

FOURTH ROUND HOUSING ELEMENT AND FAIR SHARE PLAN

Township of West Orange

Essex County, New Jersey

November 2025

Adopted by the Planning Board
on November 10, 2025

Prepared By:



Heyer, Gruel & Associates

Community Planning Consultants

236 Broad Street, Red Bank, NJ 07701

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The original of this report was signed and
sealed in accordance with N.J.S.A. 45:14A-12



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Table of Contents

EXECUTIVE SUMMARY	6
INTRODUCTION	8
First and Second Rounds	9
Third Round	9
Fourth Round	10
TOWNSHIP OF WEST ORANGE'S HISTORY OF AFFORDABLE HOUSING	12
PLANNING FOR AFFORDABLE HOUSING	13
PART 1. HOUSING ELEMENT	15
DEMOGRAPHIC CHARACTERISTICS	15
EXISTING HOUSING CONDITIONS	22
EMPLOYMENT DATA	30
PART 2: FAIR SHARE PLAN	38
INTRODUCTION	38
CURRENT STANDARDS	38
WEST ORANGE TOWNSHIP AFFORDABLE HOUSING OBLIGATIONS	40
REVIEW OF PRIOR ROUND COMPLIANCE	41
FOURTH ROUND OBLIGATION	68
CONSISTENCY WITH STATE PLANNING REQUIREMENTS	123
USE OF SURPLUS CREDITS	123
SUMMARY OF FAIR SHARE COMPLIANCE	124

Appendices

Appendix A: Executed Settlement Agreement between The Township of West Orange and Fair Share Housing Center, dated April 6, 2020

Appendix B: Executed Settlement Agreement between The Township of West Orange and West Essex Highlands, Inc., dated April 23, 2020

Appendix C: Court Order Approving Fair Share Housing Center Settlement Agreement, filed on August 3, 2020

Appendix D: Township of West Orange Final Third Round Judgement of Compliance and Repose, dated March 17, 2021

Appendix E: Township of West Orange Resolution #67-25 – Approving the Department of Community Affairs Calculation of Regional Need for Affordable Housing for Fourth Round Obligation

Appendix F: Prism Redevelopment Documentation

Appendix G: 46 Mount Pleasant Avenue Site Documentation

Appendix H: Adopted Inclusionary Housing Ordinances

Appendix I: 25 Tompkins Street Site Documentation

Appendix J: Stonehill Site Documentation

Appendix K: Mandatory Set-Aside Ordinance

Appendix L: West Orange Homeowners Rehabilitation Program (WOHRP) Documentation

Appendix M: 555 Northfield Avenue Documentation

Appendix N: 172-174 Main Street Documentation

Appendix O: Existing Group Homes Documentation

Appendix P: Additional Affordable Housing Resolutions

- Resolution #186-25 –Appointing Geniece Gary-Adams as the Township’s Municipal Housing Liaison, and Peter F. Smeraldo, Jr. as the Alternate Municipal Housing Liaison
- Resolution #17-24 – Appointing CGP&H as the Township’s Administrative Agent

EXECUTIVE SUMMARY

The following Fourth Round Housing Element and Fair Share Plan has been prepared for the Township of West Orange in the County of Essex in accordance with the Fair Housing Act as most recently amended (P.L. 2024, c 2).

The Township of West Orange is a 12.1 square mile developed community located in the northeastern part of New Jersey in the County of Essex. The Township is surrounded by Montclair and Verona to the north, Livingston, Roseland, and Essex Fells to the west, Maplewood, Millburn, and South Orange to the south, and Orange to the east. Interstate 280 bisects the Township and offers connections to the New Jersey Turnpike and Garden State Parkway. West Orange includes areas of significant grade change within its eastern and western sections.

According to the 2020 Census, West Orange's population was 48,843, which represents an increase of 5.7 percent from 2010. The US Census Bureau 2019-2023 American Community Survey estimates a total population of 48,276 in 2023. In 2020, the median age of Township residents was 42.2 years, and the average household size decreased slightly from the 2010 level of 2.74 persons to 2.73 persons.

The housing stock of the Township is predominantly single-family detached dwelling units. A majority of the housing structures was built prior to 1960.

The Township is located in Housing Region 2, a region that consists of Essex, Morris, Union, and Warren counties. Based on the 2025 Regional Income Limits (released by Affordable Housing Professionals of New Jersey on May 5, 2025), the median income in Region 2 for a four-person household is \$135,300, the moderate-income is \$108,240, the low-income is \$67,650, and the very-low-income level is \$40,590.

West Orange Township entered into a Settlement Agreement with Fair Share Housing Center (FSHC) to establish the Township's Third Round affordable housing obligation on April 6, 2020. A second settlement agreement with the Township, West Essex Highlands, Inc., ("WEHI"), and the West Essex Highlands Condominium Association, Inc., (the "Association") was executed on April 23, 2020 ("WEHI Settlement Agreement"). Subsequent compliance efforts were approved by the Court in a Final Judgement of Compliance and Repose (JOR), dated March 17, 2021, confirming the Township satisfied its Third Round obligations.

The Township was able to fully meet its Prior Round and Third Round obligations through credit-worthy units that are existing or proposed, as well as through rental bonus credits.

The Township has a Fourth Round rehabilitation share of 409 units and a Fourth Round Prospective Need of 660 units. This Prospective Need is separated into a realistic development potential (RDP) of 0 units and an unmet need of 660 units.

The Township will fully address its Fourth Round obligations through the following mechanisms:

- New Inclusionary Development
- Continuation of its Rehabilitation Program
- Mandatory Set-Aside Ordinance
- Bonus Credits
- 100% Affordable Development
- Group Homes
- New Accessory Apartment Ordinance

INTRODUCTION

The need to provide a realistic opportunity for the construction of affordable housing in New Jersey, the country's most densely populated state, has been recognized for decades. In the case of Southern Burlington County NAACP v. the Township of Mount Laurel 67 N.J. 151 (1975), (commonly known as Mount Laurel I), the New Jersey Supreme Court established the doctrine that developing municipalities have a constitutional obligation to create a realistic opportunity for their fair share of low and moderate income housing.

In Southern Burlington County NAACP v. Township of Mount Laurel, 92 N.J. 158, 456 A.2d 390 (1983), decided on January 20, 1983 (commonly known as Mount Laurel II), the Supreme Court responded to the response of municipalities to Mount Laurel I. It sought to make it far easier for developers to secure a builder's remedy. The builder's remedy created an incentive to developers to sue non-compliant municipalities and force them to comply. Mount Laurel II also created the Judgment of Compliance and Repose to incentivize municipalities to comply. A Judgment of Compliance and Repose protected municipalities from anyone who would sue it and claim entitlement to a builder's remedy or other relief based upon the claim that the municipality was noncompliant.

In the wake of Mount Laurel II, developers sued municipalities seeking builder's remedies. The wave of builder's remedy lawsuits created the impetus for legislation to protect municipalities from builder's remedies. A decision by Judge Serpentelli, one of three judges appointed by Chief Justice Wilentz to implement Mount Laurel II, increased the need for a legislative cure. More specifically, in 1984, Judge Serpentelli issued the AMG decision which established a formula for any developer to determine the fair share obligation of any municipality.

The pressure of builder's remedy suits, combined with the ease in determining the fair share of any municipality through the AMG formula, culminated in the enactment of the New Jersey Fair Housing Act in 1985. The Fair Housing Act (FHA) is found at N.J.S.A. 52:270-301, et seq. The FHA established the Council on Affordable Housing (COAH) as an administrative alternative to builder's remedy lawsuits and the concomitant jurisdiction of the courts. COAH was given the responsibility of dividing the state into housing regions, determining regional and municipal fair share affordable housing obligations, and adopting regulations that would establish the guidelines and approaches that municipalities may use in addressing their affordable housing need.

