This Agreement shall bind, and the benefits shall inure to, respectively, the Project Sponsor and its successors and assigns, and DHCD and its successors and assigns and the Municipality and its successors and assigns. DHCD has determined that the acquiring of such affordable housing restriction is in the public interest. The term of this Agreement shall be perpetual, provided however, that this Agreement shall terminate if (a) at any time hereafter there is no Low and Moderate Income Unit at the Project which is then subject to a Deed Rider containing the Resale Restrictions, and there is no Low and Moderate Income Unit at the Project which is owned by the Municipality or DHCD as provided in Section 4 hereof The rights and restrictions contained in this Agreement shall not lapse if the Project is acquired through foreclosure or deed in lieu of foreclosure or similar action, and the provisions hereof shall continue to run with and bind the Project.

(b) The Project Sponsor intends, declares and covenants on behalf of itself and its successors and assigns (i) that this Agreement and the covenants, agreements and restrictions contained herein shall be and are covenants running with the land, encumbering the Project for the term of this Agreement, and are binding upon the Project Sponsor's successors in title, (ii) are not merely personal covenants of the Project Sponsor, and (iii) shall bind the Project Sponsor, its successors and assigns and enure to the benefit of DHCD and its successors and assigns for the term of the Agreement. Project Sponsor hereby agrees that any and all requirements of the laws of the Commonwealth of Massachusetts to be satisfied in order for the provisions of this Agreement 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.

(c) The Resale Restrictions contained in each of the Deed Riders which are to encumber each of the Low and Moderate Income Units at the Project pursuant to the requirements of this Agreement shall also constitute an affordable housing restriction as that term is defined in G.L. c. 184, § 31 and as that term is used in G.L. c. 184, §§ 26, 31, 32, and 33. Such Resale Restrictions shall be for the benefit of both DHCD and the Municipality and both DHCD and the Municipality shall be deemed to be the holder of the affordable housing restriction created by the Resale Restrictions in each of the Deed Riders. DHCD has determined that the acquiring of such

affordable housing restriction is in the public interest. To the extent that the Municipality is the holder of the Resale Restrictions to be contained in each of the Deed Riders, the Director of DHCD by the execution of this Agreement hereby approves such Resale Restrictions in each of the Deed Riders for the Low and Moderate Income Units of the Project as required by the provisions of G.L. c. 184, § 32.

15. The Project Sponsor and the Municipality each agree to submit any information, documents, or certifications requested by DHCD which DHCD shall deem necessary or appropriate to evidence the continuing compliance of the Project Sponsor and the Municipality with the terms of this Agreement.

16. (a) The Project Sponsor and the Municipality each covenant and agree to give DHCD written notice of any default, violation or breach of the obligations of the Project Sponsor or the Municipality hereunder, (with a copy to the other party to this Agreement) within seven (7) days of first discovering such default, violation or breach (a "Default Notice"). If DHCD becomes aware of a default, violation, or breach of obligations of the Project Sponsor or the Municipality hereunder without receiving a Default Notice from Project Sponsor or the Municipality, DHCD shall give a notice of such default, breach or violation to the offending party (with a copy to the other party to this Agreement) (the "DHCD Default Notice"). If any such default, violation, or breach is not cured to the satisfaction of DHCD within thirty (30) days after the giving of the Default notice by the Project Sponsor or the Municipality, or if no Default Notice is given, then within thirty (30) days after the giving of the DHCD Default Notice, then at DHCD's option, and without further notice, DHCD may terminate this Agreement, or DHCD may apply to any state or federal court for specific performance of this Agreement, or DHCD may exercise any other remedy at law or in equity or take any other action as may be necessary or desirable to correct non-compliance with this Agreement.

(b) If DHCD elects to terminate this Agreement as the result of a breach, violation, or default hereof, which breach, violation, or default continues beyond the cure period set forth in this Section 16(a), then the Low and Moderate Income Units and any other Units at the Project which have been included in the Subsidized Housing Inventory shall from the date of such termination no longer be deemed SHI Eligible Housing for the purposes of the Act and shall be deleted from the Subsidized Housing Inventory. The foregoing sentence shall not apply to Low and Moderate Income Units that have been conveyed in compliance and remain in compliance with Section 3 of this Agreement.

17. The Project Sponsor represents and warrants that it has obtained the consent of all existing mortgagees of the Project to the execution and recording of this Agreement and to the terms and conditions hereof and that all such mortgagees have executed the Consent to Regulatory Agreement attached hereto and made a part hereof.

18. DHCD may delegate to the Municipality any of its oversight and enforcement responsibilities under this Agreement, with the agreement of the Municipality, by providing written notice of such delegation to the Project Sponsor and the Municipality.

19. Intentionally deleted.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

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

PROJECT SPONSOR

Pulte Homes of New England LLC

By: _____
its Authorized Signatory

DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT

By: _____
its Associate Director

MUNICIPALITY

Town of Andover

By: _____
its _____

Attachments: Exhibit A - Legal Property Description
Exhibit B - Prices & Location of Low & Moderate Income Units
Exhibit C - Form of Deed Rider

Consent forms signed by any and all mortgagees whose mortgages are recorded prior to this Regulatory Agreement must be attached to this Regulatory Agreement.

© DHCD When used in the Local Initiative Program, this form may not be modified without the written approval of the Department of Housing and Community Development.

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF WORCESTER, ss. _____, 2018

On this _____ day of _____, 2018, 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 were that he was personally known to me, to be the person whose name is signed on the preceding document, as Authorized Signatory of the Pulte Homes of New England LLC, 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 SUFFOLK, ss. _____, 2018

On this _____ day of _____, 2018, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding document, as _____ for the Commonwealth of Massachusetts acting by and through the Department of Housing and Community Development, 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. _____, 2018

On this _____ day of _____, 2018, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding document, as _____ for the City/Town of _____, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
Print Name:
My Commission Expires:

NOT APPLICABLE – NO MORTGAGEE

CONSENT TO REGULATORY AGREEMENT

Re: _____
(Project name)

(City/Town)

(Project Sponsor)

The Undersigned being the holder of a mortgage on the above described Project recorded with the Registry of Deeds in Book ____, Page ____, hereby consents to the execution and recording of this Agreement and agrees that in the event of any foreclosure or exercise of remedies under the Mortgage it shall comply with the terms and conditions hereof.

