

REDEVELOPMENT AGREEMENT

By and Between

THE TOWNSHIP OF WEST ORANGE

as Redevelopment Entity

and

GREEN ESSEX PARTNERS URBAN RENEWAL, LLC,

as Redeveloper

Dated as of March 10, 2021

This Redevelopment Agreement (the “**Agreement**” or “**Redevelopment Agreement**”) is dated as of this 10th day of March, 2021 and entered into by and between **THE TOWNSHIP OF WEST ORANGE, NEW JERSEY** (the “**Township**”), a public body corporate and politic of the State of New Jersey having its offices at 66 Main Street, West Orange, New Jersey 07052, in its capacity as redevelopment entity pursuant to *N.J.S.A. 40A:12A-4(c)*, and **GREEN ESSEX PARTNERS URBAN RENEWAL, LLC**, a limited liability company of the State of New Jersey in accordance with the provisions of the *Long Term Tax Exemption Law of 1992*, as amended and supplemented, *N.J.S.A. 40A:20-1 et seq.* (the “**Exemption Law**”), with offices at c/o BNE Real Estate Group, 16 Microlab Road, Suite A, Livingston, New Jersey 07039 (together with its permitted successors or assigns as hereinafter provided, the “**Redeveloper**”; each of the Township and the Redeveloper a “**Party**” and collectively the “**Parties**”).

W I T N E S S E T H

WHEREAS, the Township, adopted Resolution 249-20 on December 15, 2020 designating, Block 155, Lots 40.02 (100 Executive Drive), 41.02 (10 Rooney Circle), and 42.02 (200 Executive Drive) as a non-condemnation “area in need of redevelopment” (the “Redevelopment Area”) pursuant to the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the “Redevelopment Law”); and

WHEREAS, in accordance with the Redevelopment Law, the Township adopted Ordinance 2632-21 on February 9, 2021 enacting a redevelopment plan for the Redevelopment Area entitled “Executive Drive – Rooney Circle Redevelopment Plan” (as further amended and supplemented from time to time, the “Redevelopment Plan”); and

WHEREAS, the Redeveloper is the contract purchaser of Block 155, Lots 40.02 and 42.02 (the “**Property**”) and submitted a proposal to the Township to be designated by the Township as redeveloper for the Property; and

WHEREAS, Block 155, Lot 41.02 is owned by West Orange Office Executive Park, LLC (“**WOOEP**”); and

WHEREAS, the Township evaluated the Redeveloper’s proposal and adopted Resolution 38-21 on February 23, 2021 designating the Redeveloper as conditional redeveloper for the Property; and

WHEREAS, the Redeveloper proposes the redevelopment of the Property including; (1) demolition of all existing improvements on the Property, except for the existing improvements located on Lot 41.02, (2) merge Lots 40.02 and 42.02 and subdivision to create lot for Public Dog Park, (3) design, develop, finance, construct, operate and maintain a residential development consisting of one 4-story building with a basement wrapped around a 4-story parking deck and three additional 4-story buildings with basements with surface parking and individual parking garages, containing up to 425 rental apartments (approximately 164 one-bedroom units, 246 two-bedroom units and 15 three-bedroom units), including up to 64 affordable units (at least 15% of the total number of units constructed) and 361 market rate units,

(4) amenity space including a pool, landscaped courtyard and various on grade landscaped park areas, (5) construction and conveyance to the Township of a Public Dog Park as set forth in Article III and Section 4.3 below, (6) construction of Library Improvements as set forth in Section 4.4 below, (7) cause the conveyance to the Township of Lot 41.02, which is and shall remain owned by WOOEP until conveyance to the Township as set forth in Article III below, and (8) construction of all necessary on- and off-site Infrastructure Improvements as set forth in Section 4.6 below, all subject to receipt of Governmental Approvals (the “**Project**” or “**Redevelopment Project**”); and

WHEREAS, in furtherance of the Redevelopment Plan, the Parties wish to set forth the terms and conditions relating to the design, financing, construction and implementation of the Project upon the Property by the Redeveloper, and to designate the Redeveloper as the redeveloper (as such term is defined in the Redevelopment Law) of the Property on the terms and conditions set forth herein,

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained, the Parties hereto do hereby covenant and agree, each with the other, as follows:

ARTICLE I DEFINITIONS

1.1. Defined Terms. (a) The following terms shall have the meanings ascribed to them in the Recitals above:

Agreement or Redevelopment Agreement	Redeveloper
Exemption Law	Redevelopment Area
Party	Redevelopment Law
Parties	Redevelopment Plan
Project or Redevelopment Project	Township
Property	WOOEP

(b) The terms below shall have the following meanings:

“**2017 Tax Appeals**” shall have the meaning ascribed thereto in Section 13.5.

“**Administrative Agent**” shall have the meaning ascribed thereto in Section 4.2(c).

“**Affiliate**” means with respect to any Person, any other Person directly or indirectly Controlling or Controlled by, or under direct or indirect common Control with such Person.

“**Affordable Units**” shall mean those very low, low and moderate income housing units, totaling at least 15% of the total units constructed, required to be constructed within the Project pursuant to Section 4.2 of this Agreement and in accordance with COAH Regulations and UHAC.

“Applicable Laws” shall mean all federal, state and local laws, ordinances, approvals, rules, regulations statutes, permits, resolutions, judgments, orders, decrees, directives, interpretations, standards, licenses and other similar requirements applicable thereto, including but not limited to, the Redevelopment Law, the Municipal Land Use Law, *N.J.S.A. 40:55D-1 et seq.*, the Redevelopment Area Bond Financing Law, *N.J.S.A. 40A:12A-64 et seq.*, the Eminent Domain Act, *N.J.S.A. 20:3-1 et seq.*, the Zoning Ordinance of the Township of West Orange, as and to the extent applicable pursuant to the terms of the Redevelopment Plan, Environmental Laws, the Fair Housing Act of 1985, *N.J.S.A. 52:27D-301 et seq.*, COAH Regulations, relevant construction codes including construction codes governing access for people with disabilities, and all other applicable federal, state or local zoning, land use, environmental, health and safety laws, ordinances, rules and regulations, and federal and state labor standards or regulations.

“Application” or “Government Application” shall mean any application for Governmental Approval submitted by or on behalf of Redeveloper, including all plans, drawings, documentation and presentations necessary and appropriate for the purpose of obtaining any and all Governmental Approvals required to implement and Complete the Project.

“Certificate of Completion” shall mean written acknowledgment by the Township in recordable form that the Redeveloper has completed construction of the Project (or relevant Phase thereof) in accordance with the requirements of this Redevelopment Agreement; and that, in accordance with the provisions of *N.J.S.A. 40A:12A-9*, the conditions determined to exist at the time the area was determined to be in need of redevelopment no longer exist.

“Certificate of Occupancy” shall have the meaning ascribed thereto in the Township’s Municipal Code and in the applicable provisions of the Uniform Construction Code.

“Closing” shall mean the conveyance of title to the Public Dog Park by the Redeveloper and Lot 41.02 by WOOEP to the Township.

“Closing Date One” shall mean the date upon which title to the Public Dog Park is conveyed by the Redeveloper to the Township as further defined in Section 3.6 herein.

“Closing Date Two” shall mean the date upon which title to Lot 41.02 is conveyed by WOOEP to the Township as further defined in Section 3.6 herein.

“COAH” shall mean the Council on Affordable Housing of the State established by the Fair Housing Act of 1985, as same may be amended from time to time.

“COAH Regulations” shall mean the substantive and procedural rules enacted by COAH from time to time, including but not limited to UHAC, as defined below.

“Commence Construction”, “Commencement of Construction”, or “Commencement Date” shall mean the date upon which the construction force and machinery is mobilized for construction of the Project in accordance with Governmental Approvals.

“Completion of Construction”, “Complete Construction” or “Completion Date” shall mean the date upon which the Redeveloper receives a Certificate of Completion for the Project (or relevant Phase or portion thereof).

“Construction Period” shall mean the period beginning on the Commencement Date and ending on the Completion Date.

“Contingency Satisfaction Date” shall mean the date upon which the PILOT Contingency has been satisfied, but not later than the Contingency Satisfaction Deadline.

“Contingency Satisfaction Deadline” shall mean September 30, 2021; *provided, however,* that if as of September 30, 2021, and notwithstanding the diligent and good faith efforts of the Parties, the PILOT Contingency has not been satisfied because required State approvals that have been applied for, which application for State approvals shall be filed no later than June 30, 2021, have not yet been obtained, then either Party by Notice to the other Party may elect to extend the Contingency Satisfaction Deadline until November 30, 2021, or to be consistent with any delay solely caused by the State entity. In the event the PILOT Contingency is not satisfied by the Contingency Satisfaction Deadline the Parties may elect to terminate this Agreement as hereinafter provided; *provided, however,* that upon such termination the Parties shall have no further liability to each other under this Agreement except as otherwise expressly provided to the contrary herein; *and provided further,* that in the event of any such termination the Township shall not be obligated to reimburse Redeveloper for any monies expended by Redeveloper in connection with this Agreement, the Project or the performance of Redeveloper’s obligations hereunder.

“Control” (including the correlative meanings of the terms “controlled by” and “under common control with”), as used with respect to the Redeveloper, the power, directly or indirectly, to direct or cause the direction of the management policies of the Redeveloper, whether through the ownership of an interest in the Redeveloper, or by contract or otherwise.