In 2008, the Legislature amended the FHA to add requirements for very low-income housing. Very low-income households are those in which the gross household income is 30% or less than the region's median household income. Low-income households are those with incomes no greater than 50% of the region's median household income. Moderate-income households are those with incomes no greater than 80% and

no less than 50% of the region's median household income. Each is adjusted for household size and is in relation to the median gross income of the housing region in which the municipality is located.

First and Second Rounds

The First and Second Rounds under COAH are collectively referred to as the "Prior Round." The Prior Round obligation is the cumulative 1987-1999 fair share obligation. The First Round consists of the six-year period between 1987 and 1993 for which COAH first established a formula for determining municipal affordable housing obligations (N.J.A.C. 5:92-1 *et seq.*). Then in 1994, COAH established amended regulations (N.J.A.C. 5:93-1.1 *et seq.*) and produced additional municipal affordable housing obligations for the years 1993 to 1999. This second round of obligations is known as the Second Round. When COAH adopted regulations for Round 2, it made the Round 1 and 2 obligations cumulative for both periods.

Third Round

Housing rounds were originally established by the Fair Housing Act as six-year periods, but in 2001 the Legislature extended the rounds to 10-year periods. This should have meant that the Third Round ran from 1999 to 2009. However, COAH didn't establish new rules for the Third Round until the end of 2004 (N.J.A.C. 5:94-1 and 95-1 *et seq.*). The Third Round time period was therefore extended to 2014. The Third Round rules established a new method for calculating a municipality's affordable housing obligation, known as "growth share." This method required municipalities to project future residential and non-residential development and then derive their obligation from that growth.

After the New Jersey Appellate Court invalidated several components of the Third Round rules, COAH released revised rules in 2008. The Third Round was once again extended to 2018 to provide municipalities with the time to apply the amended rules and establish mechanisms to meet their obligations. The revised third round rules, like the initial third round rules, established the obligations based on a growth share approach.

On October 8, 2010, in response to numerous legal challenges to the second iteration of COAH's Third Round regulations, the Appellate Division ruled that COAH could not allocate obligations through a "growth share" formula and directed COAH to use similar methods to those used in the First and Second Rounds.

COAH proposed Third Round regulations a third time in 2014 using a formula similar to the ones it had used in the First and Second Rounds. However, when COAH held a meeting to consider adopting these rules on October 20, 2014, the COAH Board deadlocked its vote and then failed to make any efforts to break the deadlock.

On March 10, 2015, the New Jersey Supreme Court decided In re Adoption of N.J.A.C. 5:96 & 5:97 by the N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (Mount Laurel IV), wherein it responded to COAH's

failure to adopt defensible rules for Round 3. This decision changed the landscape by which municipalities are required to comply with their constitutional obligation to provide their fair share of affordable housing.

The Supreme Court held that since COAH was no longer functioning, trial courts were to resume their role as the forum of first instance for evaluating municipal compliance with Mount Laurel obligations. The decision also established a transitional process for municipalities to seek temporary immunity and ultimately a Judgment of Compliance and Repose (“JOR”) from a court, which was the “judicial equivalent” of Substantive Certification from COAH.

On January 18, 2017, the Supreme Court decided In Re Declaratory Judgment Actions Filed by Various Municipalities, County of Ocean, Pursuant To The Supreme Court’s Decision In In re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015) (“Mount Laurel V”), which held that need having accrued during the Gap Period (1999-2015) had to be addressed and was part of the Present Need. The Supreme Court held that there is an obligation with respect to that period for households that came into existence during that gap period that are eligible for affordable housing, that are presently (as of 2015) in need of affordable housing, and that are not already counted in the traditional Present Need.

As the methodology and obligations from the Gap and Prospective Need had not been fully adjudicated at that time, various trial judges issued opinions on the appropriate methodology and 354 municipalities reportedly settled with Fair Share Housing Center wherein they negotiated the obligations for Round 3.

Municipal obligations were therefore broken down in Round Three Housing Element and Fair Share Plans as Present Need/Rehabilitation, Prior Round (1987-1999), and Third Round and Gap Period (1999-2015). Municipalities that received their Final Judgement of Compliance and Repose had immunity from builders’ remedy lawsuits through the end of the Third Round, June 30, 2025.

Fourth Round

On March 18, 2024, the affordable housing legislation known jointly as Senate Bill S50 and Assembly Bill A4 passed both houses of the legislature. Governor Murphy signed the bill (P.L.2024, c.2) into law on March 20, 2024, establishing a new methodology for determining municipalities’ affordable housing obligations for the Fourth Round and beyond. The new legislation, which comprehensively amends the FHA, overhauled the process that municipalities undertake to establish and plan for their constitutionally mandated affordable housing obligation. Most notably, this legislation formally abolished COAH while transferring some of its functions to the New Jersey Department of Community Affairs (DCA) and Housing Mortgage and Finance Agency (HMFA). The legislation also created a new entity known as the Affordable Housing Dispute Resolution Program or simply the Program, which consists of retired Mount Laurel judges as well as Special Adjudicators (formerly known as Court Masters), to assist with mediations and to review and approve municipal Fourth Round Housing Elements and Fair Share Plans.

The amended FHA called on the DCA to issue a non-binding report on the new Present Need Obligation (commonly referred to as the rehabilitation obligation) and the Prospective Need for Round 4 and subsequent rounds. The amended FHA required the DCA to base its analysis of the obligations for each municipality based upon the standards set forth in the amended FHA. Accordingly, on October 18, 2024, the DCA released a report outlining the Fourth Round (2025-2035) Fair Share methodology and its calculations of low- and moderate-income obligations for each of the State's municipalities. The amended FHA gave municipalities until January 31, 2025, to review the obligation reported by the DCA and perform their own analysis of their obligation based on the methodology in the legislation and previously established by the Courts. If any municipality wished to commit to an obligation different from the one reported by the DCA, the amended FHA required the municipality to adopt a resolution by January 31, 2025, committing to the number that it contended was the appropriate obligation. If a municipality wished to commit to the numbers that the DCA reported, the amended FHA required the municipality to adopt a resolution committing to the DCA numbers.

The amended FHA required any municipality that wished to participate in the new process that the Act created to file a declaratory relief action within 48 hours of adopting the resolution committing to the numbers the municipality deemed appropriate.

The amended FHA gave any interested party who wished to oppose the numbers to which any municipality committed to file an Answer by February 28, 2025, which included a specific objection to the numbers to which the municipality committed.

The amended FHA gave the Program until March 31, 2025, to try to resolve any disputes over the fair share numbers to which a municipality committed. The amended FHA gave municipalities until June 30, 2025, to file a Fourth Round Housing Element and Fair Share Plan and related documents showing how the municipality will comply with its obligations. The Fourth Round Plans will follow the same general format as they have with certain updates to their requirements dealing with various types of housing and the bonus credit calculation system. Notably, HE/FSPs are required to be consistent with the State Development and Redevelopment Plan (SDRP), which has yet to be adopted. (A draft SDRP was released in late 2024). As part of the HE/FSP, municipalities shall include an assessment of the degree to which the municipality has met its fair share obligation from the prior rounds of affordable housing (i.e. First, Second, and Third Rounds).

TOWNSHIP OF WEST ORANGE'S HISTORY OF AFFORDABLE HOUSING

The Township of West Orange has a history of participation and compliance with COAH. The Township participated in the Second Round and received their substantive certification on October 11, 1995, with an extended certification date of December 20, 2005. The Township's Second Round certification expired on December 20, 2005. Subsequently, the Planning Board of West Orange Township adopted a Housing Element and Fair Share Plan on November 5, 2008.