(name of lender)

By: _____

its _____

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF _____, ss. _____, 20__

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

Notary Public
Print Name:
My Commission Expires:

(If the Project has more than one mortgagee, add additional consent forms. Execution of the consent form by a mortgagee is only necessary if the mortgage has been recorded prior to the Regulatory Agreement.)

EXHIBIT A

Re: Riverside Woods Condominium
(Project Name)

Andover, MA
(City/Town)

Pulte Homes of New England LLC
(Project Sponsor)

Property Description

A certain tract or parcel of land situated on River Road, Andover, Essex County, Massachusetts and shown as Lot 1 on a 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 03/08/2016 by Control Point Associates, Inc., which Plan is recorded with the Essex County North Registry of Deeds as Plan No. 17443, said lots more particularly described as follows:

Lot 1

BEGINNING AT A POINT ON THE NORTHWESTERLY LINE OF RIVER ROAD, SAID POINT IS ON THE DIVIDING LINE OF LOTS 5 & 5A, MAP 229, THENCE;

SOUTH 41° 50' 03" WEST, A DISTANCE OF 116.32 FEET TO A POINT, THENCE;
SOUTH 42° 40' 03" WEST, A DISTANCE OF 440.62 FEET TO A POINT, THENCE;
SOUTH 42° 46' 02" WEST, A DISTANCE OF 97.68 FEET TO A POINT, THENCE;
NORTH 24° 34' 39" WEST, A DISTANCE OF 482.82 FEET TO A POINT, THENCE;
NORTH 27° 35' 54" WEST, A DISTANCE OF 82.22 FEET TO A POINT, THENCE;
NORTH 24° 02' 40" WEST, A DISTANCE OF 178.84 FEET TO A POINT, THENCE;
NORTH 45° 50' 54" WEST, A DISTANCE OF 196.60 FEET TO A POINT, THENCE;
NORTH 00° 55' 1" WEST, A DISTANCE OF 98.27 FEET TO A POINT, THENCE;
NORTH 64° 24' 33" EAST, A DISTANCE OF 319.18 FEET TO A POINT, THENCE;
NORTH 54° 39' 39" EAST, A DISTANCE OF 365.33 FEET TO A POINT, THENCE;
NORTH 63° 05' 19" EAST, A DISTANCE OF 141.34 FEET TO A POINT, THENCE;
SOUTH 46° 22' 53" EAST, A DISTANCE OF 150.92 FEET TO POINT, THENCE;
SOUTH 41° 50' 03" WEST, A DISTANCE OF 151.99 FEET TO A POINT, THENCE;
SOUTH 48° 09' 57" EAST, A DISTANCE OF 550.00 FEET TO THE POINT AND PLACE OF BEGINNING.

SAID LOT CONTAINS 727,979 SQUARE FEET OR 16.712 ACRES

1. Quitclaim Deed from Melmark, Inc. to Pulte Homes of New England LLC recorded in Book 14713, Page 190 (Lots 1 and 2)
2. Authorization to Connect to Avalon Sewer Extension recorded in Book 14713, Page 207
3. Sewer User Agreement/License recorded in Book 14713, Page 226
4. Gallonage Agreement/License recorded in Book 14713, Page 246

5. Declaration of Covenants Regarding Sewer Services recorded in Book 14713, Page 271
6. Decision of Andover Planning Board SP15-01 recorded in Book 14713, Page 278
7. Decision of Andover Planning Board SP15-02 recorded in Book 14713, Page 297
8. Board of Health Permit recorded in Book 14713, Page 302
9. Age Restriction Covenant dated as of March 13, 2017 and recorded in Book 15017 Page 67
10. Affordable Housing Restriction dated as of March 13, 2017 and recorded in Book 15017 Page 60
11. the conveyance of Open Space, The Parking Easement and Pedestrian Access Easement as described in that certain Quitclaim Deed of Declarant to the Inhabitants of the Town of Andover under the care, custody and control of the Andover Conservation Commission dated as of February 17, 2017 and recorded at Book 15017 Page 115.
12. Operation and Maintenance Plan, Riverside Woods, dated 7/11/17, updated August 15, 2017.
13. Stormwater Operation and Maintenance Plan, Riverside Woods.

EXHIBIT B

Re: Riverside Woods Condominium
(Project Name)

Andover, MA
(City/Town)

Pulte Homes of New England LLC
(Project Sponsor)

Maximum Selling Prices, Initial Condominium Fees, and Percentage Interest Assigned to Low and Moderate Income Units

	Sale Price	Condo Fee	% Interest
60% median income			
One bedroom units	\$106,000	\$130	0.19121%
Two bedroom units	\$119,000	\$150	0.22062%
80% median income			
One bedroom units	\$150,000	\$130	0.19121%
Two bedroom units	\$169,000	\$150	0.22062%
Three bedroom units	N/A		
Four bedroom units	N/A		

Location of Low and Moderate Income Units

The housing units which are Low and Moderate Income Units are those designated as unit numbers

Building #1 101, 105, 112, 205, 212, 402;

Building #2 102, 108, 202;

Building #3 104, 112, 113, 205, 212, 404;

Building #4 104, 106, 112, 205, 211, 404;

on:

A plan of land attached hereto entitled "Riverside Woods --Exhibit: Proposed Affordable Unit Locations --Andover Woods -- September 28, 2015 --Updated: November 17, 2016"

EXHIBIT C

[FORM DEED RIDER]

LOCAL INITIATIVE PROGRAM
AFFORDABLE HOUSING DEED RIDER

*For Projects in Which
Affordability Restrictions Survive Foreclosure*

made part of that certain deed (the "Deed") of certain property (the "Property") from _____ Grantor") to _____ ("Owner") dated _____, 20__.
The Property is located in the City/Town of Andover (the "Municipality").

