

Redevelopment Agreement or any rights therein or in the Property, (iii) make any total or partial sale, lease, transfer or conveyance of the whole or any part of its interest in the Property or the Redevelopment Project; or (iv) pledge, or transfer all or substantially all of its assets (collectively, a “**Transfer**”). If Redeveloper proposes a Transfer, other than as set forth above, Redeveloper will promptly provide to the Township for its consideration any information or documentation reasonably requested by the Township pertaining to the transferee’s identity, principals, qualifications, reputation and financial condition. If a Transfer is approved by the Township, the transferee, by written document acceptable in form and substance to the Township, for itself and its successors and assigns, and for the benefit of the Township, shall expressly assume all of the obligations of Redeveloper under the Redevelopment Agreement applicable to the property interest conveyed with such sale, assignment or transfer and shall agree to be subject to all the conditions and restrictions to which Redeveloper is subject hereunder, including the restrictions regarding the right to subsequent transfers. All relevant instruments and other legal documents proposed to effect any such transfer shall be submitted to the Township and if the transferee is approved by the Township, such approval shall be indicated to Redeveloper in writing.

(d) Redeveloper, without violating the provisions of paragraph (c), may, subject to the requirements of N.J.S.A. 40A:12A-9(a) effect the following Transfers, to which the Township hereby consents upon receipt of notice thereof, without the necessity of further action by the Township (the “**Permitted Transfers**”): (i) Transfers to an Affiliate of Redeveloper; (ii) leases to residential tenants; (iii) mortgages to secure Institutional Financing for the construction of the Redevelopment Project; (iv) environmental covenants and restrictions imposed by DEP as a condition of any permit or Approval; (v) transfers of easements or dedications of property as may be required as conditions of Governmental Approvals; (vi) inter-family transfers of interest in the Redeveloper for estate planning purposes; (vii) any direct or indirect transfer of any interest in Redeveloper to a Person not presently holding an interest in Redeveloper, provided that the transfer does not change the control of Redeveloper; and (viii) any contract or agreement which effectuates any of the foregoing exceptions. With respect to any of the Permitted Transfers listed in this Section, Redeveloper shall provide to Township written notice within thirty (30) days of such Permitted Transfer, including a description of the nature of such Permitted Transfer, and the name(s) and address(es) of the transferee parties, individuals and/or entities involved.

(e) Upon issuance of a Certificate of Completion for the Redevelopment Project, Redeveloper shall have the right to sell its interest in the real property.

(f) Redeveloper shall design, implement, complete and operate the Redevelopment Project in compliance with the Redevelopment Agreement and all other Applicable Laws, ordinances, Approvals, rules, regulations and requirements applicable thereto including, but not limited to, such zoning, sanitary, pollution, health, environmental and safety ordinances, laws and such rules and regulations thereunder as shall be binding upon Redeveloper under Applicable Laws. Without limiting the foregoing, Redeveloper shall comply at its own expense with all stormwater regulations, including but not limited to, those pertaining to detention, recharge and water quality.

(g) Redeveloper shall not unlawfully discriminate against or segregate any person, or group of persons, on account of race, color, religion, creed, national origin, ancestry, physical handicap, age, marital status, sex, affectional or sexual orientation in the sale, lease, sublease, rental, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall Redeveloper itself, or any person claiming under or through Redeveloper, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees on the Property.

(h) Redeveloper shall not use the Property, or any part thereof, as security or collateral for an unrelated transaction.

Section 3. It is intended and agreed that the covenants and restrictions set forth in Section 2 shall be covenants running with the land. All covenants in Section 2, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in the Redevelopment Agreement, shall be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by the Township and its successors and assigns, and any successor in interest to the Property, or any part thereof, against Redeveloper, its successors and assigns and every successor in interest therein, and any party in possession or occupancy of the Property or any part thereof. Notwithstanding the foregoing, the agreements and covenants set for in Section 2 shall cease and terminate upon the issuance of a Certificate of Completion for such Improvements, provided however, that the covenants in 2(g) shall remain in effect without limitation as to time.

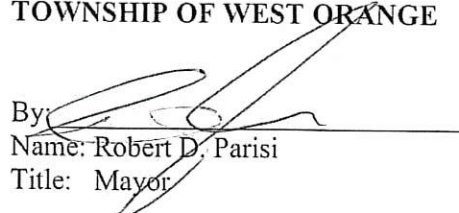
Section 4. It is intended and agreed that the Township and its successors and assigns shall be deemed beneficiaries of the agreements and covenants set forth in Section 2 both for and in their own right but also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants shall run in favor of the Township for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether the Township has at any time been, remains, or is an owner of any land or interest therein to or in favor of which such agreements and covenants relate.