The Township received Third Round substantive certification from COAH on December 9, 2009. However, a large majority of COAH's third round regulations were invalidated by the Appellate Division on October 10, 2010. Further, in response to Mount Laurel IV, the Township filed its complaint for a Declaratory Judgement on July 7, 2015 (Docket No. ESX-L-4697-15). West Orange subsequently adopted an amended Fair Share Plan on April 4, 2017.

A settlement agreement with the Fair Share Housing Center ("FSHC") and Redwood, LLC. ("Redwood") was executed on April 6, 2020 ("FSHC Settlement Agreement", see Appendix A). Also in 2020, a builder's remedy litigation was initiated by WEHI and the Association. A second settlement agreement with the Township, WEHI, and the Association was executed on April 23, 2020 ("WEHI Settlement Agreement", see Appendix B).

A Fairness Hearing was held on July 10, 2020, and in an Order dated August 3, 2020, the Court approved both settlement agreements and deemed the agreements fair and reasonable and that they adequately protect the interest of low- and moderate-income households (Appendix C). The Township adopted a Housing Element and Fair Share Plan on November 17, 2020, effectuating the Court-approved settlement agreements.

After a further hearing on February 18, 2021, West Orange Township was granted a Final Order of Judgement of Compliance on March 17, 2021 (Appendix D).

West Orange Township continues to take steps to satisfy its affordable housing obligation. On January 28, 2025, in accordance with the standards established by the amended FHA and described above, the Township adopted Resolution #67-25. This resolution accepted the DCA-generated obligation, to establish its Fourth Round housing obligation, and thus guaranteed protection from builders' remedy suits (Appendix E) until June 30, 2025.

This Fourth Round HE/FSP sets forth mechanisms in order to address the Township's affordable housing obligations and has been prepared in accordance with the Fair Housing Act as most recently amended (P.L.2024, c.2).

PLANNING FOR AFFORDABLE HOUSING

Pursuant to both the FHA (N.J.S.A. 52:27D-310, et seq.) and the Municipal Land Use Law (MLUL) (N.J.S.A. 40:55D-28), municipalities in New Jersey are required to include a Housing Element/Fair Share Plan in their master plans. The principal purpose of the housing element is to describe the specific, intended methods that a municipality plans to use in order to meet its low- and moderate-income housing needs. Further, the housing element is meant to demonstrate the existing zoning or planned zoning changes that will allow for the provision of adequate capacity to accommodate household and employment growth projections, to achieve the goal of access to affordable housing for present and future populations. The statutorily required contents of the housing element are:

- a. An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low and moderate-income households and substandard housing capable of being rehabilitated;
- b. A projection of the municipality's housing stock, including the probable future construction of low- and moderate-income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;
- c. An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age;
- d. An analysis of the existing and probable future employment characteristics of the municipality;
- e. A determination of the municipality's present and prospective fair share for low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low- and moderate-income housing, as established pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1);
- f. A consideration of the lands that are most appropriate for construction of low- and moderate-income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low- and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to provide low- and moderate-income housing;
- g. An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c.273 (C.52:27D-329.20);

- h. For a municipality located within the jurisdiction of the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), an analysis of compliance of the housing element with the Highlands Regional Master Plan of lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands conforming municipalities. This analysis shall include consideration of the municipality's most recent Highlands Municipal Build Out Report, consideration of opportunities for redevelopment of existing developed lands into inclusionary or 100 percent affordable housing, or both, and opportunities for 100 percent affordable housing in both the Highlands Planning Area and Highlands Preservation Area that are consistent with the Highlands regional master plan; and
- i. An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

PART 1. HOUSING ELEMENT

DEMOGRAPHIC CHARACTERISTICS

Population

Table 1 below depicts the population trends experienced in West Orange, Essex County, and the State of New Jersey in the 93-year period between 1930 and 2023. In 2023, there were 48,276 residents in West Orange, which indicates a decrease of 567 people (-1.2%) from 2020. West Orange has experienced population fluctuation over the past 93 years, with the largest increase between 1950 and 1960 (39.5%) and the biggest decrease occurring between 1970 to 1980 (-9.6%). Overall, the Township has seen a growth of 23,949 residents during this time frame, reflecting a 98.4% net increase in its population. While population growth in the State of New Jersey has been steady during this time period, Essex County and West Orange have seen some similar fluctuations. The Township's overall growth (98.4%) has proportionally exceeded that of the County (2.1%), but not that of the State (129.2%).

Table 1: Population Trends, 1930-2023 West Orange, Essex County, and New Jersey									
Year	West Orange			Essex County			New Jersey		
	Population	Change		Population	Change		Population	Change	
		Number	Percent		Number	Percent		Number	Percent
1930	24,327	-	-	833,513	-	-	4,041,334	-	-
1940	25,662	1,335	5.5%	837,340	3,827	0.5%	4,160,165	118,831	2.9%
1950	28,605	2,943	11.5%	905,949	68,609	8.2%	4,835,329	675,164	16.2%
1960	39,895	11,290	39.5%	923,545	17,596	1.9%	6,066,782	1,231,453	25.5%
1970	43,715	3,820	9.6%	932,526	8,981	1.0%	7,171,112	1,104,330	18.2%
1980	39,510	-4,205	-9.6%	851,304	-81,222	-8.7%	7,365,011	193,899	2.7%
1990	39,103	-407	-1.0%	778,206	-73,098	-8.6%	7,730,188	365,177	5.0%
2000	44,943	5,840	14.9%	793,633	15,427	2.0%	8,414,350	684,162	8.9%
2010	46,207	1,264	2.8%	783,969	-9,664	-1.2%	8,791,894	377,544	4.5%
2020	48,843	2,636	5.7%	863,728	79,759	10.2%	9,288,994	497,100	5.7%
2023	48,276	-567	-1.2%	851,117	-12,611	-1.5%	9,261,699	-27,295	-0.3%
Total Change	-	23,949	98.4%	-	17,604	2.1%	-	5,220,365	129.2%

Source: U.S. Census Bureau, Decennial Census and 2023: ACS 5-Year Estimates Table S0101

Population Composition by Age

The median age of the residents in West Orange in 2020 was 42.2 years, which shows a 3.9% increase from the 2010 median age of 40.6 years. Analysis of age group characteristics provides insight into the actual changes in population. This comparison is helpful in determining the impact these changes have on housing needs, community facilities and services for the municipality. As detailed in Table 2 below, the entire composition of West Orange experienced notable shifts in the years between 2010 and 2020. The

most significant shift occurred in the population aged 65 and over, which collectively saw an 1,853-person (25.2%) increase. Simultaneously, the Township experienced a significant decrease in its population under 5 years old (-16.8%) and between the ages 35 to 54 (-3.4%). This data suggests that a larger portion of the Township's residents are transitioning into the senior citizen age range, which will require the Township to consider planning tools and approaches that encourage aging-in-place.

Table 2: Population by Age, 2010 to 2020						
West Orange						
Population	2010		2020		Change (2010 to 2020)	
	Number	Percent	Number	Percent	Number	Percent
Under 5 years	3,056	6.6%	2,542	5.2%	-514	-16.8%
5 to 14	5,955	12.9%	5,932	12.1%	-23	-0.4%
15 to 24	5,225	11.3%	5,849	12.0%	624	11.9%
25 to 34	5,113	11.1%	5,389	11.0%	276	5.4%
35 to 44	6,755	14.6%	6,500	13.3%	-255	-3.8%
45 to 54	6,934	15.0%	6,727	13.8%	-207	-3.0%
55 to 64	5,807	12.6%	6,689	13.7%	882	15.2%
65 and over	7,362	15.9%	9,215	18.9%	1853	25.2%
Total population	46,207	100.0%	48,843	100.0%	2636	5.7%
Median Age	40.6	-	42.2	-	1.6	3.9%

Source: U.S. Census Bureau, Decennial Census, Tables DP1, P12 and P13

Essex County experienced population fluctuation as well. The County also saw the greatest shift of roughly 27% in its population aged 65 and over, which was proportionally slightly higher than the increase experienced at the Township level. The County experienced a decrease in its population aged 5 and below (-4.0%), mirroring shifting age trends occurring in the Township, but saw an increase in the 35 to 54 age range (3.6%). This data is displayed in Table 3 below.