RECITALS

WHEREAS, the Grantor is conveying that certain real property more particularly described in the Deed to the Owner at a consideration which is less than the fair market value of the Property; and

WHEREAS, the Property is part of a project which was: [check all that are applicable]

- (i) granted a Comprehensive Permit under Massachusetts General Laws Chapter 40B, Sections 20-23, from the Board of Appeals of the Municipality or the Housing Appeals Committee and recorded/filed with the _____ County Registry of Deeds/Registry District of Land Court (the "Registry") in Book _____, Page _____/Document No. _____ (the "Comprehensive Permit");
- (ii) subject to a Regulatory Agreement among _____ (the "Developer"), [] Massachusetts Housing Finance Agency ("MassHousing"), [] the Massachusetts Department of Housing and Community Development ("DHCD") [] the Municipality; and [] _____, dated _____ and recorded with the Registry in Book _____, Page _____ (the "Regulatory Agreement");
- (iii) subsidized by the federal or state government under the Local Initiative Program, a program to assist construction of low or moderate income housing (the "Program"); and

WHEREAS, pursuant to the Program, eligible purchasers such as the Owner are given the opportunity to purchase residential property at less than its fair market value if the purchaser agrees to certain use and transfer restrictions, including an agreement to occupy the property as a principal residence and to convey the property for an amount not greater than a maximum resale price, all as more fully provided herein; and

WHEREAS, _____ (singly, or if more than one entity is listed, collectively, the “Monitoring Agent”) is obligated by the Program or has been retained to monitor compliance with and to enforce the terms of this Deed Rider, and eligible purchasers such as the Owner may be required to pay to the Monitoring Agent, or its successor, a small percentage of the resale price upon the Owner’s conveyance of the Property, as set out in the Regulatory Agreement and as more fully provided herein; and

WHEREAS, the rights and restrictions granted herein to the Monitoring Agent and the Municipality serve the public’s interest in the creation and retention of affordable housing for persons and households of low and moderate income and in the restricting of the resale price of property in order to assure its affordability by future low and moderate income purchasers.

NOW, THEREFORE, as further consideration for the conveyance of the Property at less than fair market value, the Grantor and the Owner, including his/her/their heirs, successors and assigns, hereby agree that the Property shall be subject to the following rights and restrictions which are imposed for the benefit of, and shall be enforceable by, the Municipality and the Monitoring Agent, and, if DHCD is a party to the Regulatory Agreement and is not the Monitoring Agent, by DHCD.

1. Definitions. In this Deed Rider, in addition to the terms defined above, the following words and phrases shall have the following meanings:

Affordable Housing Fund means a fund established by the Municipality for the purpose of reducing the cost of housing for Eligible Purchasers or for the purpose of encouraging, creating, or subsidizing the construction or rehabilitation of housing for Eligible Purchasers or, if no such fund exists, a fund established by the Municipality pursuant to Massachusetts General Laws Chapter 44 Section 53A, et seq.

Applicable Foreclosure Price shall have the meaning set forth in Section 7(b) hereof.

Appropriate Size Household means a household containing a number of members equal to the number of bedrooms in the Property plus one.

Approved Capital Improvements means the documented commercially reasonable cost of extraordinary capital improvements made to the Property by the Owner; provided that the Monitoring Agent shall have given written authorization for incurring such cost prior to the cost being incurred and that the original cost of such improvements shall be discounted over the course of their useful life.

Area means the Primary Metropolitan Statistical Area or non-metropolitan area that includes the Municipality, as determined by HUD, which in this case is the _____ MSA/HMFA.

Area Median Income means the most recently published median income for the Area adjusted for household size as determined by HUD. If HUD discontinues publication of Area Median Income, the income statistics used by MassHousing for its low and moderate income housing programs shall apply.

Base Income Number means the Area Median Income for a four (4)-person household. Currently, the AMI for the _____ MSA/HMFA is \$ _____.

Chief Executive Officer shall mean the Mayor in a city or the Board of Selectmen in a town unless some other municipal office is designated to be the chief executive officer under the provisions of a local charter.

Closing shall have the meaning set forth in Section 5(b) hereof.

Compliance Certificate shall have the meaning set forth in Section 6(a) hereof.

Conveyance Notice shall have the meaning set forth in Section 4(a) hereof.

Eligible Purchaser means an individual or household earning no more than eighty percent (80%) of Area Median Income (or, if checked [] _____ percent (___%) of Area Median Income, as required by the Program) and owning assets not in excess of the limit set forth in the Program Guidelines. To be considered an Eligible Purchaser, the individual or household must intend to occupy and thereafter must occupy the Property as his, her or their principal residence and must provide to the Monitoring Agent such certifications as to income, assets and residency as the Monitoring Agent may require to determine eligibility as an Eligible Purchaser. An Eligible Purchaser shall be a First-Time Homebuyer if required by the Program and as specified in the Regulatory Agreement.

First-Time Homebuyer means an individual or household, of which no household member has had an ownership interest in a principal residence at any time during the three (3)-year period prior to the date of qualification as an Eligible Purchaser, except that (i) any individual who is a displaced homemaker (as may be defined by DHCD) (ii) and any individual age 55 or over (applying for age 55 or over housing) shall not be excluded from consideration as a First-Time Homebuyer under this definition on the basis that the individual, owned a home or had an ownership interest in a principal residence at any time during the three (3)-year period.

Foreclosure Notice shall have the meaning set forth in Section 7(a) hereof.

HUD means the United States Department of Housing and Urban Development.

Ineligible Purchaser means an individual or household not meeting the requirements to be eligible as an Eligible Purchaser.

Maximum Resale Price means the sum of (i) the Base Income Number (at the time of resale) multiplied by the Resale Price Multiplier, plus (ii) the Resale Fee and any necessary marketing expenses (including broker's fees) as may have been approved by the Monitoring Agent, plus (iii) Approved Capital Improvements, if any (the original cost of which shall have been discounted over time, as calculated by the Monitoring Agent); provided that in no event shall the Maximum Resale Price be greater than the purchase price for which a credit-worthy Eligible Purchaser earning seventy percent (70%) of the Area Median Income (or, if checked [] _____ percent (___%) of Area Median Income, as required by the Program) of Area Median Income, as required by the Program) for an Appropriate Size Household could obtain mortgage financing (as such purchase price is determined by the Monitoring Agent using the same methodology then used

by DHCD for its Local Initiative Program or similar comprehensive permit program); and further provided that the Maximum Resale Price shall not be less than the purchase price paid for the Property by the Owner unless the Owner agrees to accept a lesser price.

Monitoring Services Agreement means any Monitoring Services Agreement for monitoring and enforcement of this Deed Rider among some or all of the Developer, the Monitoring Agent, the Municipality, MassHousing and DHCD.

Mortgage Satisfaction Amount shall have the meaning set forth in Section 7(b) hereof.

Mortgagee shall have the meaning set forth in Section 7(a) hereof.