IN WITNESS WHEREOF, the parties hereto have caused this Declaration of Covenants and Restrictions to be executed in their names by their duly authorized officials or managers, as the case may be, and their corporate seals to be hereunto affixed attested to by their duly authorized officers all as of the date first written above.

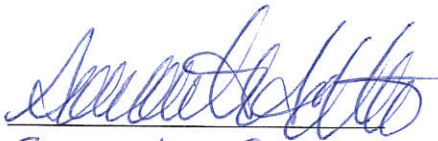
Attest:


Township
Clerk

TOWNSHIP OF WEST ORANGE

By: 
Name: Robert D. Parisi
Title: Mayor

Attest:


Samantha Scibetta

GREEN ESSEX PARTNERS URBAN
RENEWAL, LLC

By: 
Name: Jonathan Schwartz
Title: Authorized signatory

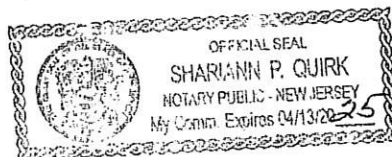
STATE OF NEW JERSEY :

: ss.:

COUNTY OF ESSEX :

BE IT REMEMBERED, that on this 15th day of March, ²⁰²¹ SPG 2019 before me, the subscriber, a Notary Public of New Jersey, personally appeared Robert D. Parisi, who, being by me duly sworn on his oath, deposes and makes proof to my satisfaction that he is the Mayor of the **TOWNSHIP OF WEST ORANGE, NEW JERSEY**, the entity named in the within Instrument; that the execution, as well as the making of this Instrument, have been duly authorized by the Township of West Orange and said Instrument was signed and delivered by said Mayor as and for the voluntary act and deed of said entity.

Shariann P. Quirk
Notary or Attorney At Law
The State of New Jersey



STATE OF NEW JERSEY :

: ss.:

COUNTY OF Essex :

BE IT REMEMBERED, that on this 01 day of April, ²⁰²¹ 2019 before me, the subscriber, a Notary Public of New Jersey, personally appeared Jonathan Schwartz who, being by me duly sworn on his/her oath, deposes and makes proof to my satisfaction that he is the Managing Member of **GREEN ESSEX PARTNERS URBAN RENEWAL LLC**, the entity named in the within Instrument; that the execution, as well as the making of this Instrument, have been duly authorized by the entity and said Instrument was signed and delivered by said Managing Member as and for the voluntary act and deed of said entity.

Samantha Scibetta
Notary or Attorney At Law
The State of New Jersey

SAMANTHA SCIBETTA
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 2/22/2023

EXHIBIT G
PILOT AND RAB

Term of PILOT: The lesser of 35 years from execution of the Financial Agreement or 30 Years from Substantial Completion

LTTE PILOT
Calculation:

In consideration of the exemption from taxation for the Improvements and Land, during the Exemption Term, the Entity shall pay to the Township an Annual Service Charge calculated as the greater of the AGR Calculation, the TOD Calculation or the Unpledged Annual Service Charge as follows:

(a) The AGR Calculation (the “**AGR Calculation**”) for any given year shall be calculated as follows:

i. Stage One: From the Annual Service Charge Start Date until the tenth (10th) anniversary of the Annual Service Charge Start Date, the AGR Calculation shall be 10.5% of AGR;

ii. Stage Two: From the first day after the tenth (10th) anniversary of the Annual Service Charge Start Date until the twentieth (20th) anniversary of the Annual Service Charge Start Date, the AGR Calculation shall be 11.5% of AGR;

iii. Stage Three: From the first day after the twentieth (20th) anniversary of the Annual Service Charge Start Date until the thirtieth (30th) anniversary of the Annual Service Charge Start Date, the AGR Calculation shall be 12.5% of AGR.

(b) The TOD Calculation (the “**TOD Calculation**”) for any given year shall be calculated as follows:

i. Stage One: From the Annual Service Charge Start Date until the fifteenth (15th) anniversary of the Annual Service Charge Start Date, the TOD Calculation shall be 0% of the amount of the taxes otherwise due on the value of the Property and the Improvements;

ii. Stage Two: From the first day after the fifteenth (15th) anniversary of the Annual Service Charge Start Date until the twentieth (20th) anniversary of the Annual Service Charge Start Date, the TOD Calculation shall be 20% of the amount of the taxes otherwise due on the value of the Property and the Improvements;

iii. Stage Three: From the first day after the twentieth (20th) anniversary of the Annual Service Charge Start Date until the

twenty-sixth (26th) anniversary of the Annual Service Charge Start Date, the TOD Calculation shall be 40% of the amount of the taxes otherwise due on the value of the Property and the Improvements;

iv. Stage Four: From the first day after the twenty-sixth (26th) anniversary of the Annual Service Charge Start Date until the twenty-ninth (29th) anniversary of the Annual Service Charge Start Date, the TOD Calculation shall be 60% of the amount of the taxes otherwise due on the value of the Property and the Improvements;

v. Stage Five: From the first day after the twenty-ninth (29th) anniversary of the Annual Service Charge Start Date until the thirtieth (30th) anniversary of the Annual Service Charge Start Date, the TOD Calculation shall be 80% of the amount of the taxes otherwise due on the value of the Property and the Improvements.