Table 3: Population by Age, 2010 to 2020						
Essex County						
Population	2010		2020		Change (2000 to 2010)	
	Number	Percent	Number	Percent	Number	Percent
Under 5 years	53,819	6.9%	51,645	6.0%	-2,174	-4.0%
5 to 14	107,537	13.7%	115,654	13.4%	8,117	7.5%
15 to 24	107,688	13.7%	117,894	13.6%	10,206	9.5%
25 to 34	107,655	13.7%	119,677	13.9%	12,022	11.2%
35 to 44	116,221	14.8%	122,457	14.2%	6,236	5.4%
45 to 54	115,224	14.7%	117,293	13.6%	2,069	1.8%
55 to 64	85,538	10.9%	104,566	12.1%	19,028	22.2%
65 and over	90,287	11.5%	114,542	13.3%	24,255	26.9%
Total population	783,969	100.0%	863,728	100.0%	79,759	10.2%
Median Age	36.4	-	37.1	-	0.7	1.9%

Source: U.S. Census Bureau, Decennial Census, Tables DP1, P12 and P13

Households

A household is defined as one or more persons, either related or not, living together in a housing unit. In 2020 there was a total of 17,738 households in West Orange. Over half of the Township's households comprised two or less people. In fact, Two-person households were the most common household size at both the Township (28.8%), followed by one-person households. This was similar to trends at the County level, but one-person households were the most prominent at 28%, followed by two-person households. The average household size of the Township in 2020 was 2.73, which was slightly higher than that of the County's average of 2.58.

Table 4: Household Size of Occupied Housing Units, 2020				
West Orange and Essex County				
	West Orange		Essex County	
	Number	Percent	Number	Percent
1-person household	4,384	24.7%	87,487	28.0%
2-person household	5,115	28.8%	82,024	26.2%
3-person household	3,172	17.9%	55,575	17.8%
4-person household	2,875	16.2%	49,034	15.7%
5-person household	1,347	7.6%	23,166	7.4%
6-person household	525	3.0%	9,517	3.0%
7-or-more-person household	320	1.8%	6,110	2.0%
Total Households	17,738	100.0%	312,913	100.0%
Average Household Size	2.73		2.58	

Source: US Census Bureau 2020, Table H9

According to the United States Census, family households are defined as two or more persons living in the same household, related by birth, marriage, or adoption. As shown in Table 5, the majority (71%) of all households in the Township in 2023 were categorized as family households. Households in West Orange containing a married couple with children accounted for 24% of all households. Data for 2023 includes the sub-groups of non-traditional households, including “Other Family” and “Non-Family” households. “Other Family” households accounted for 17% of all households, broken down into 12% female householders with no spouse or partner present and 5% male householders with no spouse or partner present. “Non-Family” households are defined as those that consist of a householder living alone or sharing the home exclusively with people to whom he/she is not related. Non-family households comprise approximately 29% of all households in the Town.

Table 5: Household Size and Type, 2023		
West Orange		
	Total	Percent
Total Households	17,440	100%
Family Households	12,335	71%
Married couple family	9,394	54%
With children	4,104	24%
Without children	5,290	30%
Other Family	2,941	17%
Male householder, no spouse	887	5%
With children	525	3%
Without children	362	2%
Female householder, no spouse	2,054	12%
With children	1,049	6%
Without children	1,005	6%
Nonfamily household	5,105	29%
Male householder	1,922	11%
Living alone	1,593	9%
Not living alone	329	2%
With children	22	0%
Female householder	3,183	18%
Living alone	2,929	17%
Not living alone	254	1%
With children	0	0%

Source: 2023 ACS 5-Year B11005 and B11010

Income

As measured in 2023, West Orange had a significantly higher median household income compared to Essex County and the State of New Jersey. The median income in West Orange was \$131,645, which was roughly \$51,200 greater than that of the County and \$30,600 greater than that of the State. The per capita income in West Orange was higher than that of the County, but much lower than that of the State. This data is outlined in Table 6 below.

Table 6: Per Capital Household Income, 2023 West Orange, Essex County, and New Jersey		
	Per Capital Income	Median Household Income
West Orange	\$63,635	\$131,645
Essex County	\$50,025	\$80,463
New Jersey	\$140,299	\$101,050

Source: 2023 ACS 5-year Estimates, Tables S1901 and B19301

In 2023, roughly 77% percent of all households in the Township earned an income of \$50,000 or more, as compared to roughly 74% of households in the County. The income range that accounted for the most Township households was the \$200,000 or more bracket, which comprised nearly 29.4% of households in West Orange. This was also the case across Essex County as a whole, but at a lower percentage of 20.1%. Only 8.8% of households in West Orange earned an income of \$25,000 or less, as compared to 17.8% at the County level. This suggests that the Township's household income distribution is slightly skewed toward higher income brackets as compared to the County, which may at least partially help explain the difference between the median income reported at the Township (\$131,645) and County (\$80,463) levels.

Table 7: Household Income, 2023 West Orange and Essex County				
	West Orange		Essex County	
	Number	Percent	Number	Percent
Less than \$10,000	610	3.4%	21,008	6.7%
\$10,000 to \$14,999	388	2.2%	13,577	4.3%
\$15,000 to \$24,999	574	3.2%	21,126	6.8%
\$25,000 to \$34,999	1,220	6.9%	21,965	7.0%
\$35,000 to \$49,999	950	5.4%	30,668	9.8%
\$50,000 to \$74,999	1,786	10.1%	45,367	14.5%
\$75,000 to \$99,999	1,529	8.6%	33,990	10.9%
\$100,000 to \$149,999	2,900	16.3%	45,640	14.6%
\$150,000 to \$199,999	2,266	12.8%	44,630	14.3%
\$200,000 or more	5,217	29.4%	62,996	20.1%
Total Households	17,738	100.0%	312,913	100.0%

Source: 2023 ACS 5-Year Estimates, Table B19001

Poverty Status

Of the 48,276 people in West Orange for which poverty status was determined, 3,433 (7.1%) individuals lived in poverty in 2023; this was considerably lower than the County's poverty rate of 13.9%. Of West Orange's population that fell below the poverty level in 2023, over half were between the ages of 18 to 64; this trend was mirrored at the County level as well. Proportionally the Township and County had similar percentages of elderly living in poverty, but the Township's population living in poverty under 18 (1.9%) was significantly lower than that of the County (4.3%). This data is presented in Table 8 below.

Table 8: Poverty Status, 2023 West Orange and Essex County				
	West Orange		Essex County	
	Number	Percent	Number	Percent
Total persons	48,276	100.0%	851,117	100.0%
Total persons below poverty level	3,433	7.1%	118,250	13.9%
Under 18	915	1.9%	36,834	4.3%
18 to 64	1,989	4.1%	65,452	7.7%
65 and over	529	1.1%	15,964	1.9%

Source: 2023 American Community Survey 5-Year Estimate, Table S1701

Household Costs

Tables 9 and 10 below show the expenditures for housing as a percentage of household income for those who own and rent in West Orange and Essex County. In 2023, a majority of Township residents lived in homes they owned, whereas the County saw similar rates of home ownership and renting. General affordability standards set a limit at 30% of gross income to be allocated for owner-occupied housing costs and 28% of gross income to be allocated for renter-occupied housing costs. Approximately 31% of Township residents who owned the units they occupied spent 30% or more of their household income on housing, as compared to 51% of Township residents who rented the units they occupied. These figures were on par with those of the County.

