MASSACHUSETTS
Department of Housing & Community Development
Local Initiative Program
Application for Comprehensive Permit Projects

I. GENERAL INFORMATION

Community: Needham
Name of Development: 2nd Avenue Residences
Site Address: #0 A Street, Needham, MA
Developer: A Street Residential, LLC

1. Type of Housing:
   - ☐ Single Family house
   - ☐ Condominium
   - ☒ Rental
   - ☐ Age Restricted

2. Project Characteristics:
   - ☒ New Construction
   - ☐ Conversion
   - ☐ Rehabilitation
   - ☐ Other

3. Total Acres 5.13 Density of Project (units/acre) 76

4. Unit Count:

   Total Number of Units 390
   Affordable 98
   Market 292

5. Unit Prices/Rents:
   Market Rate $2,900/month (today)
   Affordable $1230/month (today)

Required Signatures for the
Comprehensive Permit Project Application

Chief Executive Official of Municipality:	Chair, Local Housing Partnership (if applicable):
Signature: _____	Signature: _____
Maurice P. Handel, Chairman, Board of Selectmen	
Print Name: _____	Print Name: _____
Date: _____	Date: _____

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE TOWN OF NEEDHAM
AND
A STREET RESIDENTIAL, LLC

This Memorandum of Understanding ("MOU"), executed upon the dates set forth below, is a binding agreement by and between the Town of Needham, acting by and through its Board of Selectmen, having a usual address of 1471 Highland Avenue, Needham, Massachusetts 02492 ("Needham" or the "Town"); and A Street Residential, LLC, a Delaware limited liability company ("Developer").

WHEREAS, Developer has proposed a 390-unit apartment complex (the "Project") to be located on a parcel of land measuring approximately 5.13 acres situated off of Second Avenue in Needham, as depicted on a certain plan prepared by Tetra Tech, One Grant Street, Framingham, MA 01701 and Elkus Manfredi, 25 Drydock Avenue, Boston, MA 02210, entitled "Comprehensive Permit Plans, 2nd Avenue Residences at Needham Crossing, A Street and Second Avenue, Needham, Massachusetts" and dated April 8, 2015 (the "Plan");

WHEREAS, Developer proposes to develop the project under the Commonwealth's affordable housing statute G.L. c. 40B, §§20-23 and more particularly through the Local Initiative Program ("LIP") administered by the Commonwealth of Massachusetts Department of Housing and Community Development ("DHCD");

WHEREAS, the Developer desires to pursue a proposed project known as "2nd Avenue Residences" not exceeding five stories and consisting of three hundred ninety (390) units of multi-family rental housing, of which twenty-five percent (25%) will be low- or moderate-income housing pursuant to G.L. c.40B Sections 20-23 (the "Project");

WHEREAS, in order for Developer to be eligible for the LIP, the Town must affirmatively endorse the Project before it may be submitted to the Needham Zoning Board of Appeals under an application for a so-called "Comprehensive Permit" under c. 40B;

WHEREAS, the Town is willing to execute an LIP endorsement of the Project (including an unconditional endorsement of the Project in its comment letter to DHCD subsequent to the submittal of the LIP Application to DHCD) if the Applicant agrees to implement the terms and conditions of this MOU;

WHEREAS, Developer is amenable to implementing the terms and conditions hereof in exchange for the Town's consideration of a LIP endorsement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. By April 20, 2015, Developer will complete and present for the Town's review, a LIP Application for the Project as depicted in the Plan and as contemplated hereunder.

2. The Town will execute the LIP application, subject to any proposed revisions thereto that are reasonably acceptable to the parties, and include a letter or letters of community support, as required under LIP.

3. Upon submission of the LIP application to DHCD, Developer and the Town shall both comply with any reasonable requests for information by DHCD and shall work cooperatively to secure DHCD approval as soon as possible.