Program Guidelines means the regulations and/or guidelines issued for the applicable Program and controlling its operations, as amended from time to time.

Resale Fee means a fee of **Two Percent (2%)** of the Base Income Number (at the time of resale) multiplied by the Resale Price Multiplier, to be paid to the Monitoring Agent as compensation for monitoring and enforcing compliance with the terms of this Deed Rider, including the supervision of the resale process.

Resale Price Certificate means the certificate issued as may be specified in the Regulatory Agreement and recorded with the first deed of the Property from the Developer, or the subsequent certificate (if any) issued as may be specified in the Regulatory Agreement, which sets forth the Resale Price Multiplier to be applied on the Owner's sale of the Property, as provided herein, for so long as the restrictions set forth herein continue. In the absence of contrary specification in the Regulatory Agreement the Monitoring Agent shall issue the certificate.

Resale Price Multiplier means the number calculated by dividing the Property's initial sale price by the Base Income Number at the time of the initial sale from the Developer to the first Eligible Purchaser. The Resale Price Multiplier will be multiplied by the Base Income Number at the time of the Owner's resale of the Property to determine the Maximum Resale Price on such conveyance subject to adjustment for the Resale Fee, marketing expenses and Approved Capital Improvements. In the event that the purchase price paid for the Property by the Owner includes such an adjustment a new Resale Price Multiplier will be recalculated by the Monitoring Agent by dividing the purchase price so paid by the Base Income Number at the time of such purchase, and a new Resale Price Certificate will be issued and recorded reflecting the new Resale Price Multiplier. A Resale Price Multiplier of _____ is hereby assigned to the Property.

Term means in perpetuity, unless earlier terminated by (i) the termination of the term of affordability set forth in the Regulatory Agreement or Comprehensive Permit, whichever is longer; or (ii) the recording of a Compliance Certificate and a new Deed Rider executed by the purchaser in form and substance substantially identical to this Deed Rider establishing a new term.

2. Owner-Occupancy/Principal Residence. The Property shall be occupied and used by the Owner's household exclusively as his, her or their principal residence. Any use of the Property or activity thereon which is inconsistent with such exclusive residential use is expressly prohibited.

3. Restrictions Against Leasing, Refinancing and Junior Encumbrances. The Property shall not be leased, rented, refinanced, encumbered (voluntarily or otherwise) or mortgaged without the prior written consent of the Monitoring Agent; provided that this provision shall not apply to a first mortgage granted on the date hereof in connection with this conveyance from Grantor to Owner securing indebtedness not greater than one hundred percent (100%) of the purchase price. Any rents, profits, or proceeds from any transaction described in the preceding sentence which transaction has not received the requisite written consent of the Monitoring Agent shall be paid upon demand by Owner to the Municipality for deposit to its Affordable Housing Fund. The Monitoring Agent or Municipality may institute proceedings to recover such rents, profits or proceeds, and costs of collection, including attorneys' fees. Upon recovery, after payment of costs, the balance shall be paid to the Municipality for deposit to its Affordable Housing Fund. In the event that the Monitoring Agent consents for good cause to any such lease, refinancing, encumbrance or mortgage, it shall be a condition to such consent that all rents, profits or proceeds from such transaction, which exceed the actual carrying costs of the Property as determined by the Monitoring Agent, shall be paid to the Municipality for deposit to its Affordable Housing Fund.

4. Options to Purchase.

(a) When the Owner or any successor in title to the Owner shall desire to sell, dispose of or otherwise convey the Property, or any portion thereof, the Owner shall notify the Monitoring Agent and the Municipality in writing of the Owner's intention to so convey the Property (the "Conveyance Notice"). Upon receipt of the Conveyance Notice, the Monitoring Agent shall (i) calculate the Maximum Resale Price which the Owner may receive on the sale of the Property based upon the Base Income Number in effect as of the date of the Conveyance Notice and the Resale Price Multiplier set forth in the most recently recorded Resale Price Certificate together with permissible adjustments for the Resale Fee, marketing expenses and Approved Capital Improvements (as discounted), and (ii) promptly begin marketing efforts. The Owner shall fully cooperate with the Monitoring Agent's efforts to locate an Eligible Purchaser and, if so requested by the Monitoring Agent, shall hire a broker selected by the Monitoring Agent to assist in locating an Eligible Purchaser ready, willing and able to purchase the Property at the Maximum Resale Price after entering a purchase and sale agreement. Pursuant to such agreement, sale to the Eligible Purchaser at the Maximum Resale Price shall occur within ninety (90) days after the Monitoring Agent receives the Conveyance Notice or such further time as reasonably requested to arrange for details of closing. If the Owner fails to cooperate in such resale efforts, including a failure to agree to reasonable terms in the purchase and sale agreement, the Monitoring Agent may extend the 90-day period for a period commensurate with the time the lack of cooperation continues, as determined by the Monitoring Agent in its reasonable discretion. In such event, the Monitoring Agent shall give Owner written notice of the lack of cooperation and the length of the extension added to the 90-day period.

(b) The Monitoring Agent shall ensure that diligent marketing efforts are made to locate an Eligible Purchaser ready, willing and able to purchase the Property at the Maximum Resale Price within the time period provided in subsection (a) above and to enter the requisite purchase and sale agreement. If more than one Eligible Purchaser is located, the Monitoring Agent shall conduct a lottery or other like procedure to determine which Eligible Purchaser shall be entitled to enter a purchase and sale agreement with Owner and to purchase the Property. Preference shall be given to Appropriate Size Households. The procedure for marketing and

selecting an Eligible Purchaser shall be approved as provided in the Regulatory Agreement and any applicable Program Guidelines. If an Eligible Purchaser is located within ninety (90) days after receipt of the Conveyance Notice, but such Eligible Purchaser proves unable to secure mortgage financing so as to be able to complete the purchase of the Property pursuant to the purchase and sale agreement, following written notice to Owner within the 90-day period the Monitoring Agent shall have an additional sixty (60) days to locate another Eligible Purchaser who will enter a purchase and sale agreement and purchase the Property by the end of such sixty (60)-day period or such further time as reasonably requested to carry out the purchase and sale agreement.