Table 9: Selected Monthly Owner Costs as a Percentage of Household Income, 2023				
West Orange and Essex County				
	West Orange		Essex County	
	Number	Percent	Number	Percent
Total Owner-Occupied Housing Units	12,244	100.0%	146,736	100.0%
Less than 20.0%	5,373	43.9%	69,206	47.2%
20.0 to 24.9%	1,858	15.2%	16,773	11.4%
25.0 to 29.9%	1,155	9.4%	10,922	7.4%
30.0 to 34.9%	645	5.3%	9,922	6.8%
35.0% or more	3,144	25.7%	38,962	26.6%
Not computed	69	0.6%	951	0.6%

Source: 2023 American Community 5-Year Estimates, Table DP04

Table 10: Gross Rent as a Percentage of Household Income, 2023				
West Orange and Essex County				
	West Orange		Essex County	
	Number	Percent	Number	Percent
Total Renter-Occupied Housing Units	5,196	100.00%	175,720	100.00%
Less than 15%	575	11.1%	20,260	11.5%
15.0 to 19.9%	781	15.0%	18,661	10.6%
20.0 to 24.9%	653	12.6%	18,055	10.3%
25.0 to 29.9%	312	6.0%	19,648	11.2%
30.0 to 34.9%	360	6.9%	14,069	8.0%
35.0% or more	2289	44.1%	75,019	42.7%
Not computed	226	4.3%	10,008	5.7%

Source: 2023 American Community 5-Year Estimates, Table B25070

EXISTING HOUSING CONDITIONS

Housing Unit Data

West Orange's housing stock is largely comprised of structures built prior to the year 1970. In 2023, West Orange had a total of 18,277 occupied housing units, roughly 67% of which were owner-occupied and 28% of which were renter-occupied. The Township experienced housing booms from 1950 to 1960, during which approximately 24% of the Township's housing structures were constructed. According to 2023 American Community Survey Estimates, the Township has seen very few housing structures built between 2000 or later. The median year of construction for housing stock in West Orange is 1956. This data is outlined in Tables 11 and 12 below.

Table 11: Housing Data, 2023 West Orange			
	Number	% of Total Housing Units	% of Occupied Housing Units
Total Housing Units	18,277	100.00%	-
Occupied Housing Units	17,440	95.4%	100.00%
Owner Occupied	12,244	67.0%	70.2%
Renter Occupied	5196	28.4%	29.8%
Vacant Housing Units	837	4.6%	-

Source: 2023 American Community Survey 5-Year Estimates, Table DP04

Table 12: Year Structure Built, 2023 West Orange		
	Number	Percent
Total Housing Units	18,277	100.00%
Built 1939 or earlier	4,629	25.3%
Built 1940 to 1949	1,944	10.6%
Built 1950 to 1959	4,386	24.0%
Built 1960 to 1969	2,013	11.0%
Built 1970 to 1979	1,432	7.8%
Built 1980 to 1989	1,159	6.3%
Built 1990 to 1999	1,249	6.8%
Built 2000 to 2009	832	4.6%
Built 2010 to 2019	633	3.5%
Built 2020 or later	0	0.0%
Median Year Structure Built	1956	

Source: 2023 American Community Survey 5-Year Estimates, Tables B25034 and B25035

According to the 2023 American Community Survey, West Orange has a high occupancy rate, with very few of their housing units vacant. Of West Orange's 18,277 housing units, 17,440 (95.4%) were occupied and only 837 (4.6%) were vacant. Nearly two-thirds (60.9%) of vacant units could be attributed to the "Other Vacant" category, with "For Rent/Rented Not Occupied" making up another 30.5%, and "For Sale Only", "Sold, Not Occupied", and "For Seasonal, Recreational or Occasional Use" accounting for the remaining 8.6%. This data is represented in Table 13 below.

Table 13: Housing Occupancy, 2023 West Orange			
	Total	% of Total Housing Units	% of Vacant Housing Units
Total Housing Units	18,277	100.00%	-
Occupied	17,440	95.4%	-
Vacant Housing Units	837	4.6%	100.0%
For Rent/Rented Not Occupied	255	1.4%	30.5%
For Sale Only	25	0.1%	3.0%
Sold, not occupied	26	0.1%	3.1%
For Seasonal, Recreational or Occasional Use	21	0.1%	2.5%
For migrant workers	0	0.0%	0.0%
Other Vacant	510	2.8%	60.9%

Source: ACS 5-Year DP04 and B25004

Housing Type and Size

In 2023, single-family detached housing made up the vast majority of the Township's housing stock at 54.7%. Twenty or more-unit housing was the next most common housing type, representing 12.2% of the Township's housing stock. The median number of rooms within housing structures in the Township was 6.3, with nearly 63% of housing units having a minimum of 6 rooms and less than 8% of housing units having 2 or less rooms.

Table 14: Housing Type and Size, 2023		
West Orange		
Units in Structure	Total	Percent
1, detached	9,993	54.7%
1, attached	1,624	8.9%
2	1,983	10.8%
3 or 4	1,197	6.5%
5 to 9	521	2.9%
10 to 19	610	3.3%
20 or more	2,234	12.2%
Mobile home	51	0.3%
Boat, RV, van, etc.	64	0.4%
Total Housing Units	18,277	100.00%
Rooms	Total	Percent
1 room	824	4.5%
2 rooms	638	3.5%
3 rooms	1,325	7.2%
4 rooms	1,734	9.5%
5 rooms	2,295	12.6%
6 rooms	2,788	15.3%
7 rooms	3,089	16.9%
8 rooms	2,038	11.2%
9 or more rooms	3,546	19.4%
Total Housing Units	18,277	100.00%
Median number of rooms	6.3	

Source: 2023 ACS 5-Year Estimates, Tables DP04 and B25024

Housing Growth and Projections

In terms of residential growth, the issuance of building permits serves as one of the indicators that help to determine housing needs in a given municipality. Table 15 below illustrates the number of building permits that were issued over the 10-year period between January 2015 through December 2024, when the Township issued building permits authorizing the development of 861 housing units. Within this time frame, the busiest years for building permits occurred in 2016 and 2022, with roughly 72% of all building permits since 2015 having been issued in those years. The vast majority of the permits issued during this time frame were for multi-family homes, while only 73 permits were issued for one-to-two family homes and two were issued for multifamily structures.

Further, throughout the same 10-year period, West Orange issued permits authorizing the demolition of 14 units. If the demolition rate were to remain relatively constant over the next approximately 10-year period, an additional 14 residential units could be expected to be demolished between January 2025 and January 2035, resulting in a projected net increase of 847 units.

Table 15: Housing Units Authorized by Building Permits, 2015-2024 West Orange				
Year	1 & 2 Family	Multi Family	Mixed-Use	Total
2015	13	0	1	14
2016	7	299	0	306
2017	12	0	0	12
2018	8	100	0	108
2019	6	0	0	6
2020	9	0	0	9
2021	4	0	0	4
2022	8	304	0	312
2023	1	82	0	83
2024*	5	1	1	7
Total 2014-2024	73	786	2	861
10-Year Average				86.1
10-Year Permit Projection (2025-2035)				861

Source: State of New Jersey Department of Community Affairs Building Permits: Yearly Summary Data

*Note: 2024 Data includes January-November

Table 16: Housing Units Demolished by Building Permits, 2015-2024				
West Orange				
Year	1 & 2 Family	Multi Family	Mixed-Use	Total
2015	1	0	0	1
2016	2	0	0	2
2017	1	0	0	1
2018	1	0	0	1
2019	1	0	0	1
2020	4	0	0	4
2021	1	0	0	1
2022	1	0	0	1
2023	1	0	0	1
2024*	1	0	0	1
Total 2014-2024	14	0	0	14
10-Year Average				1.4
10-Year Demolition Projection (2025-2035)				14

Source: State of New Jersey Department of Community Affairs Building Permits: Yearly Summary Data

*Note: 2024 Data includes January-November

Housing Values and Contract Rents

According to the 2023 American Community Survey, over half (54.2%) of the owner-occupied housing stock in West Orange in 2023 was valued at over \$500,000; 52.4% of the County's housing stock is valued at this same range. In addition, the Township's median home value (\$527,900) was similar to that of the County (\$522,800). This data is outlined in Table 17 below.