(b) The Unpledged Annual Service Charge as defined in the Financial Agreement.

RAB Amount: Not to exceed \$4.5 million

Bond: \$4.5 million

RAB Term: 30 years

Security: Pledged Annual Service Charges
RABs will be non-recourse to the Township

RAB Issuance: Within 30 days after the acquisition of Block 155, Lots 40.02 and 42.02 by the Redeveloper. The Bond, or pro rata portion on a per unit basis (see Exhibit G1 for examples), shall begin to accrue interest upon issuance of a Certificate of Occupancy for the Project, or a portion of the Project.

Costs of Issuance: All costs of issuance of the Bonds, including all reasonable costs of all professionals of the Township, including bond counsel, municipal advisor, general counsel and any other professional reasonably required in order to lawfully authorize and issue the Bond, shall be paid by WOOEP, either from Bond proceeds, WOOEP payments, or a combination of both. The professionals shall be compensated in accordance with their fee agreements with the Township at the time of issuance.

Interest Rate: 5.75%

Proceeds: The Bond proceeds will be used to pay, in the following order: (1) \$1.5 million to the Township for construction of the Library Improvements, and (2) subject to payment of the costs of issuance (above), the remainder

to the Redeveloper for construction of the Infrastructure Improvements and Public Dog Park. Pursuant to an escrow agreement or construction agreement to be entered into by the Township, WOOEP and the Redeveloper, the Township shall deposit the \$1.5 million in an interest-bearing trust account pending payment to the Redeveloper or another contractor for the construction of the Library Improvements. Any interest accrued on the \$1.5 million shall be paid to WOOEP.

Flow of Funds: The Redeveloper will make all Pledged Annual Service Charges to the Township. The Township will make payment to the RAB holders from the Pledged Annual Service Charges so received by the Township. The Township will only be responsible for remitting the debt service payment if the Pledged Annual Service Charge has been collected by the Township.

Maturity Schedule:	Year 1	\$258,750
	Year 2	\$288,750
	Year 3	\$327,025
	Year 4	\$323,000
	Year 5	\$323,975
	Year 6	\$324,663
	Year 7	\$325,063
	Year 8	\$325,175
	Year 9	\$325,000
	Year 10	\$324,538
	Year 11	\$323,788
	Year 12	\$327,750
	Year 13	\$326,138
	Year 14	\$324,238
	Year 15	\$327,050
	Year 16	\$324,288
	Year 17	\$326,238
	Year 18	\$327,613
	Year 19	\$323,413
	Year 20	\$323,925
	Year 21	\$323,863
	Year 22	\$328,225
	Year 23	\$326,725
	Year 24	\$324,650
	Year 25	\$327,000
	Year 26	\$323,488
	Year 27	\$324,400
	Year 28	\$324,450
	Year 29	\$323,638
	Year 30	\$311,963

Subject to pro rata adjustment for percent of units that obtained certificates of occupancy.