4. Within ninety (90) days of DHCD's approval of the LIP Application and issuance of a Project Eligibility Letter pursuant thereto, Developer will submit a complying comprehensive permit application to the Needham Zoning Board of Appeals (ZBA) and diligently pursue a hearing thereon. At least 25% of the housing units shall be affordable to low and moderate income households and protected by appropriate regulatory agreements and use restrictions, as required by the Local Initiative Program, in perpetuity or for the maximum period allowed by law, for as long as the property is used for multi-family housing.

5. Developer shall provide the ZBA with all reasonable required information, and shall adequately fund a peer review account for all reasonably required peer review, including but not limited to, peer review for traffic, parking, emergency access, legal counsel, utilities, stormwater management and other engineering issues.

6. Developer shall diligently pursue final approval by DHCD, upon (a) Developer's receipt of a comprehensive permit from the ZBA that is satisfactory to Developer in its sole discretion; (b) the issuance of any and all other discretionary permits, approvals and/or endorsements from the Town and any of its boards, committees, agencies and/or instrumentalities, including, without limitation, the Planning Board of the Town of Needham, if applicable (together with (a), above, collectively, the "Town Approvals"); and (c)(i) the expiration of any and all appeals periods related to each Town Approval without any appeal having been taken or (ii) in the event that an appeal of any Town Approval has occurred, the favorable resolution of each such appeal by a court or agency, as the case may be, of competent and final jurisdiction. Upon Developer's receipt of the DHCD final approval, Developer shall forthwith and diligently pursue construction such that a building permit is issued within twenty-four months from the date that the last outstanding appeal period and/or appeal with regard to a Town Approval has either expired or been resolved consistent with the requirements of clause (c) above, subject to delays beyond the reasonable control of Developer.

7. Nothing herein may be construed as limiting the authority of the Needham Zoning Board of Appeals in any ultimate hearing on an application for Comprehensive Permit filed by Developer. Included within said Board's authority is the authority to issue a denial or a conditional approval of the project.

8. a. In recognition of all of the potential impacts that the Project may have on the Town, including, but not limited to, public safety response and I/I removal requirements, the Developer has proposed to provide to the Town of Needham, and pursuant to this MOU agrees to provide to the Town of Needham, pursuant to the provisions of Section 53A of Chapter 44 of the Massachusetts General Laws, as amended, a gift to be kept in a separate gift account and expended to support the purposes described in this paragraph. The gift amount shall be $2,250,000.00 (the "All-Inclusive Mitigation Fund") to be used to support: (i) acquisition by the Town of public safety radios, public safety special response vehicles, and renovations, improvements and/or additions by the Town to the Needham Fire Department Station No. 2; and (ii) all costs and expenses incurred by the Town to satisfy any and all I/I removal requirements or other requirements imposed by the Commonwealth of Massachusetts and the Town in connection with the Project, up to the removal of 258,708 gallons per day, which requirements the Town agrees to diligently undertake and be solely responsible for. Provided further, however, that if it is determined by the Massachusetts Department of Environmental Protection ("DEP") that the Project requires the removal of more than 258,708 gallons per day, the Developer shall make a one-time additional payment to the Town in an amount equal to $6.00 per gallon above the 258,708 gallons described above. Said payments shall be made immediately upon the issuance by the Town of a building permit to construct the Project and the issuance of all other local permits required in connection with the construction of said Project. The Developer shall not be responsible for mitigating any other impacts or potential impacts of the Project on the Town. In the event that the Board of Appeals imposes on Developer pursuant to Section 6.8.1 of the zoning bylaws, any traffic improvement fees, the $2,250,000.00 gift described above shall be reduced by that amount. The Town acknowledges that it believes that the utility infrastructure of the Town (including, but not limited to, water, sewer, and drain lines, capacity of the Town sewer pumping stations, roadways, etc.) is adequate to serve the Project.

b. The following costs shall not be included within the All-Inclusive Mitigation Fund:

(i) Costs necessary to satisfy building code requirements, including but not limited to requirements for handicapped access, related to the Project;

(ii) Costs necessary to satisfy legal requirements for on-site public safety related to the Project;

(iii) Costs of constructing connections to public utilities or facilities needed to serve the Project (e.g., water, sewer, drainage, electric, cable);