Table 17: Value for Owner-Occupied Housing Units, 2023				
West Orange and Essex County				
	West Orange		Essex County	
	Number	Percent	Number	Percent
Total	12,244	100.0%	146,736	100.0%
Less than \$50,000	167	1.4%	4,894	3.3%
\$50,000 to \$99,999	174	1.4%	1,594	1.1%
\$100,000 to \$149,999	26	0.2%	2,713	1.8%
\$150,000 to \$199,999	149	1.2%	3,123	2.1%
\$200,000 to \$299,999	980	8.0%	10,662	7.3%
\$300,000 to \$499,999	4111	33.6%	46,881	31.9%
\$500,000 to \$999,999	6,042	49.3%	58,768	40.1%
\$1,00,000 and greater	595	4.9%	18,101	12.3%
Median Value	\$527,900		\$522,800	

Source: 2023 American Community Survey 5-Year Estimates, Tables B25075 and B25077

As shown in Table 18 below, it is estimated that 8,171 (66.7%) of owner-occupied units in the Township were financed by a primary mortgage, contract to purchase, or similar debt. Of those units, 89.3% did not have any additional lines of credit associated with the unit, while 6.4% were associated with a home equity loan, 0.4% were associated with both a second mortgage and a home equity loan, 2.6% were associated with a home equity loan without a primary mortgage, and 1.3% were associated with just a second mortgage. There were slightly more owner-occupied housing units with a mortgage at the County level; more specifically, 69.1% of such units had a primary mortgage. Of those units in the County tied to a primary mortgage, 87.2% did not have any additional lines of credit associated with the unit, while 7.5% were associated with a home equity loan, 1.3% were associated with a second mortgage, 0.8% were associated with both a second mortgage and a home equity loan, and 3.1% were associated with a home equity loan without a primary mortgage.

Table 18: Mortgage Status, 2023 West Orange and Essex County						
	West Orange			Essex County		
	Number	% of Total Units	% of Units with Mortgage	Number	% of Total Units	% of Units with Mortgage
Total Owner-Occupied Units	12,244	100.00%	-	146,736	100.00%	-
Owner-Occupied Housing Units with a Mortgage	8,171	66.7%	100.00%	101,404	69.1%	100.00%
With multiple mortgages:	657	5.4%	8.0%	9,805	6.7%	9.7%
Mortgage with both second mortgage and home equity loan	30	-	0.4%	852	-	0.8%
Home equity loan only	524	-	6.4%	7,587	-	7.5%
Second mortgage only	103	-	1.3%	1,366	-	1.3%
No second mortgage and no home equity loan	7,300	59.6%	89.3%	88,461	60.3%	87.2%
Home equity loan without a primary mortgage	214	1.7%	2.6%	3,138	2.1%	3.1%
Owner-Occupied Housing units without a mortgage	4,073	33.3%	-	45,332	30.9%	-

Source: 2023 American Community Survey 5-Year Estimates, Table B25081

As shown in Table 19 below, the median contract rent in West Orange in 2023 was \$1,689 which was roughly \$370 higher than the County median rent of \$1,313. Within the Township, the highest percentage of renters paid between \$1,500 to \$1,999 for monthly rent (38.7%), followed by \$1,000 to \$1,499 (22.8%), and \$2,000 to \$2,499 (13.7%). Overall, over three-quarters (75.2%) of renters in the Township paid between \$1,000 and \$2,499 for monthly rent in 2023. At the County level nearly half (61.7%) of renters paid between \$1,000 to \$2,499 for monthly rent, and there was a significantly higher occurrence of renters paying less than \$1,000 for rent (29.9%). This data suggests that rent in the Township is not as affordable as it is throughout the County as a whole.

Table 19: Contract Rent, 2023 West Orange and Essex County				
	West Orange		Essex County	
	Number	Percent	Number	Percent
Total Renter-Occupied Units	5,027	100.0%	175,720	100.0%
Less than \$500	311	6.2%	20,709	11.8%
\$500 to \$999	321	6.4%	31,732	18.1%
\$1,000 to \$1,499	1,145	22.8%	52,509	29.9%
\$1,500 to \$1,999	1,947	38.7%	43,550	24.8%
\$2,000 to \$2,499	691	13.7%	12,223	7.0%
\$2,500 to \$2,999	111	2.2%	5,079	2.9%
\$3,000 or More	501	10.0%	5,568	3.2%
No Rent Paid	169	3.4%	4,350	2.5%
Median Contract Rent	\$1,689		\$1,313	

Source: 2023 American Community Survey 5-Year Estimates, Table B25056 and B25058

Housing Conditions

Table 20 below details the conditions of the Township’s housing stock in 2023. Overcrowding and age, plumbing, and kitchen facilities are used to determine housing deficiency. In 2023, over three-quarters (78.6%) of the Townships housing stock relied on utility gas for heating, followed by electricity (12.3%). A total of 430 (2.5%) occupied housing units experienced overcrowding (more than one person per room). Throughout the Township, there were 23 (0.1%) occupied housing units that lacked complete plumbing facilities, and 386 (2.2%) that lacked complete kitchen facilities, and only 78 (0.4%) units lacked telephone service.

Table 20: Housing Conditions, 2023		
West Orange		
	Number	Percent
House Heating Fuel-Occupied Housing Units		
Total	17,440	100.0%
Utility gas	13,703	78.6%
Bottled, tank, or LP gas	475	2.7%
Electricity	2146	12.3%
Fuel oil, kerosene, etc.	775	4.4%
Coal or coke	0	0.0%
Wood	0	0.0%
Solar energy	0	0.0%
Other fuel	97	0.6%
No fuel used	244	1.4%
Occupants per Room – Occupied Housing Units		
Total	17,440	100.0%
1.00 or Less	17,010	97.5%
1.01 to 1.50	169	1.0%
1.51 or More	261	1.5%
Facilities – Total Units		
Total	17,440	100.0%
Lacking complete plumbing facilities	23	0.1%
Lacking complete kitchen facilities	386	2.2%
Telephone Service – Occupied Housing Units		
Total	17,440	100.0%
No Service	78	0.4%

Sources: 2023 ACS 5-Year Estimates, Tables DP04, B25047, B25051

EMPLOYMENT DATA

Tables 21, 22, and 23 below detail the changes in employment between the years 2010 and 2023 in West Orange, Essex County, and New Jersey, respectively. Throughout this thirteen-year period, the Township saw an overall 3.6% decrease in its unemployment rate; although the Township experienced a 5.7% spike in unemployment between 2019 and 2020 due to the COVID-19 pandemic, it has rebounded to a considerably lower unemployment rate in recent years. This overall trend is mirrored at both the County and State level as well, although in comparison the Township has consistently exhibited a lower unemployment rate throughout this time period. In 2023, the Township's unemployment rate was 4.3%, which was lower than that of the County (5.5%) and State (4.4%).