“Declaration of Covenants and Restrictions” or “Declaration of Restrictions” shall mean a written instrument intended to be executed by Redeveloper, to be recorded in the Office of the Essex County Register and to encumber the Property and to run with the land, setting forth certain statutory and contractual undertakings of and restrictions applicable to Redeveloper and its permitted successors and assigns in connection with the ownership, redevelopment or rehabilitation of the Project, all as more particularly described in Article VII.

“Deed” shall have the meaning ascribed thereto in Section 3.7.

“Deed-Restriction Period” shall have the meaning ascribed thereto in Section 4.2(b).

“Default” shall mean a condition or event which constitutes or would constitute, after notice or lapse of time or both, an Event of Default as more particularly defined in Article X.

“Effective Date” shall mean the date of complete execution of this Agreement by Redeveloper and the Township.

“Environmental Conditions” shall have the meaning ascribed thereto in Section 3.14(b)(ii).

“Environmental Laws” means all common law, federal, state, regional, and local laws, statutes, ordinances, regulations, rules, codes, consent decrees, judicial or administrative orders or decrees, directives or judgments of any federal, state, regional, or local government entity, authority, agency, and/or department with relevant authority relating to environmental contamination, damage to or protection of the environment, environmental conditions, or the use, handling, processing, distribution, generation, treatment, storage, disposal, manufacture or transport of Hazardous Substances materials or wastes, whether heretofore, now in effect or hereinafter enacted or promulgated or amended, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”) (42 U.S.C. §§ 9601-9675); the Resource Conservation and Recovery Act of 1976 (“RCRA”) (42 U.S.C. §§ 6901, et seq.); the Clean Water Act (33 U.S.C. §§ 1251, et seq.); the New Jersey Spill Compensation and Control Act (the “Spill Act”) (*N.J.S.A. 58:10-23.11 et seq.*); the Industrial Site Recovery Act, as amended (“ISRA”) (*N.J.S.A. 13:1K-6 et seq.*); the New Jersey Underground Storage of Hazardous Substances Act (*N.J.S.A. 58:10A-21 et seq.*), the New Jersey Water Pollution Control Act (*N.J.S.A. 58:10A-1 et seq.*); the New Jersey Environmental Rights Act (*N.J.S.A. 2A:35A-1 et seq.*); the New Jersey Site Remediation Reform Act (*N.J.S.A. 58:10C-1 et seq.*); the and the rules and regulations promulgated thereunder, including but not limited to the Technical Requirements for Site Remediation (*N.J.A.C. 7:26E et seq.*).

“Escrow Account” shall have the meaning ascribed thereto in Section 4.13(a).

“Escrow Deposit” shall have the meaning ascribed thereto in Section 4.13(b).

“Event of Default” shall have the meaning ascribed thereto in Section 10.2.

“Financial Agreement” shall have the meaning ascribed thereto in Section 13.1(a).

“Force Majeure Event” shall mean causes that are beyond the reasonable control and not substantially due to the fault or negligence of the party seeking to excuse delay or failure of performance of an obligation hereunder by reason thereof, including, but not limited to, third-party litigation that enjoins implementation of the Project or the relevant Phase thereof or materially interferes with the ability of Redeveloper to obtain Governmental Approvals and Market Rate Financing for the Project, as more particularly described in Section 10.5 below; declarations of public emergency; acts of nature (as to weather-related events, limited to severe and unusual events or natural occurrences such as hurricanes, tornadoes, earthquakes, and floods not reasonably foreseeable at the time the Project Schedule is agreed to); acts of the public enemy; acts of terrorism; acts of war; fire; epidemics; quarantine restrictions; blackouts, power failures, or energy shortages; governmental embargoes; interruptions in the free flow of capital markets or other instances of illiquidity in global or U.S. capital markets that have a material and

adverse effect on Redeveloper's ability to finance and construct the Project; and strikes or similar labor action by equipment or material suppliers or transporters, or unavailability of necessary building materials (all of the foregoing *provided that* Redeveloper has no commercially reasonable alternatives to avoid the impact thereof on the progress of the Project.) During any Force Majeure Event that affects only a portion of a Project, Redeveloper shall to the maximum extent feasible continue to perform its obligations for the balance of the Project unaffected by the Force Majeure Event. The existence of an event or occurrence of Force Majeure Event shall not prevent the Township from declaring a default or the occurrence of an Event of Default by the Redeveloper if the event that is the basis of the Event of Default is not a result of the Force Majeure Event.

"Gap Title Defects" shall have the meaning ascribed thereto in Section 3.7(b).

"Governmental Approvals" shall mean all final and unappealable local, state or federal government approvals necessary for implementation and completion of the Project in accordance with the terms of this Agreement, including, without limitation, preliminary and final site plan approval, preliminary and final subdivision approval, if and as applicable, environmental permits, including but not limited to wetlands and storm water drainage permits, permits, consents, permissions or approvals relating to historic preservation matters, utilities-related permits, including permits related to water supply and sewer service, and all other necessary permits, licenses, consents, permissions or approvals from or required by governmental agencies.

"Improvements" shall mean the construction, installation, repair, rehabilitation or reconstruction of all buildings, structures or improvements existing upon, or constructed on or installed as part of the Project, and the provision of any performance bonds, or maintenance bonds, completion guarantees or any other performance assurances in connection therewith.

"Infrastructure Improvements" shall have the meaning ascribed thereto in Section 4.6.

"Library Improvements" shall have the meaning ascribed thereto in Section 4.4.

"Litigation Costs" shall have the meaning ascribed thereto in Section 13.2.

"Malanga Litigation" shall mean Kevin Malanga v. Township of West Orange; Township of West Orange Planning Board; and Township of West Orange Township Council, Superior Court Docket Number ESX-L-____-21.

"Market Rate Financing" shall mean financing for the Commencement of the Project or relevant Phase thereof, including but not limited to one or more of equity participations, "mezzanine" debt, or other financing arrangements in addition to a Mortgage, at interest rates and on terms and conditions that are substantially similar to those generally available for similar projects under generally prevailing industry standards and market conditions.

"Minority" shall mean a person who is a citizen or lawful permanent resident of the United States and who is either one or a combination of: (i) African American (a person having

origins in any of the black racial groups of Africa), (ii) Alaskan Native and/or American Indian (a person having origins in any of the original peoples of North America), (iii) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, Hawaii or the Pacific Islands), (iv) Hispanic (a person of Mexican, Puerto Rican, Cuban, or South American, or other Spanish culture or origin, regardless of race), or (v) Female (a person of the female gender).

“Mortgage” shall mean a permitted mortgage or related security in connection with financing necessary for Redeveloper to perform its obligations under this Redevelopment Agreement, including financing associated with the acquisition, development, construction, or marketing of the Project.

“Mortgagee” shall mean the holder of a Mortgage.

“Notice” shall have the meaning ascribed thereto in Section 14.9.

“Notice of Environmental Impossibility” shall have the meaning ascribed thereto in Section 3.2(e)(v).

“Permitted Exceptions” shall have the meaning ascribed thereto in Section 3.7(b).

“Person” means any individual, sole proprietorship, corporation, partnership, joint venture, limited liability company, trust, unincorporated association, urban renewal entity, institution, or any other entity.

“PILOT” shall have the meaning ascribed thereto in Section 13.1(a).

“PILOT Contingency” shall have the meaning ascribed thereto in Section 13.1(b).

“Plans and Specifications” shall mean all plans, drawings, specifications and related documents needed to obtain Governmental Approvals and to implement and Complete Construction of the Project in accordance with this Agreement and all applicable Governmental Approvals.

“Project Schedule” shall have the meaning ascribed thereto in Section 4.5.

“Public Dog Park” shall have the meaning ascribed thereto in Section 4.3.

“RAB” shall have the meaning ascribed thereto in Section 13.1(a).

“Redeveloper Protections” shall mean the provisions of Article V of this Agreement.

“Redevelopment Entity” shall mean the Township of West Orange, New Jersey or its successors or assigns acting in the capacity of “redevelopment entity” for purposes of the Redevelopment Law.

“Remediation” or **“Remediate”** or **“Remediating”** shall mean demolition, removal, site clearance, disposition and related processing and other costs and charges regarding existing improvements, the land and any groundwater thereunder, and all necessary actions required under Environmental Laws or any other Applicable Law to investigate and clean up, remove, or otherwise respond to the known or suspected presence or threatened discharge of hazardous substances or hazardous wastes, including, as necessary, preliminary assessment, site investigation, remedial investigation, and remedial action, including as to both demolition and Remediation “soft costs” such as professional fees, site audit costs, agency processing and the like, but specifically excluding fees paid to Redeveloper or to any affiliate of Redeveloper.

“Survey” shall have the meaning ascribed thereto in Section 3.7(b).

“Tax Agreement” shall have the meaning ascribed thereto in Section 3.5.

“Tax Court” shall have the meaning ascribed thereto in Section 13.5.

“Termination Notice” shall have the meaning ascribed thereto in Section 10.3.

“Title Commitment” shall have the meaning ascribed thereto in Section 3.7(b).

“Township Costs” shall mean (i) all outside professional and consultant fees, costs or expenses reasonably incurred by the Township arising out of or in connection with the performance, administration, or enforcement of this Agreement; (ii) Litigation Costs arising out of or in connection with litigation or dispute resolution in connection therewith as more particularly set forth in Section 13.2 below; and (iv) a charge for each special meeting of a municipal board held at the request of or with the consent of Redeveloper, at a current cost of \$1,700 per meeting, which charge shall be adjusted from year to year during the Term of this Agreement to remain equal to the generally applicable charges of the Township for such special meetings. “Township Costs” shall not include charges for services performed in the ordinary course of their employment by Township employees.