(c) In lieu of sale to an Eligible Purchaser, the Monitoring Agent or the Municipality or designee shall also have the right to purchase the Property at the Maximum Resale Price, in which event the purchase and sale agreement shall be entered, and the purchase shall occur within ninety (90) days after receipt of the Conveyance Notice or, within the additional sixty (60)-day period specified in subsection (b) above, or such further time as reasonably requested to carry out the purchase and sale agreement. Any lack of cooperation by Owner in measures reasonably necessary to effect the sale shall extend the 90-day period by the length of the delay caused by such lack of cooperation. The Monitoring Agent shall promptly give Owner written notice of the lack of cooperation and the length of the extension added to the 90-day period. In the event of such a sale to the Monitoring Agent or Municipality or designee, the Property shall remain subject to this Deed Rider and shall thereafter be sold or rented to an Eligible Purchaser as may be more particularly set forth in the Regulatory Agreement.

(d) If an Eligible Purchaser fails to purchase the Property within the 90-day period (or such further time determined as provided herein) after receipt of the Conveyance Notice, and the Monitoring Agent or Municipality or designee does not purchase the Property during said period, then the Owner may convey the Property to an Ineligible Purchaser no earlier than thirty (30) days after the end of said period at the Maximum Resale Price, but subject to all rights and restrictions contained herein; provided that the Property shall be conveyed subject to a Deed Rider identical in form and substance to this Deed Rider which the Owner agrees to execute, to secure execution by the Ineligible Purchaser and to record with the Deed; and further provided that, if more than one Ineligible Purchaser is ready, willing and able to purchase the Property the Owner will give preference and enter a purchase and sale agreement with any individuals or households identified by the Monitoring Agent as an Appropriate Size Household earning more than eighty percent (80%) but less than one hundred twenty percent (120%) of the Area Median Income.

(e) The priority for exercising the options to purchase contained in this Section 4 shall be as follows: (i) an Eligible Purchaser located and selected by the Monitoring Agent, as provided in subsection (b) above, (ii) the Municipality or its designee, as provided in subsection (c) above, and (iii) an Ineligible Purchaser, as provided in subsection (d) above.

(f) Nothing in this Deed Rider or the Regulatory Agreement constitutes a promise, commitment or guarantee by DHCD, MassHousing, the Municipality or the Monitoring Agent that upon resale the Owner shall actually receive the Maximum Resale Price for the Property or any other price for the Property.

(g) The holder of a mortgage on the Property is not obligated to forbear from exercising the rights and remedies under its mortgage, at law or in equity, after delivery of the Conveyance Notice.

5. Delivery of Deed.

(a) In connection with any conveyance pursuant to an option to purchase as set forth in Section 4 above, the Property shall be conveyed by the Owner to the selected purchaser by a good and sufficient quitclaim deed conveying a good and clear record and marketable title to the Property free from all encumbrances except (i) such taxes for the then current year as are not due and payable on the date of delivery of the deed, (ii) any lien for municipal betterments assessed after the date of the Conveyance Notice, (iii) provisions of local building and zoning laws, (iv) all easements, restrictions, covenants and agreements of record specified in the deed from the Owner to the selected purchaser, (v) such additional easements, restrictions, covenants and agreements of record as the selected purchaser consents to, such consent not to be unreasonably withheld or delayed, (vi) the Regulatory Agreement, and (vii), except as otherwise provided in the Compliance Certificate, a Deed Rider identical in form and substance to this Deed Rider which the Owner hereby agrees to execute, to secure execution by the selected purchaser, and to record with the deed. **Said deed shall clearly state that it is made subject to the Deed Rider which is made part of the deed.** Failure to comply with the preceding sentence shall not affect the validity of the conveyance from the Owner to the selected purchaser or the enforceability of the restrictions herein.

(b) Said deed, including the approved Deed Rider, shall be delivered and the purchase price paid (the "Closing") at the Registry, or at the option of the selected purchaser, exercised by written notice to the Owner at least five (5) days prior to the delivery of the deed, at such other place as the selected purchaser may designate in said notice. The Closing shall occur at such time and on such date as shall be specified in a written notice from the selected purchaser to the Owner, which date shall be at least five (5) days after the date on which such notice is given, and no later than the end of the time period specified in Section 4(a) above.

(c) To enable Owner to make conveyance as herein provided, Owner may, if Owner so desires at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, all instruments with respect thereto to be recorded simultaneously with the delivery of said deed. Nothing contained herein as to the Owner's obligation to remove defects in title or to make conveyance or to deliver possession of the Property in accordance with the terms hereof, as to use of proceeds to clear title or as to the election of the selected purchaser to take title, nor anything else in this Deed Rider shall be deemed to waive, impair or otherwise affect the priority of the rights herein over matters appearing of record, or occurring, at any time after the recording of this Deed Rider, all such matters so appearing or occurring being subject and subordinate in all events to the rights herein.

(d) Water and sewer charges and taxes for the then current tax period shall be apportioned and fuel value shall be adjusted as of the date of Closing and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable by the selected purchaser.

(e) Full possession of the Property free from all occupants is to be delivered at the time of the Closing, the Property to be then in the same condition as it is in on the date of the execution of the purchase and sale agreement, reasonable wear and tear only excepted.

(f) If Owner shall be unable to give title or to make conveyance as above required, or if any change of condition in the Property not included in the above exception shall occur, then Owner shall be given a reasonable time not to exceed thirty (30) days after the date on which the Closing was to have occurred in which to remove any defect in title or to restore the Property to the condition herein required. The Owner shall use best efforts to remove any such defects in the title, whether voluntary or involuntary, and to restore the Property to the extent permitted by insurance proceeds or condemnation award. The Closing shall occur fifteen (15) days after notice by Owner that such defect has been cured or that the Property has been so restored. The selected purchaser shall have the election, at either the original or any extended time for performance, to accept such title as the Owner can deliver to the Property in its then condition and to pay therefor the purchase price without deduction, in which case the Owner shall convey such title, except that in the event of such conveyance in accordance with the provisions of this clause, if the Property shall have been damaged by fire or casualty insured against or if a portion of the Property shall have been taken by a public authority, then the Owner shall, unless the Owner has previously restored the Property to its former condition, either:

(A) pay over or assign to the selected purchaser, on delivery of the deed, all amounts recovered or recoverable on account of such insurance or condemnation award less any amounts reasonably expended by the Owner for any partial restoration, or

(B) if a holder of a mortgage on the Property shall not permit the insurance proceeds or the condemnation award or part thereof to be used to restore the Property to its former condition or to be so paid over or assigned, give to the selected purchaser a credit against the purchase price, on delivery of the deed, equal to said amounts so retained by the holder of the said mortgage less any amounts reasonably expended by the Owner for any partial restoration.