EXHIBIT G-1

EXAMPLE - Pro Rata Share of Debt Service

Total Units 425
CO Units 325
Interest Rate 5.75%
% CO Units 76%

Total Units 425
CO Units 100
Interest Rate 5.75%
% CO Units 24%

<u>Year</u>	<u>Principal</u>	<u>Interest</u>	<u>Debt Service</u>
1	\$ -	\$ 196,650	\$ 196,650
2	\$ 22,800	\$ 196,650	\$ 219,450
3	\$ 53,200	\$ 195,339	\$ 248,539
4	\$ 53,200	\$ 192,280	\$ 245,480
5	\$ 57,000	\$ 189,221	\$ 246,221
6	\$ 60,800	\$ 185,944	\$ 246,744
7	\$ 64,600	\$ 182,448	\$ 247,048
8	\$ 68,400	\$ 178,733	\$ 247,133
9	\$ 72,200	\$ 174,800	\$ 247,000
10	\$ 76,000	\$ 170,649	\$ 246,649
11	\$ 79,800	\$ 166,279	\$ 246,079
12	\$ 87,400	\$ 161,690	\$ 249,090
13	\$ 91,200	\$ 156,665	\$ 247,865
14	\$ 95,000	\$ 151,421	\$ 246,421
15	\$ 102,600	\$ 145,958	\$ 248,558
16	\$ 106,400	\$ 140,059	\$ 246,459
17	\$ 114,000	\$ 133,941	\$ 247,941
18	\$ 121,600	\$ 127,386	\$ 248,986
19	\$ 125,400	\$ 120,394	\$ 245,794
20	\$ 133,000	\$ 113,183	\$ 246,183
21	\$ 140,600	\$ 105,536	\$ 246,136
22	\$ 152,000	\$ 97,451	\$ 249,451
23	\$ 159,600	\$ 88,711	\$ 248,311
24	\$ 167,200	\$ 79,534	\$ 246,734
25	\$ 178,600	\$ 69,920	\$ 248,520
26	\$ 186,200	\$ 59,651	\$ 245,851
27	\$ 197,600	\$ 48,944	\$ 246,544
28	\$ 209,000	\$ 37,582	\$ 246,582
29	\$ 220,400	\$ 25,565	\$ 245,965
30	\$ 224,200	\$ 12,892	\$ 237,092
	<u>\$ 3,420,000</u>	<u>\$ 3,905,469</u>	<u>\$ 7,325,469</u>

<u>Year</u>	<u>Principal</u>	<u>Interest</u>	<u>Debt Service</u>
1	\$ -	\$ 62,100	\$ 62,100
2	\$ 7,200	\$ 62,100	\$ 69,300
3	\$ 16,800	\$ 61,686	\$ 78,486
4	\$ 16,800	\$ 60,720	\$ 77,520
5	\$ 18,000	\$ 59,754	\$ 77,754
6	\$ 19,200	\$ 58,719	\$ 77,919
7	\$ 20,400	\$ 57,615	\$ 78,015
8	\$ 21,600	\$ 56,442	\$ 78,042
9	\$ 22,800	\$ 55,200	\$ 78,000
10	\$ 24,000	\$ 53,889	\$ 77,889
11	\$ 25,200	\$ 52,509	\$ 77,709
12	\$ 27,600	\$ 51,060	\$ 78,660
13	\$ 28,800	\$ 49,473	\$ 78,273
14	\$ 30,000	\$ 47,817	\$ 77,817
15	\$ 32,400	\$ 46,092	\$ 78,492
16	\$ 33,600	\$ 44,229	\$ 77,829
17	\$ 36,000	\$ 42,297	\$ 78,297
18	\$ 38,400	\$ 40,227	\$ 78,627
19	\$ 39,600	\$ 38,019	\$ 77,619
20	\$ 42,000	\$ 35,742	\$ 77,742
21	\$ 44,400	\$ 33,327	\$ 77,727
22	\$ 48,000	\$ 30,774	\$ 78,774
23	\$ 50,400	\$ 28,014	\$ 78,414
24	\$ 52,800	\$ 25,116	\$ 77,916
25	\$ 56,400	\$ 22,080	\$ 78,480
26	\$ 58,800	\$ 18,837	\$ 77,637
27	\$ 62,400	\$ 15,456	\$ 77,856
28	\$ 66,000	\$ 11,868	\$ 77,868
29	\$ 69,600	\$ 8,073	\$ 77,673
30	\$ 70,800	\$ 4,071	\$ 74,871
	<u>\$ 1,080,000</u>	<u>\$ 1,233,306</u>	<u>\$ 2,313,306</u>

EXHIBIT H
TAX AGREEMENT

SETTLEMENT AGREEMENT

This Settlement Agreement (this "Agreement") dated as of October 1, 2019 (the "Effective Date") is entered into by and between West Orange Office Executive Park LLC (the "Owner") and Township of West Orange (the "Township"). Each of the Owner and the Township is referred to as a "Party" and, collectively, as the "Parties".