“Transfer” shall mean a direct or indirect change in ownership or control, or an assignment.

“UHAC” shall mean Uniform Housing Affordability Controls, *N.J.A.C. 5:80-26.1, et seq.*, as same may be amended, or any successor laws or regulations.

“WOOEP Exculpated Parties” shall have the meaning ascribed thereto in Section 13.4(b)(iii).

ARTICLE II

REDEVELOPER DESIGNATION; TERM OF AGREEMENT

2.1 Redeveloper Designation. The Township hereby designates and appoints the Redeveloper as the exclusive redeveloper of the Property. The Redeveloper has the exclusive right to perform development and redevelopment activities in connection with the Project, and to retain the profits derived therefrom, under the framework and in accordance with the terms of this Agreement, the Redevelopment Plan, and all Applicable Laws.

2.2 Redeveloper's Scope of Undertaking. The services and responsibilities undertaken by the Redeveloper, as more particularly set forth in this Agreement, shall include all aspects of the acquisition, design, development, Remediation, site preparation, and construction of the Project and all Improvements, including, without limitation, engineering, permitting and administrative aspects, the performance of or contracting for and administration and supervision of all construction of Improvements required in connection with the Project, including the provision of any performance bonds, maintenance bonds, completion guarantees or any other performance assurances in connection therewith, whether required as a result of Governmental Approvals or pursuant to the terms of this Agreement; arrangement for interim and final inspections and any other actions required to satisfy the requirements of all Governmental Approvals necessary to develop and use the Project; marketing, sales and the administration, operation and management of the Project; and all aspects of the funding of the Project, including equity funding and construction, interim and permanent financing.

2.3 Term of Agreement. This Agreement shall commence on the Effective Date and shall expire upon the issuance of a final Certificate of Completion coinciding with Completion of Construction of the entire Project, unless earlier terminated in accordance with the provisions hereof.

2.4 Contingencies/Termination. Certain rights and obligations of the Redeveloper under this Agreement are contingent upon the Redeveloper closing on the acquisition of the Property. If the Redeveloper is unable to close on the acquisition of the Property for any reason whatsoever, it may terminate this Agreement upon thirty (30) days' notice to the Township and thereafter the Parties and WOOEP shall have no further rights or obligations among them with regard to this Agreement.

ARTICLE III

CONVEYANCE TO TOWNSHIP OF PUBLIC DOG PARK AND LOT 41.02

3.1 Agreement to Convey the Public Dog Park and Lot 41.02. Subject to the terms, conditions and contingencies herein, the Redeveloper agrees to acquire, construct improvements thereon and then convey to the Township the Public Dog Park and cause Lot 41.02 to be conveyed to the Township by WOOEP after the completion of the Library Improvements unless otherwise provided for herein, and the Township agrees to accept the Public Dog Park from the Redeveloper and accept Lot 41.02 from WOOEP, in consideration of the financial considerations granted to Redeveloper by the Township as set forth in the Financial Agreement and on the additional terms and conditions below.

3.2 Public Dog Park and Lot 41.02 to be Conveyed. The Public Dog Park to be conveyed to the Township consists of the land in the approximate location identified in the attached Exhibit A, together with any buildings and improvements thereon and any privileges thereto. The Lot 41.02 to be conveyed to the Township consists of the land as particularly described in the attached Exhibit B, together with any buildings and improvements thereon and any privileges thereto.

3.3 Consideration. The conveyance of the Public Dog Park by the Redeveloper to the Township and Lot 41.02 by WOOEP to the Township shall be for no additional monetary consideration beyond the terms and conditions contained herein and in the Financial Agreement. No consideration shall be due and payable to the Redeveloper or WOOEP by the Township at Closing.

3.4 Conditions Precedent to Closing on Public Dog Park. Prior to Closing on the conveyance of the Public Dog Park to the Township, the Redeveloper shall acquire the property as set forth in Exhibit A, the Redeveloper shall complete construction of the Public Dog Park improvements as set forth in Section 4.3, and the Township shall inspect and approve said improvements once construction is complete.

3.5 Conditions Precedent to Closing on Lot 41.02. Upon the Redeveloper closing on the acquisition of the Property, the Redeveloper and the Township, as necessary, shall enter into a right of entry, license or agreement with WOOEP for access to Lot 41.02. Upon the Redeveloper closing on the acquisition of the Property, the Township shall determine whether it and Redeveloper shall enter into an agreement for the construction of the Library Improvements and payments to the Redeveloper for such construction. In the event the Township decides to enter into an agreement with the Redeveloper for the construction of the Library Improvements, then upon receipt of building permits for the residential development on the Property and for the Library Improvements, the Redeveloper shall commence and complete construction of the Library Improvements as set forth in Section 4.4 herein. In the event the Township determines that the Redeveloper shall not construct the Library Improvements, pursuant to 3.5(b), WOOEP shall convey Lot 41.02 to the Township prior to commencement of construction of the Library Improvements, and the One Million Five Hundred Thousand Dollar (\$1,500,000.00) contribution toward the Library Improvements to be funded by the RAB shall be remitted to the Township at Closing for Lot 41.02 and thereafter, the Township shall contract with a third party for the construction of the Library Improvements. In addition, as a condition precedent to Closing on Lot 41.02, the Township shall comply with the terms and conditions of the tax settlement agreement attached hereto as Exhibit H (the "**Tax Agreement**").

3.6 Time and Place of Closing of Title. (a) Closing on the Public Dog Park shall occur prior to Redeveloper's application to the Township for the first Certificate of Occupancy for the residential apartment building to be located on the Property, at a time to be mutually agreed upon by the Parties (the "**Closing Date One**"). The Closing shall be held at the offices of McManimon, Scotland & Baumann, LLC or such other place as the Redeveloper and the Township may mutually agree.

(b) Closing on Lot 41.02 shall occur upon the Completion of Construction of the Library Improvements by the Redeveloper, or sooner as provided in Section 3.5, at a time to be mutually agreed upon by the Parties (the "**Closing Date Two**"). The Closing shall be held at the offices of McManimon, Scotland & Baumann, LLC or such other place as the WOOEP and the Township may mutually agree.

3.7 Transfer of Ownership; Title. (a) At Closing, the Redeveloper shall give the Township for the Public Dog Park and WOOEP shall give the Township for Lot 41.02, a properly executed Bargain and Sale Deed with Covenants Against Grantor's Acts (the "**Deed**"), an adequate affidavit of title, a properly executed Affidavit of Consideration or Exemption, a true copy of a company Resolution authorizing the sale and conveyance, and such other documentation as may reasonably be requested by the Township's title insurance company. The Township shall pay for all recording fees and realty transfer taxes, if any, incidental to conveying title to the Township.

(b) The Redeveloper and WOOEP shall transfer and convey to the Township clear and marketable title to the Public Dog Park and Lot 41.02, respectively, defined for purposes of this Agreement as insurable by a title insurance company licensed to do business in the State of New Jersey at regular rates free of all claims and rights of others, except for: (a) normal utility easements servicing the Public Dog Park or Lot 41.02, which do not interfere with the Township's intended use thereof; (b) ALTA preprinted exceptions; (c) any Permitted Exceptions (as hereinafter defined); and (d) real estate taxes not yet due and payable. As soon as possible following the Effective Date the Township shall order a title report and title insurance commitment (the "**Title Commitment**"), and, if desired by the Township, a Phase I Investigation and survey of the Public Dog Park and Lot 41.02 by a licensed New Jersey surveyor (the "**Survey**") and to furnish a copy of the Title Commitment, Phase I Investigation and Survey to the Redeveloper for the Public Dog Park and to WOOEP for Lot 41.02 promptly after the Township receives same. Further, upon providing the Redeveloper and WOOEP with a copy of the Title Commitment and/or Phase I Investigation and Survey, the Township shall notify the Redeveloper and WOOEP in writing of any objection. In the event the Township raises title, environmental and/or Survey objections, the Redeveloper and WOOEP shall have thirty (30) days from the date of receipt of the Township's written objections in which to decide whether to remedy the objection(s). If the Redeveloper or WOOEP does undertake to remedy the objection(s) the Redeveloper or WOOEP shall be entitled to postpone Closing Date One or Two, respectively for a reasonable period of time in order to effectuate such remedy. In the event the Redeveloper or WOOEP is unable or refuses to remedy such objection(s), then the Township may either (i) waive the objection(s) (the "**Permitted Exceptions**") and proceed to Closing; or (ii) terminate this Agreement with respect to the Public Dog Park and Lot 41.02, in which case Redeveloper's designation as Redeveloper of the Property shall simultaneously and automatically terminate and the Parties shall have no further rights or obligations hereunder, except as specifically set forth herein. Notwithstanding anything contrary in the foregoing, the Township may, at its option, at or prior to Closing, notify the Redeveloper or WOOEP of any objections raised by the Township, the title company or the surveyor from a new or different state of facts relating to the title or environmental condition first arising between the conclusion of the Township's review of the Title Commitment, Phase I Investigation and survey and

Closing Date One or Closing Date Two, respectively (“**Gap Title Defects**”). With respect to any such Gap Title Defects, the Redeveloper as to the Public Dog Park and WOOEP as to Lot 41.02 shall have the obligation to cure and the Township shall have the same options if the Redeveloper or WOOEP fails to cure as set forth above. Closing Date One or Closing Date Two shall be extended as necessary as a result of such Gap Title Defects. Any notice by the Township to WOOEP in accordance with this Section 3.7 shall also be provided to the Redeveloper, who shall have the right but not the obligation to resolve any title objections or Gap Title Defects as to Lot 41.02 if WOOEP is unable or unwilling to do so.