6. Resale and Transfer Restrictions.

(a) Except as otherwise provided herein, the Property or any interest therein shall not at any time be sold by the Owner, or the Owner's successors and assigns, and no attempted sale shall be valid, unless the aggregate value of all consideration and payments of every kind given or paid by the selected purchaser of the Property for and in connection with the transfer of such Property, is equal to or less than the Maximum Resale Price for the Property, and unless a certificate (the "Compliance Certificate") is obtained and recorded, signed and acknowledged by the Monitoring Agent which Compliance Certificate refers to the Property, the Owner, the selected purchaser thereof, and the Maximum Resale Price therefor, and states that the proposed conveyance, sale or transfer of the Property to the selected purchaser is in compliance with the rights, restrictions, covenants and agreements contained in this Deed Rider, and unless there is also recorded a new Deed Rider executed by the selected purchaser, which new Deed Rider is identical in form and substance to this Deed Rider.

(b) The Owner, any good faith purchaser of the Property, any lender or other party taking a security interest in such Property and any other third party may rely upon a Compliance Certificate as conclusive evidence that the proposed conveyance, sale or transfer of the Property to the selected purchaser is in compliance with the rights, restrictions, covenants and agreements contained in this Deed Rider, and may record such Compliance Certificate in connection with the conveyance of the Property.

(c) Within ten (10) days of the closing of the conveyance of the Property from the Owner to the selected purchaser, the Owner shall deliver to the Monitoring Agent a copy of the Deed of the Property, including the deed rider, together with recording information. Failure of the Owner, or Owner's successors or assigns to comply with the preceding sentence shall not affect the validity of such conveyance or the enforceability of the restrictions herein.

7. Survival of Restrictions Upon Exercise of Remedies by Mortgagees.

(a) The holder of record of any mortgage on the Property (each, a "Mortgagee") shall notify the Monitoring Agent, the Municipality and any senior Mortgagee(s) in the event of any default for which the Mortgagee intends to commence foreclosure proceedings or similar remedial action pursuant to its mortgage (the "Foreclosure Notice"), which notice shall be sent to the Monitoring Agent and the Municipality as set forth in this Deed Rider, and to the senior Mortgagee(s) as set forth in such senior Mortgagee's mortgage, not less than one hundred twenty (120) days prior to the foreclosure sale or the acceptance of a deed in lieu of foreclosure. The Owner expressly agrees to the delivery of the Foreclosure Notice and any other communications and disclosures made by the Mortgagee pursuant to this Deed Rider.

(b) The Owner grants to the Municipality or its designee the right and option to purchase the Property upon receipt by the Municipality of the Foreclosure Notice. In the event that the Municipality intends to exercise its option, the Municipality or its designee shall purchase the Property within one hundred twenty (120) days of receipt of such notice, at a price equal to the greater of (i) the sum of the outstanding principal balance of the note secured by such foreclosing Mortgagee's mortgage, together with the outstanding principal balance(s) of any note(s) secured by mortgage(s) senior in priority to such mortgage (but in no event shall the aggregate amount thereof be greater than one hundred percent (100%) of the Maximum Resale Price calculated at the time of the granting of the mortgage) plus all future advances, accrued interest and all reasonable costs and expenses which the foreclosing Mortgagee and any senior Mortgagee(s) are entitled to recover pursuant to the terms of such mortgages (the "Mortgage Satisfaction Amount"), and (ii) the Maximum Resale Price (which for this purpose may be less than the purchase price paid for the Property by the Owner)(the greater of (i) and (ii) above herein referred to as the "Applicable Foreclosure Price"). The Property shall be sold and conveyed in its then-current "as is, where is" condition, without representation or warranty of any kind, direct or indirect, express or implied, and with the benefit of and subject to all rights, rights of way, restrictions, easements, covenants, liens, improvements, housing code violations, public assessments, any and all unpaid federal or state taxes (subject to any rights of redemption for unpaid federal taxes), municipal liens and any other encumbrances of record then in force and applicable to the Property having priority over such foreclosing Mortgagee's mortgage, and further subject to a Deed Rider identical in form and substance to this Deed Rider which the Owner hereby agrees to execute, to secure execution by the Municipality or its designee, and to record with the deed, except that (i) during the term of ownership of the Property by the Municipality or its designee the owner-occupancy requirements

of Section 2 hereof shall not apply (unless the designee is an Eligible Purchaser), and (ii) the Maximum Resale Price shall be recalculated based on the price paid for the Property by the Municipality or its designee, but not greater than the Applicable Foreclosure Price. **Said deed shall clearly state that it is made subject to the Deed Rider which is made part of the deed.** Failure to comply with the preceding sentence shall not affect the validity of the conveyance from the Owner to the Municipality or its designee or the enforceability of the restrictions herein.

(c) Not earlier than one hundred twenty (120) days following the delivery of the Foreclosure Notice to the Monitoring Agent, the Municipality and any senior Mortgagee(s) pursuant to subsection (a) above, the foreclosing Mortgagee may conduct the foreclosure sale or accept a deed in lieu of foreclosure. The Property shall be sold and conveyed in its then-current “as is, where is” condition, without representation or warranty of any kind, direct or indirect, express or implied, and with the benefit of and subject to all rights, rights of way, restrictions, easements, covenants, liens, improvements, housing code violations, public assessments, any and all unpaid federal or state taxes (subject to any rights of redemption for unpaid federal taxes), municipal liens and any other encumbrances of record then in force and applicable to the Property having priority over the foreclosing Mortgagee’s mortgage, and further subject to a Deed Rider, as set forth below.

(d) In the event that the foreclosing Mortgagee conducts a foreclosure sale or other proceeding enforcing its rights under its mortgage and the Property is sold for a price in excess of the greater of the Maximum Resale Price and the Mortgage Satisfaction Amount, such excess shall be paid to the Municipality for its Affordable Housing Fund after (i) a final judicial determination, or (ii) a written agreement of all parties who, as of such date hold (or have been duly authorized to act for other parties who hold) a record interest in the Property, that the Municipality is entitled to such excess. The legal costs of obtaining any such judicial determination or agreement shall be deducted from the excess prior to payment to the Municipality. To the extent that the Owner possesses any interest in any amount which would otherwise be payable to the Municipality under this paragraph, to the fullest extent permissible by law, the Owner hereby assigns its interest in such amount to the Mortgagee for payment to the Municipality.