RECITALS:

WHEREAS, the Owner owns the following four properties (collectively, the "Properties") located in the Township:

1. 10 Rooney Circle; Block 155, Lot 41.02 ("10 Rooney")
2. 100 Executive Drive; Block 155, Lot 40.02 ("100ED")
3. 200 Executive Drive; Block 155, Lot 42.02 ("200ED")
4. 300 Executive Drive; Block 155, Lot 42.01 ("300ED"); and

WHEREAS, the Township's tax assessor assessed the Properties in 2018 and 2019, as follows:

1. 10 Rooney: \$6,322,000
2. 100 ED: \$8,468,400
3. 200 ED: \$9,739,700
4. 300 ED: \$11,298,700; and

WHEREAS, the Owner challenged the 2018 and 2019 assessments of the Properties by filing complaints in the Tax Court of New Jersey under Docket No. 005838-2018 (for the 2018 tax year) and Docket No. 006730-2019 (for the 2019 tax year) (collectively, the "Tax Appeals"); and

WHEREAS, the Owner has entered into a certain amended and restated real estate contract dated as of January 25, 2019 with BNE Acquisitions, LLC ("BNE"), as purchaser, for the sale of 100 ED and 200 ED to BNE (the "Sale Contract"); and

WHEREAS, the closing under the Sale Contract is to occur forty-five (45) days after BNE receives all development approvals for BNE's proposed development with respect to which the time to appeal such approvals has expired without any appeals therefrom having been filed or, if filed, until any such appeals have been resolved in a manner the comports with the requirements of the Sale Contract satisfactory to BNE and the time to challenge such resolution has expired without any appeal or other challenge having been filed or institute; and

WHEREAS, the Parties desire to settle the Tax Appeals on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of and for the promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, the Parties agree as follows:

1. The Parties shall jointly request that the Tax Court of New Jersey (the "Tax Court") place the Tax Appeals on the inactive list until the closing occurs under the Sale Contract.

2. Within three (3) business days after the closing under the Sale Contract, the Owner shall withdraw the Owner's complaints in the Tax Appeals (and the Township shall withdraw the Township's counterclaims, if any).

3. If for any reason the Sale Contract is canceled or terminated, then the Owner may proceed to prosecute the Tax Appeals.

4. As an integral part of this settlement, the Parties agree that for tax year 2020, and for each subsequent tax year through and including the year of the closing under, or the cancellation or termination of, the Sale Contract, the three Properties listed below (inclusive of all improvements completed as of the Effective Date) shall be assessed as follows:

- (1) 10 Rooney: \$2,483,000
- (2) 100 ED: \$1,825,000
- (3) 200 ED: \$2,728,700

5. The Township reserves the right to file an appeal from each of such assessments. Within three (3) business days after the closing under the Sale Contract, the Township shall withdraw the Township's complaints, if any, challenging the assessments of the above properties (and the Owner shall withdraw the Owner's counterclaims, if any).

6. If the 2020, 2021 and 2022 assessments as established by the tax assessor for any of the three Properties listed in paragraph 4 are greater than the assessments set forth in paragraph 4 above, then upon request by the Owner of such Properties, the Township shall execute and file with the Essex County Tax Board or the Tax Court a Stipulation of Settlement with respect to any tax appeal for tax year 2020 filed by the Owner of any of the Properties requesting that the Tax Board or the Tax Court, as the case may be, enter judgment fixing the 2020 assessment for the subject property in accordance with paragraph 4 of this Agreement. The Township further agrees that to the extent applicable by law the provisions of the Freeze Act, N.J.S.A. 54:3-26 or N.J.S.A. 54:51A-8, as the case may be, shall apply to any judgment entered for tax year 2020 pursuant to any such Stipulation. Anything to the contrary, if BNE does not close under the Sale Contract, or if the Sale Contract and/or the Redevelopment Agreement with BNE are terminated for any reason, the Township and the Owner will agree to vacate any Freeze Act judgment and if the Court does not permit such a condition in the judgment then the Township will be bound by the judgment.

7. **Counterparts.** This Agreement may be executed in counterparts. In addition, facsimile or electronically transmitted signatures on this Agreement shall be treated as original.

8. **Binding Agreement.** This Agreement and each provision hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, assigns, officers, directors, members, managers, agents, shareholders, principals, employees, and successors, and all persons, firms and legal entities legally responsible for the actions of the Parties hereto.

9. **Non-Severability.** If any term or provision of this Agreement is determined by a court of competent jurisdiction to be illegal or unenforceable, all other terms and provisions of this Agreement will likewise be illegal or unenforceable and the rights and remedies of the Parties thereafter will be the same as immediately prior to the execution and delivery of this Agreement.

10. **Written Modifications Only.** No modification, amendment, supplement to, or waiver of this Agreement or any of its provisions shall be binding unless made in writing and signed by the Parties. Additionally, no Party may assign its respective rights or its respective obligations hereunder without the prior written consent of the other Party hereto.

11. **Authority.** Each Party warrants that it has full right, power, and authority to execute this Agreement and to be bound in accordance with the terms hereof. Each Party further warrants that each of them has read this Agreement carefully and has been represented by counsel prior to the execution hereof.