3.8 Right of Entry. At any time between the date of this Agreement and Closing, the Redeveloper or WOOEP agrees to permit the Township or its duly authorized agents and representatives a right of entry for any purposes permitted under this Agreement and to otherwise conduct pre-closing inspections at any reasonable time prior to the Closing. The Township’s right to enter upon the Public Dog Park or Lot 41.02 and to inspect same shall be conditioned upon the Township first furnishing the Redeveloper for the Public Dog Park or WOOEP for Lot 41.02 with proof satisfactory to the Redeveloper or WOOEP, respectively that all of the inspections to be conducted upon the property by or on behalf of the Township shall be protected by (i) liability insurance pursuant to a liability insurance policy having a single limit of not less than \$1,000,000 per occurrence in respect of injury or death and \$2 million per occurrence for property damage, plus excess (umbrella) liability policies with coverage of not less than \$10 million per occurrence, which policy shall be in a form and issued by an insurance company licensed to do business in the State of New Jersey, (ii) workers compensation insurance in an amount not less than \$1,000,000 or such greater amount as may be required under Applicable Laws for employees of the Township. The Township shall be responsible for repairing any damage caused during such inspections and/or indemnifying the Redeveloper as to the Public Dog Park or WOOEP as to Lot 41.02 for any property damage or injury caused directly by the Township or its duly authorized agents and representatives during said inspection, which obligation shall survive Closing. The terms of the right of entry between WOOEP and the Township regarding Lot 41.02 are as set forth in the form of right of entry attached as Exhibit I, which shall be executed by the Township and WOOEP prior to the Township exercising its right of entry.

3.9 Risk of Loss. The Redeveloper is responsible for any damage or loss to the Public Dog Park or Library Improvements constructed by Redeveloper, except for normal wear and tear, until Closing Date One for the Public Dog Park and until Closing Date Two for the Library Improvements, unless the same is the result of Township’s right of entry pursuant to Section 3.8 above. Until Closing Date Two, WOOEP shall maintain the land and improvements on Lot 41.02 in substantially the same condition it is in at the Effective Date, reasonable wear and tear excepted, and also excepting any work performed by Redeveloper in furtherance of the Library Improvements and any damage resulting or arising from the Township’s right of entry pursuant to Section 3.8 above. If prior to Closing Date Two, there is damage or casualty to the land or improvements on Lot 41.02 that is covered by insurance, WOOEP will assign to the Township its rights to the proceeds of such insurance allocable to Lot 41.02.

3.10 Brokerage Fees. The Redeveloper and the Township each represent that concerning the conveyance of the Public Dog Park and Lot 41.02, they have not dealt with or transacted any business with any broker, and each agrees to indemnify, defend and hold the other harmless from any claim of any broker made as a result of such Party's actions inconsistent with the representations made herein.

3.11 Closing Prorations. The following adjustments are to be made at the Closing as of 12:00 midnight of the day preceding the Closing Date Two: (i) water charges; (ii) sewer charges; (iii) gas; (iv) electric; (v) fuel; (vi) real estate taxes; (vii) lease income; and (viii) any other items which shall be appropriate for adjustment under local closing standards and practices.

3.12 Possession. The Redeveloper shall vacate the Public Dog Park and WOOEP shall vacate Lot 41.02 prior to the Closing Date One and Two, respectively and will give possession of the same to the Township at the Closing, free and clear of all tenancies, except as set forth in Section 3.13 below. Redeveloper and WOOEP, respectively shall deliver any and all keys to the Public Dog Park and Lot 41.02 to the Township at Closing.

3.13 TSA Tenancy. The Parties acknowledge and agree that TSA's occupancy of the top floor of the existing building shall continue uninterrupted by the Closing and simultaneous with Closing, the existing lease with TSA shall be assigned to the Township. Upon Closing and at all times thereafter, any and all rent received or due and owing by TSA shall be paid to the Township as same has been prorated in accordance with Section 3.11 above. The Township and WOOEP shall enter into an assignment and assumption agreement transferring the existing lease with TSA from WOOEP to the Township. Said assignment and assumption agreement shall contain mutual indemnities providing that WOOEP will indemnify the Township for claims accruing under the TSA lease prior to Closing Date Two and the Township will indemnify WOOEP for claims accruing under the TSA lease after Closing Date Two.

3.14 Lot 41.02 AS IS WHERE IS. (a) Except as otherwise expressly provided in this Agreement, the Township shall accept Lot 41.02 at the Closing in the "as is", "where is" condition of Lot 41.02 with all faults as of the Closing Date Two. The Township agrees that: WOOEP shall not be liable for any construction, latent or patent defects in Lot 41.02, and shall not be bound in any manner whatsoever by any guarantees, promises, projections, operating expenses, set-up or other information pertaining to Lot 41.02 made, furnished or claimed to have been made or furnished by WOOEP or any other person or entity, including, without limitation, any broker, or any partner, member, manager, shareholder, employee, agent, attorney or other person representing or purporting to represent WOOEP or any broker, whether verbally or in writing. The Township acknowledges that neither WOOEP nor any of the employees, agents or attorneys of WOOEP has made any verbal or written representations or warranties whatsoever to the Township, whether express, implied, statutory, or by operation of law, except as expressly set forth in this Agreement, and in particular, that no such representations and warranties have been made with respect to the physical or environmental condition or operation of Lot 41.02, the layout or footage of Lot 41.02, the actual or projected revenue and expenses of Lot 41.02 or any of the leases at Lot 41.02 (including without limitation, the lease with the TSA), zoning, environmental, and other laws, regulations and rules applicable to Lot 41.02, or the compliance

of Lot 41.02 therewith, the quantity, quality or condition of the articles of personal property and fixtures included in the transactions contemplated hereby, the use or occupancy of Lot 41.02 or any part thereof or any other matter or thing affecting or relating to Lot 41.02 or the transactions contemplated hereby, except as specifically set forth in this Agreement. The Township has not relied and is not relying upon any representations or warranties, or upon any statements made in any informational materials with respect to Lot 41.02 provided by WOOEP, or any other person or entity, including any broker or any shareholder, member, manager, employee, agent, attorney or other person representing or purporting to represent WOOEP or any broker. IN ADDITION TO, AND WITHOUT LIMITATION OF THE FOREGOING, EXCEPT AS SET FORTH IN THIS AGREEMENT: WOOEP MAKES NO WARRANTY, EXPRESSLY, IMPLIED, STATUTORY, OR BY OPERATION OF LAW, AS TO THE QUANTITY, QUALITY, MERCHANTABILITY, TITLE, MARKETABILITY, FITNESS, OR SUITABILITY FOR A PARTICULAR PURPOSE OF LOT 41.02 OR ANY COMPONENT THEREOF, AND LOT 41.02 AND EACH COMPONENT THEREOF ARE SOLD IN AN "AS IS", "WHERE IS" CONDITION, WITH ALL FAULTS. BY EXECUTING THIS AGREEMENT, EXCEPT AS SET FORTH IN THIS AGREEMENT, THE TOWNSHIP AFFIRMS AND AGREES THAT (A) THE TOWNSHIP HAS NOT RELIED ON WOOEP'S SKILL OR JUDGMENT TO SELECT OR FURNISH LOT 41.02 OR ANY COMPONENT THEREOF FOR ANY PARTICULAR PURPOSE, (B) WOOEP MAKES NO WARRANTY THAT LOT 41.02 OR ANY COMPONENT THEREOF ARE FIT FOR ANY PARTICULAR PURPOSE, (C) THERE ARE NO REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED, STATUTORY, OR BY OPERATION OF LAW, WITH RESPECT TO LOT 41.02 OR ANY COMPONENT THEREOF, (D) THE TOWNSHIP HAS BEEN, OR WILL BE, GIVEN THE OPPORTUNITY TO INSPECT LOT 41.02 AND EACH COMPONENT THEREOF AND HAS DETERMINED TO ACCEPT TITLE TO LOT 41.02 AND EACH COMPONENT THEREOF BASED ON SUCH INSPECTION, AND (E) UPON CLOSING, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THE TOWNSHIP SHALL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING, BUT NOT LIMITED TO, CONSTRUCTION DEFECTS AND ADVERSE PHYSICAL CONDITIONS, MAY NOT HAVE BEEN REVEALED BY THE TOWNSHIP'S INVESTIGATIONS, AND THE TOWNSHIP, ON CLOSING, SHALL BE DEEMED TO HAVE WAIVED, RELINQUISHED, AND RELEASED WOOEP FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION (INCLUDING, WITHOUT LIMITATION, CAUSES OR ACTION IN TORT, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES AND COURT COSTS) OF ANY AND EVERY KIND OR CHARACTER, KNOWN OR UNKNOWN, THAT THE TOWNSHIP MIGHT HAVE ASSERTED OR ALLEGED AGAINST WOOEP AT ANY TIME BY REASON OF OR ARISING OUT OF ANY LATENT OR PATENT CONSTRUCTION DEFECTS OR PHYSICAL CONDITIONS, VIOLATIONS OR ANY APPLICABLE LAWS AND ANY AND ALL OTHER ACTS, OMISSIONS, EVENTS, CIRCUMSTANCES, OR MATTERS REGARDING LOT 41.02.