(e) If any Mortgagee shall acquire the Property by reason of foreclosure or upon conveyance of the Property in lieu of foreclosure, then the rights and restrictions contained herein shall apply to such Mortgagee upon such acquisition of the Property and to any purchaser of the Property from such Mortgagee, and the Property shall be conveyed subject to a Deed Rider identical in form and substance to this Deed Rider, which the Mortgagee that has so acquired the Property agrees to annex to the deed and to record with the deed, except that (i) during the term of ownership of the Property by such Mortgagee the owner-occupancy requirements of Section 2 hereof shall not apply, and (ii) the Maximum Resale Price shall be recalculated based on the price paid for the Property by such Mortgagee at the foreclosure sale, but not greater than the Applicable Foreclosure Price. **Said deed shall clearly state that it is made subject to the Deed Rider which is made part of the deed.** Failure to comply with the preceding sentence shall not affect the validity of the conveyance to the Mortgagee or the enforceability of the restrictions herein.

(f) If any party other than a Mortgagee shall acquire the Property by reason of foreclosure or upon conveyance of the Property in lieu of foreclosure, the Property shall be conveyed subject to a Deed Rider identical in form and substance to this Deed Rider, which the foreclosing Mortgagee agrees to annex to the deed and to record with the deed, except that (i) if

the purchaser at such foreclosure sale or assignee of a deed in lieu of foreclosure is an Ineligible Purchaser, then during the term of ownership of the Property by such Ineligible Purchaser, the owner-occupancy requirements of Section 2 hereof shall not apply, and (ii) the Maximum Resale Price shall be recalculated based on the price paid for the Property by such third party purchaser at the foreclosure sale, but not greater than the Applicable Foreclosure Price. **Said deed shall clearly state that it is made subject to the Deed Rider which is made part of the deed.** Failure to comply with the preceding sentence shall not affect the validity of the conveyance to such third party purchaser or the enforceability of the restrictions herein.

(g) Upon satisfaction of the requirements contained in this Section 7, the Monitoring Agent shall issue a Compliance Certificate to the foreclosing Mortgagee which, upon recording in the Registry, may be relied upon as provided in Section 6(b) hereof as conclusive evidence that the conveyance of the Property pursuant to this Section 7 is in compliance with the rights, restrictions, covenants and agreements contained in this Deed Rider.

(h) The Owner understands and agrees that nothing in this Deed Rider or the Regulatory Agreement (i) in any way constitutes a promise or guarantee by MassHousing, DHCD, the Municipality or the Monitoring Agent that the Mortgagee shall actually receive the Mortgage Satisfaction Amount, the Maximum Resale Price for the Property or any other price for the Property, or (ii) impairs the rights and remedies of the Mortgagee in the event of a deficiency.

(i) If a Foreclosure Notice is delivered after the delivery of a Conveyance Notice as provided in Section 4(a) hereof, the procedures set forth in this Section 7 shall supersede the provisions of Section 4 hereof.

8. Covenants to Run With the Property.

(a) This Deed Rider, including all restrictions, rights and covenants contained herein, is an affordable housing restriction as that term is defined in Section 31 of Chapter 184 of the Massachusetts General Laws, having the benefit of Section 32 of such Chapter 184, and is enforceable as such. This Deed Rider has been approved by the Undersecretary of DHCD.

(b) In confirmation thereof the Grantor and the Owner intend, declare and covenant (i) that this Deed Rider, including all restrictions, rights and covenants contained herein, shall be and are covenants running with the land, encumbering the Property for the Term, and are binding upon the Owner and the Owner's successors in title and assigns, (ii) are not merely personal covenants of the Owner, and (iii) shall enure to the benefit of and be enforceable by the Municipality, the Monitoring Agent and DHCD and their successors and assigns, for the Term. Owner hereby agrees that any and all requirements of the laws of the Commonwealth of Massachusetts have been satisfied in order for the provisions of this Deed Rider to constitute restrictions and covenants running with the land and that any requirements of privity of estate have been satisfied in full.

9. Notice. Any notices, demands or requests that may be given under this Deed Rider shall be sufficiently served if given in writing and delivered by hand or mailed by certified or registered mail, postage prepaid, return receipt requested, to the following entities and parties in interest at the addresses set forth below, or such other addresses as may be specified by any party (or its successor) by such notice.

(iii) if the violation is a sale of the Property to an Ineligible Purchaser except as permitted herein, the Monitoring Agent and the Municipality shall have the option to locate an Eligible Purchaser to purchase or itself purchase the Property from the Ineligible Purchaser on the terms and conditions provided herein; the purchase price shall be a price which complies with the provisions of this Deed Rider; specific performance of the requirement that an Ineligible Purchaser shall sell, as herein provided, may be judicially ordered.

(iv) the right to void any contract for sale or any sale, conveyance or other transfer of the Property in violation of the provisions of this Deed Rider in the absence of a Compliance Certificate, by an action in equity to enforce this Deed Rider; and

(v) money damages for the cost of creating or obtaining a comparable dwelling unit for an Eligible Purchaser.

(c) In addition to the foregoing, the Owner hereby agrees and shall be obligated to pay all fees and expenses (including legal fees) of the Monitoring Agent and/or the Municipality in the event successful enforcement action is taken against the Owner or Owner's successors or assigns. The Owner hereby grants to the Monitoring Agent and the Municipality a lien on the Property, junior to the lien of any institutional holder of a first mortgage on the Property, to secure payment of such fees and expenses in any successful enforcement action. The Monitoring Agent and the Municipality shall be entitled to seek recovery of fees and expenses incurred in a successful enforcement action of this Deed Rider against the Owner and to assert such a lien on the Property to secure payment by the Owner of such fees and expenses. Notwithstanding anything herein to the contrary, in the event that the Monitoring Agent and/or Municipality fails to enforce this Deed Rider as provided in this Section, DHCD, if it is not named as Monitoring Agent, shall have the same rights and standing to enforce this Deed Rider as the Municipality and Monitoring Agent.