12. **Entire Agreement.** This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof. The Parties acknowledge that they are not relying on any prior representation and are relying solely on the terms of this Agreement. No other agreements, covenants, representations or warranties, express or implied, oral or written, have been made by any Party hereto to the other Party concerning the subject matter hereof, other than as set forth herein. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, representations, covenants and warranties concerning the subject matter hereof are merged into this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

OWNER: TOWNSHIP:
West Orange Office West Orange Township
Executive Park LLC

By: _____
Name:
Title:

By: _____
Name:
Title:

The undersigned has been consulted by the attorney for the Township with respect to this settlement and concurs, as of the Effective Date.

Kevin Dillon, Tax Assessor

EXHIBIT I
FORM RIGHT OF ENTRY AGREEMENT

Right of Access Agreement

Right of Access Agreement (this "Agreement") between **WEST ORANGE OFFICE EXECUTIVE PARK LLC**, with offices at 782 Lyons Avenue, Irvington, New Jersey 07111, referred to in this Agreement as "**Owner**,"

- and -

THE TOWNSHIP OF WEST ORANGE, NEW JERSEY, with offices at 66 Main Street, West Orange, New Jersey 07052, referred to in this Agreement as "**Entrant**."

Background

- A. Owner is the owner of the premises listed in Exhibit A attached hereto (the "Premises").
- B. In anticipation of a possible acquisition of the Premises, Entrant desires a right of access to the Premises for itself and its consultants ("Consultants") for the purpose of performing certain investigatory activities at the Premises.
- C. Owner is willing to grant Entrant and Consultants a limited right of access to the Premises upon the terms and conditions set forth in this Agreement.

Now, therefore, in consideration of the promises and the mutual covenants contained in this Agreement, the parties agree as follows:

Definitions

- A. "Business Day" means any day other than a Saturday, Sunday or a day on which national banking associations are authorized or required to close.
- B. "Effective Date" shall mean the date of this Agreement, as provided below.
- C. "Environmental Documents" means all documentation in the possession or under the control of Entrant, its employees, agents, contractors, environmental consultants, or all of them, concerning the environmental condition of the Premises or its environs.
- D. "Environmental Laws" means each and every federal, state, county and municipal statute, ordinance, rule, regulation, order, directive or requirement, now existing or hereafter enacted or promulgated, together with all amending and successor statutes, ordinances, rules, regulations, orders, directives or requirements, of any Governmental Authority, in any way related to any solid, liquid, gaseous or thermal contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, waste, petroleum products or byproducts, asbestos, PCBs, phosphates,

lead or other heavy metals, urea formaldehyde foam insulation, radon gas, any solid or liquid wastes (including hazardous wastes), hazardous air pollutants, hazardous substances, hazardous chemical substances and mixtures, toxic substances, pollutants and contaminants.

E. “Governmental Authority” means the federal, state, county or municipal government, and any department, agency, bureau or other similar type body obtaining authority therefrom or created pursuant to any Environmental Laws.

F. “LSRP” means a Licensed Site Remediation Professional, as defined in the Site Remediation Reform Act, N.J.S.A. 58:10C-1 et seq., and the rules and regulations promulgated thereunder.

Right and Conditions of Access

1. Owner hereby grants to Entrant and Consultants the non-exclusive and limited right to enter upon the Premises to perform certain investigatory activities at the Premises (the “Activities”), at the sole cost and expense of Entrant, but only upon the terms and conditions set forth in this Agreement.

2. Performance of the Activities shall be coordinated with a representative of Owner to minimize interference with normal operation of the Premises. All Activities shall be performed at such times and on such days of the week as Owner shall determine in its sole and absolute discretion and shall be performed in a manner that will not have any adverse effect on Owner, tenants or any other person or entity obtaining rights of use and occupancy through Owner, their respective agents, employees or invitees, or all of them.

3. Entrant shall, at its sole cost and expense, promptly remove and dispose of off of the Premises, in accordance with all Environmental Laws, all equipment, material, soil, water and debris associated with the collection of samples from the Premises.

4. Entrant shall not engage, consult with or utilize, and shall ensure that Entrant’s Consultants, do not engage, consult with or utilize, a LSRP in connection with the Activities, provide any LSRP access to the Premises, or engage any LSRP to review the results of the Activities or any information or documentation related to the Activities or the Premises without Owner’s prior consent, which may be granted in Owner’s sole and absolute discretion.