Table 21: Employment and Residential Labor Force, 2011 to 2023 West Orange				
Year	Labor Force	Employment	Unemployment	Unemployment Rate
2011	23,964	22,063	1,901	7.9%
2012	24,113	22,110	2,003	8.3%
2013	23,789	22,017	1,772	7.4%
2014	23,621	22,195	1,426	6.0%
2015	23,682	22,468	1,214	5.1%
2016	23,536	22,501	1,035	4.4%
2017	24,502	23,523	979	4.0%
2018	24,341	23,452	889	3.7%
2019	24,737	23,960	777	3.1%
2020	24,367	22,214	2,153	8.8%
2021	24,400	22,836	1,564	6.4%
2022	24,821	23,907	914	3.7%
2023	25,337	24,257	1,080	4.3%

Source: NJ Dept. of Labor & Workforce Development Labor Force Estimates

Table 22: Employment and Residential Labor Force, 2011 to 2023				
Essex County				
Year	Labor Force	Employment	Unemployment	Unemployment Rate
2011	383,215	341,732	41,483	10.8%
2012	383,758	342,362	41,396	10.8%
2013	379,043	341,652	37,391	9.9%
2014	374,663	344,767	29,896	8.0%
2015	372,205	346,810	25,395	6.8%
2016	370,183	348,152	22,031	6.0%
2017	381,339	360,285	21,054	5.5%
2018	379,693	360,756	18,937	5.0%
2019	386,125	369,380	16,745	4.3%
2020	387,334	343,775	43,559	11.2%
2021	385,589	353,407	32,182	8.3%
2022	388,290	369,991	18,299	4.7%
2023	397,420	375,401	22,019	5.5%

Source: NJ Dept. of Labor & Workforce Development Labor Force Estimates

Table 23: Employment and Residential Labor Force, 2010 to 2023				
New Jersey				
Year	Labor Force	Employment	Unemployment	Unemployment Rate
2011	4,561,800	4,134,700	427,100	9.4%
2012	4,576,300	4,147,200	429,100	9.4%
2013	4,528,000	4,147,700	380,400	8.4%
2014	4,493,900	4,191,300	302,600	6.7%
2015	4,494,600	4,237,900	256,700	5.7%
2016	4,492,800	4,271,200	221,600	4.9%
2017	4,615,000	4,406,200	208,800	4.5%
2018	4,604,800	4,420,700	184,100	4.0%
2019	4,686,300	4,524,300	162,000	3.5%
2020	4,650,300	4,212,400	437,900	9.4%
2021	4,666,100	4,357,200	308,900	6.6%
2022	4,739,800	4,564,100	175,700	3.7%
2023	4,829,671	4,615,722	213,949	4.4%

Source: NJ Dept. of Labor & Workforce Development Labor Force Estimates

Employment Status

It is estimated that nearly two-thirds (69.1%) of West Orange's population over the age of 16 was in the labor force in 2023, which was slightly higher than the County's rate of 67.4%. Of the Township's labor force, 99.7% of workers were civilians and a vast majority (94.2%) was employed. At the County level, 99.9% of workers were civilians and 93.1% of the labor force was employed, indicating that the Township and County exhibited similar trends. This data is shown in Table 24 below.

Table 24: Employment, 2023 West Orange and Essex County						
	West Orange			Essex County		
	Number	% of 16+ Population	% of Labor Force	Number	% of 16+ Population	% of Labor Force
Population 16 years and over	39,196	100.0%	-	676,204	100.0%	-
In labor force	27,072	69.1%	100.0%	455,789	67.4%	100.0%
Civilian Labor Force	26,987	68.9%	99.7%	455,242	67.3%	99.9%
Employed	25,493	65.0%	94.2%	424,290	62.7%	93.1%
Unemployed	1,494	3.8%	5.5%	30,952	4.6%	6.8%
Armed Forces	85	0.2%	0.3%	547	0.1%	0.1%
Not in labor force	12,124	30.9%	-	220,415	32.6%	-

Source: 2023 American Community Survey 5-Year Estimates, Table DP03

Class of Worker and Occupation

According to the 2023 American Community Survey Estimates, the majority of workers (70.7%) living in West Orange were a part of the private wage and salary worker group. This group includes people who work for wages, salary, commission, and tips for a private for-profit employer or a private not-for-profit, tax-exempt or charitable organization. The next largest category was local government workers (8.6%), followed by those who were private not-for-profit wage and salary workers (7.0%). This data is outlined in Table 25 below.

Table 25: Class of Worker, 2023 West Orange		
	Number	Percent
Total Civilian Employed Workers (Age 16+)	25,493	100.0%
Private Wage and Salary Worker	18,011	70.7%
Private not-for-profit wage and salary workers	1,789	7.0%
Local Government Worker	2,203	8.6%
State Government Worker	1,741	6.8%
Federal Government Worker	384	1.5%
Self-Employed Worker or Unpaid Family Worker	1,365	5.4%

Source: 2023 American Community Survey 5-Year Estimates, Table S2408

The occupational breakdown shown in Table 26 below includes only private wage and salary workers. Township residents who worked within the private wage field concentrated heavily in Management, Business, Science, and Arts occupations as well as Sales and Office occupations. Collectively, the two fields accounted for just over 71.7% of the entire resident workforce over the age of 16.

Table 26: Resident Employment by Occupation, 2023 West Orange		
	Number	Percent
Employed Civilian population 16 years and over	25,493	100.0%
Management, business, science and arts occupations	13,547	53.1%
Service occupations	3,422	13.4%
Sales and office occupations	4,748	18.6%
Natural resources, construction and maintenance occupations	1,595	6.3%
Production Transportation and material moving occupations	2,181	8.6%

Source: 2023 American Community Survey 5-Year Estimates, Table DP03

As portrayed in Table 27, the industry that employed the greatest number of West Orange residents in 2023 was the Educational Services, and Health Care and Social Assistance sector, which accounted for 27.7% of the Township's resident workforce. The second most common industry during this time was the Professional, Scientific, and Management, and Administrative and Waste Management Services sector, which accounted for 16.5% of jobs occupied by Township residents.

Table 27: Employment by Industry, 2023 West Orange		
Industry	Number	Percent
Employed Civilian Population 16 Years and Over	25,493	100.00%
Agriculture, forestry, fishing and hunting, mining	14	0.1%
Construction	1,392	5.5%
Manufacturing	1,596	6.3%
Wholesale Trade	395	1.5%
Retail Trade	2,302	9.0%
Transportation and Warehousing, and Utilities	1,363	5.3%
Information	1,204	4.7%
Finance and insurance, and real estate and rental and leasing	2,224	8.7%
Professional, scientific, and management, and administrative and waste management services	4,216	16.5%
Educational services, and health care and social assistance	7,070	27.7%
Arts, entertainment, and recreation, and accommodation and food services	1,717	6.7%
Other Services, except public administration	958	3.8%
Public administration	1,042	4.1%

Source: 2023 American Community Survey 5-Year Estimates, Table DP03

Commuting to Work

In 2023, it is estimated that over half (57.3%) of the employed population that did not work from home commuted up to 35 minutes to their place of work. Approximately three-quarters of the Township's workers commuted up to an hour, with the last quarter of the population traveling between an hour to an hour and a half to get to work. A majority (55.3%) of the Township's working population drove alone as their primary means of travel to work. Roughly 15.4% of the population utilized public transportation. The West Orange Jitney Transportation Service includes a system of seven (7) different routes which cover all neighborhoods in the Township, offering an array of options for commuters and seniors.

Further, a total of 19.9% of the Township's population worked from home. The remaining population (9.3%) either walked, carpooled, or utilized a taxi, motorcycle, bike, or other means. This data is outlined in Tables 28 and 29 below.