(b) Without limiting the generality of the provisions of Section 3.14(a) of this Agreement, and except as set forth in this Agreement, the Township specifically acknowledges and agrees as follows:

- (i) Neither WOOEP nor any other party acting (or purporting to act) on behalf of WOOEP, has made any (and WOOEP hereby disclaims any) representation or warranty of any kind or nature concerning any environmental condition existing at Lot 41.02;
- (ii) The Township shall take title to Lot 41.02 subject to any and all environmental conditions (or the presence of any matter or substance relating to any such environmental condition at Lot 41.02), whether known or unknown, disclosed or undisclosed, and any and all claims and/or liabilities relating to (in any manner whatsoever) any hazardous, toxic or dangerous materials or substances located in, at, about or under Lot 41.02, or for any and all claims or causes of action (actual or threatened) based upon, in connection with or arising out of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq., or any other law or cause of action (including any federal or state based statutory, regulatory or common law cause of action) related to environmental matters or liability with respect to or affecting Lot 41.02 (any of the foregoing described in this clause (ii) being referred to as **"Environmental Conditions"**);
- (iii) The Township hereby releases WOOEP and its members, managers, agents, and the employees, members, managers, and agents of any of the officers, employees, members, managers or agents of WOOEP, and any other person or entity as principal of WOOEP, whether disclosed or undisclosed (collectively, the **"WOOEP Exculpated Parties"**) from any liability of any kind or nature arising with respect to any Environmental Conditions and, specifically, agrees that if any claim is brought against the Township arising out of any Environmental Condition the Township shall have no claim of any kind or nature against WOOEP or any WOOEP Exculpated Party;
- (iv) If the Closing occurs, then effective as of Closing Date Two, the Township assumes liability for any and all Environmental Conditions and hereby indemnifies and holds harmless WOOEP and each WOOEP Exculpated Party from any and all liabilities, claims, losses, costs, expenses and damages (including, without limitation, reasonable attorneys' fees, costs and disbursements and costs incurred in the enforcement of the foregoing indemnification obligation) arising out of any Environmental Condition, whether or not pre-existing at the Closing and whether or not disclosed to the Township, it being the intention of the parties hereto that from and after the Closing (i) WOOEP shall have no further liability or obligation in respect of environmental matters of any kind or nature pertaining to Lot 41.02, and (ii) the Township shall fully assume any such liability or obligation, including, without limitation, the cost of any cleanup, remediation or removal of any hazardous substances or other Environmental Conditions; and
- (c) **THE TOWNSHIP, WITH THE TOWNSHIP'S COUNSEL, HAS FULLY REVIEWED THE DISCLAIMERS AND WAIVERS SET FORTH IN THIS**

AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE SET FORTH IN THIS SECTION 3.14, AND UNDERSTANDS THEIR SIGNIFICANCE AND EFFECT. THE TOWNSHIP ACKNOWLEDGES AND AGREES THAT THE DISCLAIMERS AND OTHER AGREEMENTS SET FORTH IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE SET FORTH IN THIS SECTION 3.14, ARE AN INTEGRAL PART OF THIS AGREEMENT, AND THAT WOOEP WOULD NOT HAVE AGREED TO CONVEY TITLE TO LOT 41.02 TO THE TOWNSHIP WITHOUT THE DISCLAIMERS AND OTHER AGREEMENTS SET FORTH IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE SET FORTH IN THIS SECTION 3.14. THE TERMS AND CONDITIONS OF THIS SECTION 3.14 WILL EXPRESSLY SURVIVE THE CLOSING AND WILL NOT MERGE WITH THE PROVISIONS OF ANY CLOSING DOCUMENTS.

ARTICLE IV IMPLEMENTATION OF PROJECT

4.1 Project Implementation. For so long as this Agreement and Redeveloper's designation as Redeveloper hereunder remain in effect, Redeveloper shall have the exclusive right to redevelop the Property. The Redeveloper agrees to implement the Project in accordance with the applicable terms and conditions of this Agreement, the Redevelopment Plan, Applicable Laws, and all Governmental Approvals. All redevelopment activities performed under this Agreement shall be performed timely and diligently and provided in accordance with the level of skill and care ordinarily exercised by developers of comparable first class residential developments. All residential units other than the Affordable Units shall be constructed and marketed as "for rent" units.

4.2 COAH Housing Obligation. (a) Redeveloper understands that construction of the Project will result in an affordable housing obligation under applicable COAH Regulations. Fifteen percent (15%) of the total residential units constructed shall be Affordable Units as further described herein, in conformity with the COAH Regulations, UHAC and all other Applicable Laws.

(b) The requirement to construct the Affordable Units and the construction thereof will be tracked on an ongoing basis as Governmental Approvals are obtained and construction of the Project is implemented. The Redeveloper shall have an obligation to deed restrict the Affordable Units as very low, low or moderate income affordable units for a period of thirty (30) years (the "**Deed-Restriction Period**"). The deed restriction shall be provided to the Township for its review for compliance with the COAH Regulations, UHAC, and this Agreement prior to recordation. Redeveloper's obligation includes, but is not limited to, the Redeveloper's obligation to comply with phasing requirements, bedroom distribution requirements, very low/low/moderate income split requirements, pricing requirements, affirmative marketing requirements, candidate qualification and screening requirements and deed restriction requirements, all as set forth in the COAH Regulations, UHAC, and as further described herein.

(c) Redeveloper itself or an experienced administrative agent (“**Administrative Agent**”) contracted by the Redeveloper shall have the responsibility for the administration of the Affordable Units and shall have the obligation to pay all costs associated with properly deed restricting the Affordable Units in accordance with UHAC and other applicable laws for the Deed-Restriction Period. Redeveloper and its Administrative Agent shall work with the Township and the Township’s administrative agent regarding any affordable housing monitoring requirements imposed by COAH or the Court. Redeveloper shall provide, within thirty (30) days of written notice, detailed information requested by the Township or the Township’s administrative agent concerning Redeveloper’s compliance with UHAC and other applicable laws.

(d) The bedroom distribution for the Affordable Units shall be in conformity with the COAH Regulations, UHAC and all other Applicable Laws.

(e) The income mix for the Affordable Units shall be in conformity with the COAH Regulations, UHAC and all other Applicable Laws.

(f) The units with rents set for low, very low and moderate income households shall be distributed among each bedroom size on a prorated basis.

(g) The Redeveloper may phase construction of the Project and therefore phase construction of the Affordable Units. At a minimum, fifteen percent (15%) of all units in any phase shall be Affordable Units which shall be confirmed by the Township prior to application by Redeveloper for a final certificate of occupancy for any such phase of the Project.

4.3 Construction and Conveyance of Public Dog Park. Redeveloper shall acquire the property identified in Exhibit A and shall construct a public dog park thereon. The public dog park improvements shall be determined by the Township in consultation with the Redeveloper prior to commencement of the Public Dog Park by the Redeveloper (the “**Public Dog Park**”). After completion of construction, the Township shall inspect and approve said improvements.

4.4 Construction of Library Improvements. If the Township determines to enter into an agreement with Redeveloper for construction of the Library Improvements, Redeveloper shall obtain a right of entry, license and/or agreement with WOOEP to access Lot 41.02 as described in Exhibit B and shall construct a new public library within the existing building in accordance with the specifications to be provided by the Township to the Redeveloper prior to commencement of construction of the library improvements (the “**Library Improvements**”). The Township shall be responsible for funding the entire cost of the Library Improvements and One Million Five Hundred Thousand Dollars (\$1,500,000.00) of the cost of construction of the Library Improvements shall be funded by the RAB.

4.5 Phasing & Project Schedule. The Redevelopment Project may be constructed in Phases in accordance with the schedule attached hereto as Exhibit D (the “**Project Schedule**”). Redeveloper’s unexcused failure to adhere to the Project Schedule (as the same may be adjusted

from time to time with the consent of the Township as hereinafter provided) shall constitute a Default.

4.6 Infrastructure Improvements. Redeveloper shall construct infrastructure improvements as specifically detailed in Exhibit C (the “**Infrastructure Improvements**”) at Redeveloper’s sole cost and expense in accordance with the Project Schedule.

4.7 Governmental Approvals. (a) The Redeveloper represents that it will cause to be prepared and filed, at Redeveloper’s sole cost and expense, all Governmental Applications as may be necessary and appropriate for the purpose of obtaining all Governmental Approvals required to implement the Project consistent with the Project Schedule. All of the Governmental Applications shall be in conformity with the applicable provisions of the Redevelopment Plan, this Redevelopment Agreement and Applicable Laws. Redeveloper shall provide the Township with a copy of each Governmental Application at the same time those applications are submitted to the governmental agency having jurisdiction over the same.

(b) **Diligent Pursuit of Governmental Approvals.** Redeveloper agrees to prosecute all of Redeveloper’s applications for Governmental Approvals diligently and in good faith, and in accordance with the Project Schedule. Subject to the requirements of Applicable Law, Redeveloper shall determine when and in what order to file each specific application. At Redeveloper’s reasonable request, the Township will, in its reasonable judgment, sign consents or other documents required in connection with Redeveloper’s applications for Governmental Approvals and will supply information which is in the Township’s possession. The Township will, in its reasonable judgment, otherwise cooperate with and support Redeveloper in connection with the applications for Governmental Approvals as Redeveloper and Redeveloper’s counsel may reasonably request.

(c) **Appeals.** If (i) one or more of Redeveloper’s Applications for Governmental Approvals is denied, or approved with conditions that Redeveloper in its commercially reasonable judgment deems unacceptable, or (ii) anyone contests or challenges the grant of such Governmental Approval to Redeveloper, then unless the Township consents in advance to a different course of action Redeveloper may appeal or defend against such action, and during the pendency of the appeal proceeding otherwise continue as Redeveloper deems appropriate to seek the remaining Governmental Approvals. If Redeveloper determines not to appeal or defend against such action as set forth above, it may terminate this Agreement upon thirty (3) days notice to the Township and the Parties shall have no further rights or obligation to each other hereunder.