5. All Activities performed at the Premises by or on behalf of Entrant shall, once begun, be completed with reasonable diligence and paid for in full by Entrant, free and clear of all construction or other liens and encumbrances, and shall be performed in accordance with all applicable statutes, ordinances, rules, regulations, orders and requirements of any Governmental Authority, including without limitation Environmental Laws. All Activities performed by or on behalf of Entrant shall be done in a good and workmanlike manner, and in such a manner so as not to cause any damage to the Premises or interference with the use and occupancy of the Premises by Owner, tenants or any other person or entity obtaining rights of use and occupancy through Owner, or their respective agents, employees or invitees. Entrant shall, to the reasonable satisfaction of Owner, and at such times and upon such terms and conditions as Owner shall determine in its sole and absolute discretion, either repair or replace, as the case may be, any

damage done to the Property during any entry, and shall substantially restore the Property to its original condition at the time the entry commenced.

6. Prior to each entry upon the Premises, Entrant shall:

(a) Furnish or cause to be furnished to Owner, and cause to be maintained and kept in effect, and without expense to Owner, at all times that any entry is made upon the Premises, evidence of insurance (which may be in the form of certificates of insurance (e.g., an ACCORD 25)) against claims for personal injury (including death), and property damage, under a policy or policies of commercial general public liability insurance of not less than \$1,000,000 in respect to bodily injury (including death), and not less than \$3,000,000 of excess liability insurance, naming Owner as an additional insured, which requirement may be satisfied by "excess insurance" or "umbrella insurance." Each policy shall be on an occurrence basis and not on a claims made basis. Each policy shall provide that it cannot be canceled without at least thirty (30) days prior written notice to Owner, and each policy shall be issued by a recognized, responsible insurance company licensed to do business in the State of New Jersey. Proof of payment of the premium of each policy and each replacement policy shall also be delivered to Owner.

(b) Furnish or cause to be furnished to Owner and cause to maintained and kept in effect, without expense to Owner, at all times that any entry is made upon the Premises, evidence of adequate workers' compensation insurance in statutory limits to cover employees of Entrant and any of the Consultants engaged in Activities at the Premises.

(c) Furnish or cause to be furnished to Owner and cause to be maintained and kept in effect, without expense to Owner, at all times that any entry is made upon the Premises for purposes of any permitted invasive testing or sampling, evidence of contractor's pollution liability insurance of not less than \$2,000,000, naming Owner, Owner's Parties and Owner's mortgagee, if any, as additional insureds. Each policy shall be on an occurrence basis and not on a claims made basis. Each policy shall provide that it cannot be cancelled without at least thirty (30) days prior written notice to Owner, and each policy shall be issued by a recognized, responsible insurance company licensed to do business in the State of New Jersey. Proof of payment of the premium of each policy and each replacement policy shall also be delivered to Owner.

7. Prior to each entry upon the Premises, Entrant shall, at least three (3) Business Days in advance of each entry if such entry pertains to any permitted invasive, physical testing, and at least one (1) Business Day in advance of all other entries, notify Owner, in writing, which notice may be by email to [____]; and tdenitzio@greenbaumlaw.com and which shall set forth in reasonable detail:

(a) the date and time of the proposed entry upon the Premises;

(b) the identity of all known persons and entities who will enter upon the Premises on Entrant's behalf;

- (c) the nature, location and extent of all Activities to be performed upon the Premises;
- (d) whether the persons entering upon the Property shall be wearing any environmental protective gear; and
- (e) the estimated duration of the entry.

Entrant shall not have the right to conduct any physical, invasive testing without Owner's prior written approval, which shall be in Owner's sole and unfettered discretion. Owner shall not have any approval right with respect to any other notification provided for in this Section 7, but shall have the right to have a representative present during any such entry and to take split samples.

8. Owner shall have the right to terminate this Agreement with respect to any Property, with or without cause, and without any liability to Entrant, upon written notice to Entrant.

9. Upon request, Entrant shall deliver to Owner copies of all Environmental Documents generated by the Activities. This paragraph 9 shall survive termination of this Agreement.

10. The Activities, including the results of all sampling and all documents generated with respect to these activities (the "Confidential Information"), shall be kept confidential by Entrant and its Consultants and the employees, agents and contractors. If disclosure of the Confidential Information is required pursuant to law, or pursuant to court or other administrative process, then Entrant, its employees, agents or contractors, as the case may be, shall give immediate written notice to the Owner, specifying to whom and why such disclosure is required, and no such disclosure shall be made if Owner objects, unless and until a determination requiring the disclosure is made by a court of competent jurisdiction. Owner shall have the right to interpose all objections that Owner may have to the disclosure, and Entrant shall, and shall cause Entrant's Consultants and the employees, agents and contractors, at no cost to Owner, to reasonably cooperate with Owner in connection with such objections, including giving testimony and signing affidavits, certifications or other documentation as may be required by Owner, provided the information contained in the affidavits, certifications or other documentation is true and accurate. Prior to the initial entry upon the Property, Entrant shall advise anyone acting on behalf of Entrant, including the Consultants, of the terms of this confidentiality provision and their obligation to be bound by it. This confidentiality provision shall survive the expiration or earlier termination of this Agreement but shall terminate at the earlier of one (1) year from the date hereof or the Rooney Closing as defined in that certain First Amendment to the Amended and Restated Real Estate Contract between Owner and BNE Acquisitions, LLC (the "First Amendment").

