

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (the "Agreement") is entered into by and between the Town of Concord, Massachusetts (the "Town"), acting by and through its Town Manager, as authorized by its Select Board (the "Select Board"), the Concord Housing Development Corporation ("CHDC"), and the Grantham Group, LLC (the "Developer"). The Agreement represents the understanding between the Town, the Developer, and CHDC (collectively the "Parties") with respect to Developer's proposal to construct an 83-unit affordable assisted living development (the "Project") on approximately six acres of land comprising a portion of Parcel 2013-1 on the Town of Concord's Assessors' Map, which parcel is located at 6X Winthrop Street in West Concord, Massachusetts (the "Site"). The Site is owned by CHDC and leased to the Developer for 99 years pursuant to a Ground Lease to be entered into substantially on the terms and conditions of the Development Agreement of CHDC and the Grantham Group dated February 22, 2016. A plan of the Site is attached hereto as **Exhibit A**.

RECITALS

WHEREAS: CHDC received title the Site and remainder of Parcel 2013-1 from the Commonwealth of Massachusetts in 2013 subject to a restriction that the Site be used for a development project comprised of 100% affordable housing units or open space, and pursuant to which deed the land will revert to the Commonwealth if said conditions are not met;

WHEREAS: The Developer intends to request that the Town grant all necessary permits to build the Project;

WHEREAS: The Developer has applied, or will apply, for federal low income housing tax credits and other public funding in support of the Project;

WHEREAS: The Select Board has requested, and the Concord Community Preservation Committee ("CPC") has recommended, that the 2017 Concord Annual Town Meeting appropriate Community Preservation Act ("CPA") funding in the amount of three hundred and fifty (\$350,000) dollars and in the following two years will request additional CPA funding to bring the total to one million (\$1,000,000.00) dollars for the Project (the "CPA Amount"); and

WHEREAS: The Select Board has requested that the Concord Town Meeting appropriate an additional one million (\$1,000,000.00) dollars from the Town's General Fund to support the Project (the "General Fund Amount", together with the CPA Funding, the "Town Funds");

NOW, THEREFORE, in consideration of the mutual promises of the Parties contained herein and other good and valuable consideration, the receipt of which is acknowledged, the Parties hereby agree as follows:

1. CHDC and the Developer hereby acknowledge that the Town's payment of all or a portion of the Town Funds is subject to appropriation by Concord Town Meeting. Nothing herein shall constitute a commitment to provide funding not yet appropriated by Concord Town Meeting for the Project.
2. The Project must be constructed in conformance with all Federal, State, and local laws, rules, regulations permits and approvals including, without limitation, any and all Special Permits granted by the Concord Zoning Board of Appeals. Notwithstanding the foregoing, nothing in this Agreement shall require the Town or any board, committee, department or official thereof to grant any permit or approval required for the construction of the Project.

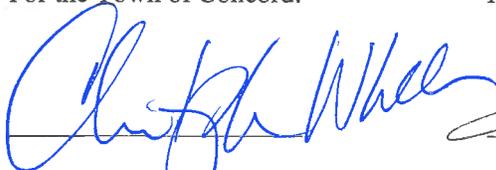
3. The Developer shall bear, or seek funding from sources other than the Town for, any and all costs of the Project, including but not limited to, construction expenses, site development costs or soil remediation costs. The Developer anticipates that these costs shall total \$17,351,533.
4. As required by the deed from the Commonwealth conveying the Site to CHDC, 100% of the units created by the Project will be affordable and will count towards the Town of Concord's subsidized housing inventory ("SHI"); 17 of the units shall be affordable at or below 30% of median household income; 26 of the units shall be affordable at or below 60% of median household income; and 40 of the units shall be affordable at or below 150% of median household income.
5. The CHDC and the Developer agrees that the Project will conform to all of the requirements of the CPC in the use of the CPA Amount, and shall be subject to the Town's standard CPA funding agreement.
6. Roadway and other improvements on the Site will be built by the Developer, at the Developer's expense, and will conform to the Town's specifications, including the Town's specifications for subdivision roads pursuant to the Concord Planning Board's Subdivision Rules and Regulations, and in compliance with all other applicable laws, rules, regulations, and the terms of any Federal, State, or local permits and approvals.
7. CHDC commits to working with the Concord Natural Resources Commission, the Sudbury Valley Trustees and the Concord Land Trust toward the goal of creating a permanent Conservation Restriction, providing for public access, on the portions of the Site not used for the development of the Project.
8. To the greatest extent permitted by law and program requirements for the development of affordable housing of the Commonwealth of Massachusetts, the Developer shall maximize the number of units in the Project offered on a preferential basis to Concord residents.
9. The Developer agrees to minimize disruption to neighborhood during Project construction by conforming to time of work requirements set by the Town, meeting with neighbors to resolve conflicts, and limiting off-Site noise, dust, and litter from the Project.
10. The CHDC agrees that no additional buildings will be constructed on the Site other than those permitted as part of the Project.
11. The Developer agrees not to request any financial support from the Town other than the Town Funds for the construction and development of the Project and acknowledges that the Town is under no obligation to provide any additional financial support; provided however, that this provision shall not apply to bar the Developer from seeking additional Town approvals to allow for the disbursement of the Town Funds.
12. The Developer and CHDC agree to view the Town Funds as a deferred subordinated loan that will be structured according to the terms and conditions imposed by the Commonwealth's Affordable Housing Trust Fund as administered by MassHousing. The Town shall not disburse any Town Funds to the Developer until the Developer has closed on all debt and equity financing necessary for the Project. The Developer agrees that, thereafter, not more than 50% of the Town Funds shall be disbursed to the Developer prior to the issuance of a Certificate of Occupancy for the Project from the Town's building commissioner. The Town shall disburse the balance of the appropriated Town Funds to the Developer upon the

Developer's procurement of a certificate of occupancy from the Town's building commissioner for the Project.

13. The Town agrees to work with the Massachusetts Department of Transportation ("MassDOT") and the Massachusetts Department of Corrections ("DOC") to secure permission for Developer's construction vehicles to use MassDOT and DOC property for access to the Site during the period of construction. Developer and CHDC agree and acknowledge that such permission is not within the Town's control to grant, and that the Town's failure to obtain such permission shall in no way alter the Parties' rights and obligations under this Agreement.
14. No party shall assign its rights or obligations under this Agreement without the prior written consent of all other Parties which may be withheld in any party's sole discretion, provided, however, that the Developer may assign its rights and obligations under this agreement to an entity entirely owned and controlled by the Developer formed to act as the ground tenant of the Site with the Town's prior written consent, which consent, in that case may not be unreasonably withheld.

The Parties enter this Agreement into this 11th day of April 2017.

For the Town of Concord:



Christopher Whelan
Town Manager

For the CHDC:



Philip Posner
Chair, CHDC

For the Developer:



Walter Ohanian,
Managing Director
Grantham Group, LLC