(d) **Application for Site Plan Approval.** Each Governmental Application submitted by or on behalf of the Redeveloper in connection with the Redevelopment Project shall conform in all material respects to the Redevelopment Plan and all Applicable Laws; *provided, however*, that nothing herein shall be construed as limiting the Redeveloper’s ability to apply for reasonable bulk or area variances or waivers as may necessary or appropriate under the circumstances and in accordance with the applicable provisions of the Redevelopment Plan.

4.8 Commencement and Completion Schedule. The Redeveloper agrees to Commence Construction and diligently Complete Construction of the Project, and failure to do so shall be a Default by Redeveloper. Subject to the provisions of this Agreement with respect to Force Majeure and the applicable provisions of Section 5.2, if any, any material change in the scope of the Project (including changes in the Project budget if relevant to the calculation of the PILOT), changes or updates to the Project Schedule, or extension of the projected Completion Date, shall require the Township's prior written approval, which the Township will not unreasonably withhold. Redeveloper agrees to simultaneously provide to the Township copies of all project pro formas, Project Schedules and budgets that Redeveloper submits to actual or potential lenders or investors in connection with the financing of the Project, to the extent that they are materially different from those previously supplied to the Township by Redeveloper. The Redeveloper understands that absent extraordinary and unforeseeable circumstances the Township will require Redeveloper's adherence to the schedule for Commencement of Construction and Completion of Construction, interim deadlines or milestones and time periods for the various activities and actions to be taken by the Redeveloper hereunder, subject only to the occurrence of a Force Majeure Event.

4.9 Plans and Specifications. Redeveloper hereby agrees that following an Event of Default the Township and anyone acting on the Township's behalf shall have an irrevocable license to use Redeveloper's Plans and Specifications, Governmental Applications, and Governmental Approvals to complete the Project, without cost to or liability of the Township (other than for actual services rendered to the Township subsequent to the Event of Default) and agrees to use best efforts to ensure that all agreements between Redeveloper and its contractors and consultants shall so provide. Redeveloper shall be compensated for such Plans and Specifications as provided in Section 10.8. In addition, all performance or completion bonds provided by Redeveloper's contractors shall name the Township as an intended beneficiary thereof, as its interests may appear, unless Redeveloper's construction lender objects in writing and for good cause to the inclusion of the Township.

4.10 Progress Reports and Project Oversight by the Township. During the implementation of the Project, the Redeveloper shall make periodic Progress Reports, no less frequently than on February 1 and August 1 and at such other times as may be reasonably requested by the Township, in such detail as may reasonably be requested by the Township, as to the actual progress of Redeveloper and which shall include, among other things, a description of activities completed, milestones achieved, status of the Project with respect to the Project Schedule, activities to be undertaken prior to the next regularly scheduled Progress Report, and any unanticipated problems or delays and the explanation therefor. If Redeveloper fails to meet a milestone or completion date set out in the Project Schedule and is notified of same in writing by the Township, or if Redeveloper conclusively determines between Progress Reports that it will fail to meet a milestone or completion date on the Project Schedule, Redeveloper shall promptly provide written notice to Township stating: (a) the reason for the failure to complete the applicable task, (b) Redeveloper's proposed method for correcting such failure, (c) Redeveloper's schedule for completing such task, and (d) the method or methods by which Redeveloper proposes to achieve subsequent tasks by the Completion Date. This Section shall not in any way be construed as entitling Redeveloper to an extension of the Completion Date or

modification of the Project Schedule or Project budget, absent the Township's prior written consent. Redeveloper acknowledges and agrees that time is of the essence in providing the Progress Reports to the Township in accordance with this Section.

4.11 Certificate of Occupancy and Certificate of Completion. Redeveloper shall apply to the appropriate governmental officer or body for a Certificate of Occupancy, as required under Applicable Laws. Following the issuance of all required Certificates of Occupancy and the satisfaction of the terms and conditions of this Redevelopment Agreement with respect to the applicable Phase of the Project by Redeveloper, and upon receipt of a Notice of Completion from Redeveloper, the Township agrees to issue and not unreasonably withhold a Certificate of Completion, in proper form for recording, which shall acknowledge that the Redeveloper has performed all of its duties and obligations under this Redevelopment Agreement and has completed construction of the applicable Phase of the Project in accordance with the requirements of this Redevelopment Agreement. Within 30 days after receipt of the Notice of Completion from the Redeveloper, the Township shall provide the Redeveloper with the Certificate of Completion or a written statement setting forth in detail the reasons why it believes that Redeveloper has failed to complete the Project in accordance with the provisions of this Redevelopment Agreement or is otherwise in default under this Agreement, and what reasonable measures or acts will be necessary in the opinion of the Township in order for the Redeveloper to be entitled to the Certificate of Completion. If there is a dispute as to the Completion of the applicable phase of the Project between the Redeveloper and Township, the Township agrees to issue a Certificate of Completion with conditions that if satisfied by the Redeveloper shall convert the conditional Certificate of Completion to a final one for the applicable phase of the Project so as not to delay or interfere with the Redeveloper's ability to secure permanent financing for the Project. When issued the Certificate of Completion shall constitute a recordable, conclusive determination of the satisfaction and termination of the agreements and covenants (as limited herein) in this Redevelopment Agreement and the Redevelopment Plan with respect to the obligations of the Redeveloper to construct the Project or relevant Phase, as well as a determination by the Township that the conditions that were found and determined to exist at the time the Redevelopment Area was determined to be in need of redevelopment shall be deemed to no longer exist and the conditions and requirements of *N.J.S.A. 40A:12A-9* shall be deemed to have been satisfied with respect to the Redevelopment Project or applicable Phase thereof. Unless otherwise required by a related Financial Agreement, Governmental Approval or Applicable Law, upon the issuance of Certificate of Completion the provisions of this Agreement shall no longer encumber the applicable Phase of the Project; *provided, however*, that any other documents theretofore delivered pursuant to this Agreement that by their terms are intended to survive Completion of Construction (including, without limitation and by way of example only, any deed restrictions, the Declaration of Restrictions, tax exemption agreements, etc.) shall not be affected by delivery of the Certificate of Completion except as otherwise expressly provided therein.

4.12 Estoppel Certificates (Prior to Certificate of Completion). At any time and from time to time prior to the issuance of a Certificate of Completion, the Township shall, within thirty (30) days following a written request by Redeveloper, execute and deliver to (a) Redeveloper, or (b) a third party (*e.g.*, a prospective lender, purchaser, investor, tenant, *etc.*)

designated by Redeveloper, an instrument in which the Township (i) certifies that this Agreement is unmodified and in full force and effect as to the Project (excepting only modifications which shall be set forth), and (ii) states whether to the actual knowledge of the Township Redeveloper is in default under this Agreement, and, if so, specifying each such default of which the Township shall have knowledge.

4.13 Escrow Account to Cover Township Costs. (a) The Redeveloper covenants and represents that it will make timely payment or reimbursement to the Township for all Township Costs. The Redeveloper has established with the Township an escrow account (the “**Escrow Account**”) to cover Township Costs. From time to time during the implementation of the Project and until issuance of a final Certificate of Completion the Redeveloper agrees to replenish the Escrow Account upon the written request of the Township, to provide for a sufficient balance, as determined by the Township in its reasonable judgment, to cover anticipated Township Costs.

(b) The Escrow Deposit is separate from and in addition to all other application fees and escrow deposits that may be required by the Township in connection with applications for land use approvals to implement the Redevelopment Plan. Additions to the Escrow Deposit may subsequently become necessary to cover all reimbursable expenses incurred by the Township pursuant to the terms of this Agreement.

(c) The Escrow Deposit and all additions thereto shall be held by the Escrowee in a banking institution or savings and loan association in the State of New Jersey insured by an agency of the federal government, or in any other fund or depository approved for such deposits by the State of New Jersey, in a segregated, non-interest-bearing account referenced to the Redevelopment Agreement.

(d) The Escrowee shall use the Escrow Deposit and all additions thereto to pay Township Costs in accordance with the provisions of the Redevelopment Agreement. Township Costs paid out of the Escrow Account shall include all Township Costs as defined in the Redevelopment Agreement. Each payment for professional services charged to the Escrow Account shall be pursuant to a voucher from the professional or consultant, identifying the personnel performing the reimbursable service, each date the services were performed, the hours spent in not greater than one-quarter (1/4) hour increments, the hourly rate, and specifying in reasonable detail the properly reimbursable expenses. All professionals shall submit the required vouchers or statements to the Escrowee on a monthly basis in accordance with the schedule and procedures established by the Escrowee. The professional shall simultaneously send an informational copy of each voucher or statement submitted to the Escrowee to the Redeveloper (redacted as necessary to remove confidential and privileged information).

(e) At least annually during the term of the Redevelopment Agreement, or as reasonably requested by the Redeveloper (but not more often than quarterly), Escrowee shall prepare and send to the Redeveloper a statement which shall include an accounting of funds listing all deposits, interest earnings, disbursements and the cumulative balance of the Escrow Account. If at any time the balance in the Escrow Account is less than Twenty-Five Thousand Dollars (\$25,000.00), or if the Escrow Account in the Township’s reasonable estimation for good

cause shown otherwise contains insufficient funds to enable the Township to continue performance of its obligations under the Redevelopment Agreement, the Escrowee shall provide Redeveloper with a notice of the insufficient Escrow Account balance and the amount of additional funds required. Upon receipt of such notice Redeveloper shall deposit to the escrow account additional funds such that the total amount on deposit shall be not less than Fifty Thousand Dollars (\$50,000.00), such deposit to be made within fifteen (15) business days of the Township's notice, failing which the Township may unilaterally cease work without liability to Redeveloper.