11. Entrant shall indemnify, defend and hold Owner and its partners, members, officers, directors, shareholders, agents and employees harmless from and against all claims, liabilities, losses, penalties, damages and costs, foreseen or unforeseen, including, without limitation, reasonable legal, engineering and other professional or expert fees and expenses which any or all them may incur, resulting directly or indirectly, wholly or partly, from the access granted hereunder, the Activities, or any action or non-action by or on behalf of Entrant or any

Consultant, or both, including without limitation any breach by a Consultant or anyone else acting on behalf of Entrant to comply with the confidentiality provisions of this Agreement. Entrant releases and covenants not to sue Owner with respect to any personal injury or property damage suffered by Entrant, Consultant, the employees, representatives, agents and/or any third party, resulting directly or indirectly, wholly or partly, from the breach, the access, the Environmental Activities or any action or non-action by or on behalf of Entrant Consultant or both unless caused by the gross negligence or willful misconduct of Owner. This paragraph 11 shall survive termination of this Agreement.

12. All notices or other communications required or permitted hereunder shall be in writing, and shall be given by any nationally recognized overnight delivery service with proof of delivery, sent to the intended addressee at the addresses set forth below, or to such other addresses or to the attention of such other persons as the addressee will have designated by written notice sent in accordance herewith. Unless changed in accordance with the preceding sentence, the addresses for notices given pursuant to this Agreement will be as follows:

If to Owner:

West Orange Office Executive Park LLC
782 Lyons Avenue
Irvington, New Jersey 07011
Attn: Mark Berger

With copies to:

Greenbaum Rowe Smith & Davis LLP
99 Wood Avenue South
Iselin, New Jersey 08830
Attention: Thomas J. Denitzio, Jr., Esq.

If to Entrant:

Township of West Orange
66 Main Street
West Orange, New Jersey 07052-5313
ATTN: Mayor Robert D. Parisi and
John Sayers, Business Administrator

With a copy to:

Richard Trenk, Esq.
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue
Roseland, New Jersey 07068

Notices given by overnight delivery service as aforesaid shall be deemed received and effective on the first Business Day following such dispatch. Notices may be given by counsel for the parties described above, and such notices shall be deemed given by said party for all purposes hereunder.

13. The right of access shall automatically terminate at 5 p.m. on the earlier of the date the Redevelopment Agreement is terminated or the date on which the Rooney Closing (as defined in the First Amendment) occurs.

14. All obligations imposed upon Entrant shall survive the expiration or earlier termination of this Agreement but shall terminate at the earlier of (i) one (1) year from the date hereof or (ii) the Rooney Closing.

15. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. No change, addition or modification to this Agreement shall be effective unless signed in writing by all parties.

16. Entrant and Consultants shall not assign any rights or delegate any responsibility imposed under this Agreement.

17. In all references in this Agreement to any parties, persons, entities or corporations, the use of any particular gender or the plural or singular number is intended to include the appropriate gender and number as the text of this Agreement may require.

18. This Agreement shall be binding upon Entrant, its successors and permitted assigns and shall inure to the benefit of Owner, its successors and assigns.

19. This Agreement may be executed in multiple counterparts, each of which, when assembled to include a signature for each party contemplated to sign this Agreement, will constitute a complete and fully executed Agreement. All such fully executed counterparts will collectively constitute a single agreement. The delivery of an executed counterpart of this Agreement via electronic means, such as e-mail or facsimile, shall be as legally binding on the party so delivering same as the delivery of a counterpart bearing an original signature.

20. Entrant and Consultant shall not record this Agreement.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

In Witness Whereof, the parties have duly executed and delivered this Agreement as of _____, 2021.

Owner

West Orange Office Executive Park, LLC
a Delaware limited liability company

By: West Orange Office Executive Park Mezz
LLC, a Delaware limited liability company, sole
member

By: West Orange Office Executive Park LLC,
a New Jersey limited liability company,
managing member

By: Dolphin Management LLC
a New Jersey limited liability company,
sole member

By: _____
Name: Moses Berger, as Sole Manager of
Dolphin Management LLC

Entrant

**TOWNSHIP OF WEST ORANGE,
NEW JERSEY**

By: _____
Robert D. Parisi, Mayor