(iv) Costs of sidewalk improvements directly adjacent to the Project site to standards consistent with the Needham Crossing area;

(v) Costs of stripping a crosswalk across Second Avenue, adjacent to or in close proximity to the Project site, to facilitate access to the Charles River/Cutler Park parkland, and modification of existing curbing, if any, at the crossing to provide handicap accessibility to and from the crosswalk;

(vi) Costs of complying with conditions imposed by the Board of Appeals acting within the scope of its authority under M.G.L. c. 40B; and

(vi) Peer review costs, inspection costs, and permit fees as provided in Paragraph 9 below.

9. The Developer agrees to pay all review, inspection or other fees charged by Town permitting authorities or departments with jurisdiction over the Project. The Town acknowledges and agrees that, in light of the payments with respect to I/I removal described above, the Developer shall not be responsible for any fees or payments in connection with a sewer connection or extension permit from the Town of Needham, and/or the introduction of sewage flow from the Project to the public sewer system. If the Town's actual review, permitting, inspection or related costs exceed the amount of revenue received from fees paid by the Developer, the Developer agrees to reimburse the Town for all reasonable additional costs as documented by the Town. It is understood and agreed by the Developer that any such reimbursement shall be in addition to, and does not include (i) any other payments that the Developer is obligated to make pursuant to this MOU; (ii) documented costs of third-party consultants retained by the Town in connection with the LIP Project Eligibility process and preparation of this MOU; (iii) documented costs of third-party consultants retained by the Board of Selectmen or Board of Appeals in connection with peer review of the Developer's comprehensive permit application or third-party consultants retained by any other local board with jurisdiction over any application filed by the Developer in connection with the Project to peer review, Developer's and Developer's consultants submissions.

10. Audit The Developer agrees that the Town shall have a continuing right to audit or have a peer review of an audit of the Project, as the Town deems reasonably necessary, to insure compliance with profit limitation(s) imposed by applicable law or regulation or by the DHCD Local Initiative Program through its Regulatory Agreement. The cost of said audit shall be paid by the Developer.

11. Severability The Town and the Developer agree that, if the Developer does not construct the project or some other project of multi-family housing units on all or part of the site under a comprehensive permit issued under the authority of M.G.L.A., Ch. 40B, the provisions of this MOU shall be null and void except for such obligations which expressly survive the expiration or termination of this MOU. In the event that any provision of this MOU shall be determined to be invalid or illegal by a court of competent jurisdiction, such provision shall not affect the enforceability of the remainder of this MOU, and shall be deemed to be omitted from this MOU, and the remainder of this MOU shall continue in full force and effect.

12. Subsidized Housing Inventory. The Developer, with the support of the Town, will exercise due diligence to secure a written agreement from DHCD to extend the period under 760 CMR. 31.04(a) for issuing a building permit or building permits for units approved by the Board of Appeals from one year to three years. This is to reflect the anticipated schedule for obtaining all permits and approvals in addition to the comprehensive permit, and the Developer's construction schedule, and to protect the Town from additional comprehensive permit applications that might be submitted if units in the Project were removed from the Chapter 40B Subsidized Housing Inventory

pending issuance of building permits.

13. Local Preference. The Developer agrees, to the extent allowed by law, to set aside up to 70% of the affordable units as local preference units, i.e., units offered first to Needham residents or persons with a connection to the Town, in accordance with a local preference policy determined by the Board of Selectmen if said policy is approved by DHCD. The Town will provide reasonable assistance to the Developer in designing an affirmative marketing plan for the development. The Town may delegate oversight of the affirmative marketing plan and local preference selection procedures to the Needham Housing Authority or another organization deemed appropriate by the Board of Selectmen to represent the Town's interests. All costs associated with implementing the affirmative marketing plan and local preference procedures shall be paid by the Developer.