(f) Upon the issuance of a Certificate of Completion the Redeveloper shall send written notice by certified mail to the Escrowee requesting that the remaining balance of the Escrow Deposit be refunded, or otherwise applied in accordance with the provisions of the Redevelopment Agreement. After receipt of such notice, and within 30 days of Escrowee's receipt of all outstanding invoices for Township Costs, if any, the Escrowee shall pay all outstanding Township Costs and render a written final accounting to the Redeveloper.

(g) Redeveloper may dispute the propriety or reasonableness of Township Costs paid out of the Escrow Deposit by written notice to the Escrowee. A copy of such notice shall be sent simultaneously to any the entity(ies) whose charges or estimated costs are the subject of the dispute. Such written notice of a disputed charge shall be given within 45 days from Redeveloper's receipt of the informational copy of a voucher or invoice, statement, bill or invoice, except that if Redeveloper has not received an informational copy then the Redeveloper shall send notice within 60 days from receipt of the first statement of activity against the Escrow Account containing the disputed charge. Failure to dispute a charge in writing within the prescribed time shall constitute Redeveloper's acceptance of the charge and a waiver by Redeveloper of all objections to the charge and to payment thereof out of the Escrow Account. During the pendency of a dispute the Escrowee may continue to pay undisputed charges out of the Escrow Account. If a dispute over a charge is resolved in Redeveloper's favor after having been paid, the Escrowee shall reimburse the Escrow Account in the amount determined to be properly disputed.

4.14 Shuttle Service. A shuttle from within the Project to the Essex Green Bus Stop shall be provided by the Redeveloper to coordinate with the Jitney and to provide access to the shopping center and bus at other times of the day.

4.15 Public Improvements Contribution. Redeveloper shall remit to the Township Five Hundred Thousand Dollars (\$500,000.00) to be used by the Township for public improvements. The payment shall be made by Redeveloper to the Township at Closing Date One. The specific public improvements to be funded by the payment shall be at the sole discretion of the Township.

ARTICLE V REDEVELOPER PROTECTIONS

5.1 Redevelopment Plan Amendments. The Township agrees that prior to Commencement of Construction of the last Phase of the Project the Township will not amend the Redevelopment Plan with respect to the Property or otherwise impair this Agreement without Redeveloper's prior consent.

5.2 Impossibility of Performance; Changed Market Conditions. Notwithstanding the Redeveloper's right to terminate this Agreement prior to Closing on the acquisition of the Property or any other rights to terminate the Agreement set forth herein, Redeveloper's failure or refusal to develop a particular Phase of the Project shall not constitute a Default by Redeveloper in the performance of its obligations hereunder if such failure or refusal is for the following reasons and on the following terms and conditions:

(a) Subject to the provisions of Section 5.2(c) below, Redeveloper's failure or refusal to develop a particular Phase of the Project shall not constitute a default hereunder if due to physical impossibility of performance or economic infeasibility due to the condition of the property or to regulatory restrictions relating to the condition of the property.

By way of example, "physical impossibility of performance" would be an irremediable environmental condition. An example of "economic infeasibility" would be a cost of Remediation of an environmental condition that would significantly and adversely affect the anticipated return of the Project as reflected on the Project *pro forma* supplied to the Township by Redeveloper, in either case such that redevelopment of the Project on the terms and conditions set forth herein becomes economically irrational or infeasible.

(b) Subject to the provisions of Section 5.2(c) below, Redeveloper's failure or refusal to develop a particular Phase of the Project shall not constitute a Default if such failure or refusal is the result of changed market conditions encompassing market or economic phenomena or conditions that are not unique to the Project, which changed market conditions render the development and marketing of the Phase based upon the product type and financial assumptions currently proposed by Redeveloper economically infeasible or remote or the inability to secure financing for the Project under typical lending terms.

(c) In order to invoke the protections of Section 5.2(a) or (b), Redeveloper shall provide Notice to the Township of Redeveloper's intention to invoke such protections, which Notice shall include a detailed description of the facts and circumstances relied upon by Redeveloper in support of its position, as well as the commercially reasonable steps Redeveloper has taken to overcome or mitigate the impacts of those facts and circumstances.

(d) If Redeveloper's failure or refusal to develop a Phase of the Project in accordance with the terms and conditions of this Agreement is excused by reason of physical impossibility of performance, then such failure or refusal shall not constitute a Default hereunder if Redeveloper relinquishes its designation as redeveloper as to that Parcel or Phase, as the case may be, and all rights to develop that Parcel or Phase under the terms of the Redeveloper's Agreement. In such case, the Township shall have the right (but not the obligation) to amend the Redevelopment Plan to facilitate redevelopment by a third party redeveloper.

(e) If Redeveloper's failure or refusal to develop is excused by reason of economic infeasibility or changed market conditions, then such failure or refusal shall not constitute a Default hereunder if Redeveloper by Notice to the Township requests to renegotiate, in good faith and within the time periods hereinafter set forth, with the objective of redefining a mutually acceptable and economically feasible project. Such negotiations could include, by way of example, consideration of modifications to this Agreement or to the use and density requirements under the Redevelopment Plan.

(f) Prior to invoking the protections and provisions of this Section 5.2, Redeveloper shall have used commercially reasonable efforts to mitigate the impacts of the facts and circumstances claimed to result in project infeasibility. The protections and provisions of this Section 5.2 shall not apply if Redeveloper's inability to proceed with the Project could have been overcome but for Redeveloper's own acts or omissions.

ARTICLE VI REPRESENTATIONS AND WARRANTIES

6.1 Representations and Warranties by the Redeveloper. The Redeveloper makes the following representations and warranties:

(a) Redeveloper represents that it has obtained or can obtain and will commit the requisite equity and debt financing in an amount necessary to purchase the Property on the terms and conditions set forth herein, and to perform Redeveloper's obligations hereunder.

(b) Redeveloper has the legal capacity to enter into this Redevelopment Agreement and perform each of the undertakings set forth herein and in the Redevelopment Plan as of the date of this Redevelopment Agreement.

(c) Redeveloper is duly organized and a validly existing legal entity under the laws of the State of New Jersey and all necessary resolutions or authorizations have been duly adopted to authorize the execution and delivery of this Redevelopment Agreement and to authorize and direct the persons executing this Redevelopment Agreement to do so for and on the Redeveloper's behalf.

(d) No receiver, liquidator, custodian or trustee of Redeveloper has been appointed or is contemplated as of the date of this Redevelopment Agreement, and no petition to reorganize Redeveloper pursuant to the United States Bankruptcy Code or any similar statute that is applicable to the Redeveloper has been filed or is contemplated as of the Effective Date.

(e) No indictment has been returned against any member, manager or officer of Redeveloper.

(f) As of the Effective Date, to the best of Redeveloper's knowledge and belief after diligent inquiry there is no action, proceeding or investigation now pending, nor any basis

therefore, known or believed to exist, other than the Malanga Litigation, which (i) questions the validity of this Redevelopment Agreement, Redeveloper's execution hereof, or any action or act taken or to be taken by the Redeveloper pursuant to this Redevelopment Agreement; or (ii) is likely to result in a material adverse change in the Redeveloper's property, assets, liabilities or condition which will materially and substantially impair Redeveloper's ability to perform its obligations pursuant to the terms of this Redevelopment Agreement.

(g) Redeveloper's execution and delivery of this Redevelopment Agreement and its performance hereunder will not constitute a violation of any operating agreement of the Redeveloper or of any other agreement, mortgage, indenture, instrument or judgment to which the Redeveloper is a party.

(h) All factual information and statements submitted by Redeveloper to the Township and its agents (including but not limited to McManimon, Scotland & Baumann, LLC and NW Financial) are complete, true and accurate in all material respects. Redeveloper acknowledges that the facts and representations contained in the information submitted by Redeveloper are incorporated herein by reference, are being relied upon by the Township, and are a material factor in the decision of the Township to enter into this Redevelopment Agreement with Redeveloper.

(i) To the best of Redeveloper's knowledge and belief, at the time of submission thereof to the Township all projections, estimates, *pro formas* and other information submitted by Redeveloper to the Township and its agents (including but not limited to McManimon, Scotland & Baumann, LLC and NW Financial) were materially correct and Redeveloper had no reason to believe any such information to be inaccurate or misleading in any material respect.

(j) Redeveloper is financially and technically capable of developing, designing, financing, constructing, operating and maintaining the Project.

(k) The party or parties signing the Redevelopment Agreement on behalf of Redeveloper is or are fully authorized to sign on behalf of the current members of Redeveloper and to bind them with respect thereto.

(l) As of the Effective Date the respective interests of the Redeveloper are as set forth in the Incumbency Certificate attached at Exhibit E hereto.

Redeveloper's representations and warranties are intended to and shall survive the delivery of a deed to the Public Dog Park and Lot 41.02.

6.2 Representations and Warranties by the Township. The Township hereby makes the following representations and warranties:

(a) The Township has the legal power, right and authority to enter into this Agreement and the instruments and documents referenced herein to which the Township is a party, to consummate the transactions contemplated hereby, to take any steps or actions

contemplated hereby, and to perform their obligations hereunder, and as of the Effective Date except as to Financial Agreement and matters relevant thereto the Township has taken all action and is in receipt of all Governmental Approvals required to consummate the transactions contemplated hereunder and to perform its obligations hereunder.