(d) The Owner for himself, herself or themselves and his, her or their successors and assigns, hereby grants to the Monitoring Agent and the Municipality the right to take all actions with respect to the Property which the Monitoring Agent or Municipality may determine to be necessary or appropriate pursuant to applicable law, court order, or the consent of the Owner to prevent, remedy or abate any violation of this Deed Rider.

12. Monitoring Agent Services; Fees. The Monitoring Agent shall monitor compliance of the Project and enforce the requirements of this Deed Rider. As partial compensation for providing these services, a Resale Fee [] shall [] shall not be payable to the Monitoring Agent on the sale of the Property to an Eligible Purchaser or any other purchaser in accordance with the terms of this Deed Rider. This fee, if imposed, shall be paid by the Owner herein as a closing cost at the time of Closing, and payment of the fee to the Monitoring Agent shall be a condition to delivery and recording of its certificate, failing which the Monitoring Agent shall have a claim against the new purchaser, his, her or their successors or assigns, for which the Monitoring Agent may bring an action and may seek an attachment against the Property.

13. Actions by Municipality. Any action required or allowed to be taken by the Municipality hereunder shall be taken by the Municipality's Chief Executive Officer or designee.

14. Severability. If any provisions hereof or the application thereof to any person or circumstance are judicially determined, to any extent, to be invalid or unenforceable, the remainder hereof, or the application of such provision to the persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby.

15. Independent Counsel. THE OWNER ACKNOWLEDGES THAT HE, SHE, OR THEY HAVE READ THIS DOCUMENT IN ITS ENTIRETY AND HAS HAD THE OPPORTUNITY TO CONSULT LEGAL AND FINANCIAL ADVISORS OF HIS, HER OR THEIR CHOOSING REGARDING THE EXECUTION, DELIVERY AND PERFORMANCE OF THE OBLIGATIONS HEREUNDER.

16. Binding Agreement. This Deed Rider shall bind and inure to the benefit of the persons, entities and parties named herein and their successors or assigns as are permitted by this Deed Rider.

17. Amendment. This Deed Rider may not be rescinded, modified or amended, in whole or in part, without the written consent of the Monitoring Agent, the Municipality and the holder of any mortgage or other security instrument encumbering all or any portion of the Property, which written consent shall be recorded with the Registry.

Executed as a sealed instrument this _____ day of _____, 20____.

Grantor: Owner: _____

By: _____ By: _____
Its:

COMMONWEALTH OF MASSACHUSETTS

_____ County, ss.

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____, the _____ of _____ in its capacity as the _____ of _____, proved to me through satisfactory evidence of identification, which was [a current driver’s license] [a current U.S. passport] [my personal knowledge], to be the person whose name is signed on the preceding instrument and acknowledged the foregoing instrument to be his or her free act and deed and the free act and deed of _____ as _____ of _____.

Notary Public
My commission expires:

COMMONWEALTH OF MASSACHUSETTS

_____ County, ss.

On this _____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was [*check one*]: [] a current driver’s license, [] a current U.S. passport, [] my personal knowledge, to be the person whose name is signed on the preceding document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
My commission expires:

MEMO

To: Andover Board of Selectmen
From: Robert Lavoie, Esq, Johnson & Borenstein On behalf of Pulte Homes of New England LLC

Date: January 16, 2018

Subject: Pulte's Request for approval and signature of documents relating to Riverside Woods,
(A 62+ community approved by the Planning Board under Special Permit SP15-01 Special Permit for land at 459 River Road within the Senior Residential Community Overlay District):

(A) Affordability Restriction: Amendment and Restatement of Local Affordability Restriction
(B) LIP Regulatory Agreement with DHCD

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 the Town, the Selectmen, the Andover Planning Board, and Pulte. 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. As noted above, there are 2 key documents which under the Zoning Bylaw currently require the review, approval and signature of the Selectmen:

(A) Affordability Restriction: Amendment and Restatement of Local Affordability Restriction
(B) LIP Regulatory Agreement with DHCD

3. In March 2017, Pulte was last before the Board of Selectmen, at which point in time the 7.207 acre Open Space Parcel was deeded to the Town of Andover, in the care, custody and control of the Conservation Commission. Also at that time, in compliance with the Senior Residential Community Overlay District zoning requirements and the 10/30/15 Planning Board Special Permit SP15-01, after Planning Board Approval, the board of Selectmen voted to approve the Monitoring Agreement, the Age Restriction and the Affordability Restriction.

4. At that March 2017 meeting, the Board of Selectmen also approved and signed Pulte's Local Initiative Program (LIP) Application in the standard format required by the Department of Housing and Community Development (DHCD). Pulte's Riverside Woods was approved by the Planning Board so as to ensure that the maximum 21 of Riverside Woods' 30 Affordable Senior Housing units would be counted in Andover's favor on the State's Affordable Housing Inventory. DHCD's final requirement is that Andover enter into DHCD's standard Regulatory Agreement.

5. **LIP Regulatory Agreement with DHCD:** DHCD, our office and Town Counsel Thomas Urbelis have worked to achieve a mutually satisfactory Regulatory Agreement covering the twenty-one (21) 60% AMI/80% AMI Affordable Units, which is now ready for the Board of Selectmen's review, approval and signature. Once reviewed, approved and signed by the Selectmen, DHCD will likewise sign so that the document can be duly recorded at the Registry of Deeds.

6. Amendment and Restatement of Local Affordability Restriction: In the course of developing the mutually satisfactory Regulatory Agreement, it became apparent that the March 2017 Local Affordability Restriction needed to be updated and clarified in order to be sure that the other 9 affordable units (the 120% AMI Affordable Units being highly desired by the Planning Board) were appropriately dealt with. Once again, DHCD, our office and Town Counsel Thomas Urbelis worked diligently to achieve a mutually satisfactory updated Affordability Restriction, entitled “**Amendment and Restatement of Declaration of Affordable Housing Restriction**”. Once reviewed, approved and signed by the Selectmen, DHCD will likewise sign so that the document can be duly recorded at the Registry of Deeds.

7. Requested Action: Consequently, the following Board of Selectmen action is respectfully requested by Pulte:

Motion that the Board of Selectmen

- (a) Approve the proposed **DHCD Regulatory Agreement**, and authorize the signing of the same;
- (b) Approve the proposed **Amendment and Restatement of Declaration of Affordable Housing Restriction** and authorize the signing of the same.