14. Board of Appeals Jurisdiction. Notwithstanding the Board of Selectmen's support and endorsement of the subject proposal, neither this Development Agreement, nor the Board's support and endorsement as reflected in its letter to the Department of Housing and Community Development, shall be deemed to limit the legal authority of the Board of Appeals of the Town of Needham with respect to that Board's jurisdiction over a comprehensive permit pursuant to G.L. c. 40B, s. 20-23.

15. Miscellaneous

    a. This MOU is binding upon and shall inure to the benefit of the parties hereto, their respective agents, representatives, officers, directors, divisions subsidiaries, affiliates, assigns, heirs, successors in interest, and shareholders.

    b. This MOU may be executed in counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one agreement, which shall be binding upon and effective as to all parties.

    c. This MOU shall bind and inure to the benefit of and be enforceable by the Developer and the Town and their respective successors and assigns and shall run with the land. A notice thereof shall be executed by the Developer and the Town and recorded with the Norfolk Registry of Deeds upon issuance by DHCD of a Project Eligibility (Site Approval) letter for the Project in accordance with 760 CMR 45.05.

    d. The Developer and any successor(s) in title shall notify the Town, in writing, no less than thirty (30) days prior to the transfer of all or a portion of the subject property. Said written notice shall be provided to both the Board of Selectmen and Town Manager.

    e. The Town reserves the right to withdraw its endorsement of the LIP Project Eligibility application if the Developer does not comply with this MOU, which shall be incorporated by reference in the LIP Project Eligibility application.

f. This document is intended to be the final agreement between the parties and cannot be amended except by a writing signed by all the parties hereto.

g. This MOU may only be amended by a written instrument executed by all of the parties hereto.

16. Effective Date. This Development Agreement shall be effective as of the date it shall be executed by both the Developer and the Town.

IN WITNESS WHEREOF, the undersigned have caused this MOU to be executed on the date(s) set forth below.

TOWN OF NEEDHAM

By: _____

Dated: 4-15-2015

A Street Residential, LLC

By: _____
DAVID T. WELSH Executive VP

Dated: 4/15/15

TOWN OF NEEDHAM
TOWN HALL
1471 Highland Avenue
Needham, MA 02492-2669

Office of the
BOARD OF SELECTMEN

TEL: (781) 455-7500
FAX: (781) 449-4569
TDD: (781) 455-7558

April 15, 2015

Ms. Toni Coyne Hall, Director
Local Initiative Program
Department of Housing and Community Development
100 Cambridge St., Suite 300
Boston, MA 02114

Dear Ms. Hall:

On behalf of the Board of Selectmen, I am pleased to convey our support for the Local Initiative Program (LIP) Project Eligibility Application submitted by A Street Residential, LLC a 390-unit rental development planned for Second Avenue in Needham. The proposed project includes 98 units that will be affordable to low- or moderate-income households as defined in 760 CMR 45.02.

The site is located on Second Avenue in Needham, in the business center known as Needham Crossing, adjacent to the 350-unit Charles River Landing property and across from the Charles River. Normandy Real Estate Partners/A Street Residential, LLC has worked for several months to prepare this LIP application, meeting with the Board of Selectmen and other local officials in order to address the concerns of stakeholders.

The Second Avenue residences will provide the following types of public benefits:

1. An increase in high-quality affordable housing for low- or moderate-income households;

2. The location of higher-density residential development in a setting identified by the Town as appropriate and served by existing infrastructure;

3. Attainment of the goal of 10% of housing units to be contained on the Subsidized Housing Inventory;

4. Enhanced public access to the Charles River;

5. The provision of housing that supports the shared economic development objectives of the Town and developer; and

6. Sustainable growth in tax and other revenue to the Town.

Toward these ends, the Town and developer have entered into a development agreement for the project. The development agreement is an integral component of the project and it is attached for your information.

If you have any questions or need additional information please contact Kate Fitzpatrick, Town Manager at 781-455-7500 extension 0.

Sincerely,

Maurice Handel, Chairman
Board of Selectmen
Town of Needham

cc: Board of Selectmen
Kate Fitzpatrick, Town Manager
Lee Newman, Director of Planning & Community Development