(b) This Agreement is duly executed by the Township, and is valid and legally binding upon the Township and enforceable in accordance with its terms on the basis of Applicable Laws currently in effect and the execution and delivery thereof shall not, with due notice or the passage of time, constitute a default under or violate the terms of any indenture, agreement or other instrument to which the Township is a party.

(c) As of the Effective Date, to the best of the Township's knowledge there is no action, proceeding or investigation now pending nor any basis therefor, known or believed to exist which questions the validity of this Agreement or any action or act taken or to be taken by the Township pursuant to this Agreement, other than the Malanga Litigation.

(d) To the best of the Township's knowledge, there is no pending litigation which affects the Redevelopment Area designation or the Redevelopment Plan.

ARTICLE VII COVENANTS AND RESTRICTIONS

7.1 Description of Covenants. The covenants to be imposed upon Redeveloper, its successors and assigns, are set forth below, and shall be recorded in the form of a Declaration of Covenants and Restrictions (Exhibit F) as of the date Redeveloper takes possession of the Property. The covenants and restrictions shall remain in effect for the period set forth in Section 7.2 below:

(a) In connection with its use or occupancy of the Project, not effect or execute any covenant, agreement, lease, conveyance or other instrument whereby any portion of the Project is restricted upon the basis of age (except as may be permitted pursuant to 42 USC 3607(b)(2)(C), the federal Fair Housing Act for age-restricted residential units), race, color, creed, religion, ancestry, national origin, sex or familial status, and Redeveloper, its successors and assigns, shall comply with all applicable laws prohibiting discrimination or segregation by reason of age, race, color, creed, religion, ancestry, national origin, sex or familial status.

(b) Comply with the applicable provisions and public purposes of the Redevelopment Law and all obligations under this Agreement and shall at all times develop, design, finance, construct and operate the Project or cause the Project to be developed, designed, financed, constructed and operated pursuant to the conditions and requirements of Applicable Laws,

Governmental Approvals, this Agreement and the Redevelopment Plan and for a period of thirty (30) years from the issuance of a Certificate of Completion shall construct no other use except that established in the Redevelopment Plan, *provided however*, that Redeveloper shall not be deemed to be in breach if Redeveloper diligently contests, in good faith and by appropriate proceedings, such compliance with any of the aforesaid Applicable Laws. All uses to which the Project may be devoted are controlled by the Redevelopment Plan, the Governmental Approvals, Applicable Laws and this Redevelopment Agreement and that under no circumstances can the Redeveloper undertake any construction or development of the Project not in accordance with the Redevelopment Plan, the Governmental Approvals, Applicable Laws and this Redevelopment Agreement.

(c) In order to effectuate the purposes of this Agreement, make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions with any other persons, firms or Townships and in general do all things which may be requisite or proper for the construction and development of the Project in accordance with the Redevelopment Agreement, the Redevelopment Plan, Governmental Approvals and Applicable Laws, provided however, that Redeveloper shall not be deemed to be in breach of this covenant if Redeveloper diligently contests, in good faith and by appropriate proceedings, such compliance with any of the aforesaid Applicable Laws.

(d) Use diligent efforts to obtain all Governmental Approvals requisite to the construction and development of the Project including evidence satisfactory to the Township that its use of the Project is in compliance with this Agreement, the Redevelopment Plan and all Applicable Laws, and use diligent and commercially reasonable efforts to ensure timely performance of its obligations hereunder, including but not limited to Completion of Construction of the Project within the time periods specified in the Project Schedule.

(e) To use diligent efforts to obtain all Governmental Approvals authorizing the occupancy and uses of the Project for the purposes contemplated herein. Redeveloper shall enter into such other commercially reasonable agreements with respect to its development, financing, construction and management and operation of the Project, containing such provisions as may be required by Applicable Law or as may reasonably be required by Governmental Approvals.

(f) Except as otherwise permitted hereunder in the case of a Force Majeure Event, not suspend or discontinue the performance of its obligations under this Redevelopment Agreement (other than in the manner provided for herein) for any reason, including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, commercial frustration of purpose, or any damage to or destruction of the Project.

(g) Diligently undertake the construction and development of each individual component of the Project throughout the Construction Period and to use commercially reasonable efforts to complete each component of the Project on or before the applicable Completion Date.

(h) Not encumber, hypothecate or otherwise use the Project, or any part thereof, as collateral for an unrelated transaction; nor sell, lease or otherwise transfer all or any portion of a Project without the Township's consent, except as otherwise specifically set forth in this

Agreement.

(i) During construction of the Project, take commercially reasonable steps to minimize or mitigate impacts on the surrounding neighborhood (such as, for example, noise and dust controls), and keep debris and/or waste materials containerized and/or stored and disposed of, all within normal industry standards.

(j) Cause the Project to be developed, designed, financed and constructed at its sole cost and expense, except as otherwise set forth in this Agreement.

(k) Notify the Township within thirty (30) business days of any material adverse change in its financial condition from the information provided to the Township by the Redeveloper, including any material adverse change in Redeveloper's financial capability to design, develop, finance, construct and operate the Project in furtherance of the Township's consideration in executing this Agreement with Redeveloper if such change will materially impair Redeveloper's ability to perform its obligations pursuant to the terms of this Agreement.

(l) Notify the Township within ten (10) business days of any Event of Default on the part of Redeveloper under any mortgage with respect to any of the Property that have been acquired by Redeveloper, or the commencement or existence of any foreclosure proceedings with respect to any of the Property that have been acquired by Redeveloper. The Redeveloper shall provide copies of any notices of default and/or notices of foreclosure proceedings to the Township within ten (10) days of Redeveloper's receipt thereof.

(m) Keep and maintain in good condition any improvements required under the Governmental Approvals, including but not limited to any landscaping required to be planted or cause an entity in control of the Project (*i.e.* condominium or homeowner association) to maintain such improvements.

7.2 Effect and Duration of Covenants. It is intended and agreed that the agreements and covenants set forth in this Agreement shall be covenants running with the land and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Agreement, be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the Township, their successors and assigns, against the Redeveloper, its successors and assigns and every successor in interest therein, and any party in possession or occupancy of the Project or any part thereof. The covenants shall cease and terminate when a Certificate of Completion for such improvements has been issued, provided however, that the covenants in Sections 7.1(a), (b), and (m) shall remain in effect without limitation as to time.

ARTICLE VIII PROHIBITION AGAINST ASSIGNMENT AND TRANSFER

8.1 Prohibition Against Transfers of Interests in Redeveloper. Redeveloper

recognizes the importance of the Redevelopment Project to the general welfare of the community and that the identity of the Redeveloper and its qualifications are critical to the Township in entering into this Agreement, particularly in view of the public aids that have been or will be made available for the purpose of making such redevelopment possible. The Township considers that a Transfer of the ownership in Redeveloper or of a substantial part thereof, or any other act or transaction involving or resulting in a significant change in the ownership of or with respect to the identity of the parties in control of Redeveloper or the degree thereof, is for practical purposes a Transfer or disposition of the Project. Redeveloper recognizes that it is because of such qualifications and identity that the Township is entering into this Agreement with Redeveloper, and, in so doing, the Township is relying on the obligations of Redeveloper and not some other person or entity for the faithful performance of all undertakings and covenants to be performed by Redeveloper hereunder.

As a result, prior to completion of the Project (or applicable Phase thereof) as evidenced by the issuance of a Certificate of Completion, and without the prior written approval of the Township (which approval shall not be unreasonably withheld) Redeveloper agrees for itself and all successors in interest that there shall be no (i) Transfer of the Property, nor (ii) any direct or indirect change in control of Redeveloper as it exists on the Effective Date, whether by changes in capitalization, merger, or otherwise. The Township recognizes that implementation of the Project is likely to involve one or more joint venture arrangements between Redeveloper and other developers having particular development expertise and financial capabilities. The Township agrees to consider such joint venture arrangements in good faith, and will not unreasonably withhold its consent to any such arrangement provided (i) that such joint venture entity assumes all of the obligations of Redeveloper under the terms of this Agreement and under all applicable Governmental Approvals as to the applicable Phase of the Project, provided that Redeveloper shall not be released from and shall remain liable for the performance of Redeveloper's and the joint venture's obligations; (ii) that the creation and existence of the joint venture does not materially and negatively affect the Township's ability to enforce its rights under this Agreement; and (iii) that the proposed joint venture partner and structure is acceptable to the Township, in its reasonable discretion. The Transfer or Transfers of a non-controlling interest or interests in the Redeveloper that do not result in a change in control of Redeveloper as set forth in the Operating Agreement shall not constitute a prohibited Transfer. The death or incapacity of a principal of the Redeveloper shall not constitute a prohibited Transfer hereunder. With respect to this provision, Redeveloper and the party or parties signing the Redevelopment Agreement on behalf of Redeveloper represent that each has authority to agree to this provision on behalf of the current members of Redeveloper and to bind them with respect thereto.

8.2 Exemption from Prohibited Transfers. Notwithstanding the foregoing, and with prior knowledge of the Township by written notice from Redeveloper, the following shall not constitute a prohibited Transfer, for purposes of Section 8.1: transfer to an entity or entities controlled by Redeveloper, or other urban renewal entity or entities formed by Redeveloper pursuant to *N.J.S.A. 40A:20-4*; *provided, however*, that such successor and assignee of Redeveloper shall assume all of the obligations of Redeveloper hereunder, but Redeveloper shall remain primarily liable for the performance of Redeveloper's obligations; and *provided further*,