Table 28: Travel Time to Work, 2023 West Orange		
	Number	Percent
Workers who did not work at home	20,177	100.0%
Less than 5 minutes	92	0.5%
5 to 9 minutes	1,057	5.2%
10 to 14 minutes	1,950	9.7%
15 to 19 minutes	2,288	11.3%
20 to 24 minutes	2,591	12.8%
25 to 29 minutes	1,010	5.0%
30 to 34 minutes	2,576	12.8%
35 to 39 minutes	829	4.1%
40 to 44 minutes	1,125	5.6%
45 to 59 minutes	2,085	10.3%
60 to 89 minutes	2,981	14.8%
90 or more minutes	1,593	7.9%
Mean Travel Time to Work (minutes)	36.5	

Source: 2023 American Community Survey 5-Year Estimates, Table B08303 and DP03

Table 29: Means of Travel to Work, 2023 West Orange		
	Number	Percent
Workers 16 years and over	25,204	100.0%
Car, truck, van - Drove Alone	13,937	55.3%
Car, truck, van - Carpooled	1,068	4.2%
Public Transportation	3,894	15.4%
Walked	321	1.3%
Taxicab, Motorcycle, Bike, or Other	957	3.8%
Worked at home	5,027	19.9%

Source: 2023 American Community Survey 5-Year Estimates, Table DP03

Covered Employment

There is currently very limited information available on actual job opportunities within municipalities. The Department of Labor and Workforce Development collects information on covered employment, which is employment and wage data for private employees covered by unemployment insurance. The following table provides a snapshot of private employers located within West Orange. Table 30 below reflects the number of jobs covered by private employment insurance from 2014 through 2023.

According to data from the New Jersey Department of Labor and Workforce Development, the highest number of jobs covered in West Orange between 2014 and 2023 was in 2017 when 14,402 jobs were covered by unemployment insurance. Private employment has decreased overall in West Orange since 2014, with its largest loss occurring between 2019 and 2020 (-13.3%); the largest gain occurred between 2021 and 2022 (7.8%). West Orange Township experienced a gain of 167 jobs in 2023, representing an increase of 1.3% percent from 2022.

Table 30: Private Wage Covered Employment 2014 - 2023			
West Orange			
Year	Number of Jobs	# Change	% Change
2014	14,047	-	-
2015	14,054	7	0.1%
2016	14,309	255	1.8%
2017	14,402	93	0.6%
2018	14,205	-197	-1.4%
2019	13,856	-349	-2.5%
2020	12,012	-1845	-13.3%
2021	12,344	333	2.8%
2022	13,301	957	7.8%
2023	13,469	167	1.3%

Source: NJ Dept. of Labor & Workforce Development Labor Force Estimates

In-Township Establishments and Employees by Industry: 2023

Table 31 below depicts the average annual number of establishments and employees by industry sector that exist within the Township, as reported in the Quarterly Census of Employment and Wages (QCEW) published by the New Jersey Department of Labor and Workforce Development (NJDLWD). The QCEW provides a quarterly accounting of employment, establishments, and wages throughout the State of New Jersey, and accounts for over 95% of available jobs in the state. The annual municipal reports group data according to the North American Industry Classification System (NAICS). The QCEW considers an establishment to be a single economic unit, which is located at one physical location and engaged in one

type of economic activity. The NJDLWD specifies that establishments differ from firms or companies in the sense that the latter can have multiple establishments.

In 2023, the Township had an annual average of 1,336 establishments employing an average of 13,469 people in the private sector. The local government sector had an annual average of 4 establishments employing an average of 1,609 people. The Health/Social sector was West Orange's predominant private sector in establishments and employment, with 399 establishments and 5,905 people employed. The Retail Trade and Accommodation/Food sectors also employed a substantial number of people, at 1,228 and 1,313 people, respectively.

Table 31: Average Number of Establishments and Employees by Industry, 2023			
West Orange			
Industry ID and Description		2023 Average	
		Units	Employment
22	Utilities	.	.
23	Construction	87	478
31	Manufacturing	16	74
42	Wholesale Trade	38	147
44	Retail Trade	86	1,228
48	Transp/Warehousing	35	213
51	Information	32	193
52	Finance/Insurance	47	290
53	Real Estate	52	205
54	Professional/Technical	151	612
55	Management	.	.
56	Admin/Waste Remediation	77	932
61	Education	19	418
62	Health/Social	399	5,905
71	Arts/Entertainment	30	586
72	Accommodations/Food	81	1,313
81	Other Services	120	594
99	Unclassified	60	58
	Private Sector Totals	1,336	13,469
	Local Government Totals	4	1,609

Source: NJ Dept. of Labor & Workforce Development Labor Force, Quarterly Census of Employment and Wages (QCEW), Municipal Report by Sector (NAICS Based), 2022

Data have been suppressed (-) for industries with few units or where one employer is a significant percentage of employment or wages of the industry.

Probable Future Employment Opportunities

The North Jersey Transportation Planning Authority (NJTPA) completes regional forecasts for the New York/New Jersey metropolitan area every four years for population, households, and employment. The most recent report was released in 2025, documenting projections between 2015 and 2050. The 2025 report predicts that the Township's population, households, and employment will see steady annualized growth through 2050. It is estimated that the population will see an overall 16.5% increase, while households will increase by 18.3% and employment will increase by 18.6%.

Table 32: Population and Employment Projections, 2015 to 2050 West Orange					
Category	2015	2050 (Projected)	Annualized	Overall Projected Change	
			Percent Change	Number	Percent
Population	46,391	54,026	0.44%	7,634	16.5%
Households	17,189	20,340	0.48%	3,151	18.3%
Employment	15,516	18,406	0.49%	2,889	18.6%

Source: NJTPA Municipal Forecasts 2025

PART 2: FAIR SHARE PLAN

INTRODUCTION

The following Fair Share Plan ("Plan") details the Township's Prior Round (1987-1999), Third Round (1999-2025), and Fourth Round (2025-2035) Prospective Need obligations, as well as the Township's Fourth Round Present Need. This Plan proposes mechanisms by which the Township can realistically provide opportunities for affordable housing for those moderate-, low-, and very low- income households.

CURRENT STANDARDS

The below section details the current key standards applicable to the Township's Fourth Round obligation including the various categories of credits.

Age-Restricted Housing

A municipality may not satisfy more than 30% of the affordable units, exclusive of bonus credits, to address its prospective need affordable housing obligation through the creation of age-restricted housing.

Transitional Housing

Transitional housing units, which will be affordable for persons of low- and moderate-income, were not previously categorized by the Fair Housing Act as a standalone housing type. The amended legislation includes such transitional housing units as a new category which may be included in the HE/FSP and credited towards the fulfillment of a municipality's fair share obligations. This is limited to a maximum of 10% of the municipality's obligations.

Veterans Housing

Up to 50% of the affordable units in any particular project may be prioritized for low- and moderate-income veterans.

Families with Children

A minimum of 50% of a municipality's actual affordable housing units, exclusive of bonus credits, must be made available to families with children.

Rental Units

A minimum of 25% of a municipality's actual affordable housing units, exclusive of bonus credits, shall be satisfied through rental units. At least half of that number shall be available to families with children.

Very-Low Income Requirement

At least 13% of the housing units made available for occupancy by low-income and moderate-income houses shall be reserved for low-income households earning 30% or less of the median income pursuant to the Fair Share Housing Act, N.J.S.A. 52:27D-301, et seq. Half of the very low-income units will be made available to families with children.

Low/Moderate Income Split

At least 50% of the units addressing the Township's obligation shall be affordable to very-low income and low-income households, and the remaining may be affordable to moderate-income households.

Affordability Controls

Newly created rental units shall remain affordable to low-and moderate-income households for a period of not less than 40 years, 30 years for for-sale units, and 30 years for housing units for which affordability controls are extended for a new term of affordability, provided that the minimum extension term may be limited to no less than 20 years as long as the original and extended terms, in combination, total at least 60 years.

Affirmative Marketing

The affordable units shall be affirmatively marketed in accordance with UHAC and applicable law, to include the community and regional organizations identified in the agreement as well as the posting of all affordable units on the New Jersey Housing Resource Center website in accordance with applicable law.

Uniform Housing Affordability Controls (UHAC)

All affordable units created through the provisions of this Plan shall be developed in conformance with the Uniform Housing Affordability Controls (UHAC) pursuant to N.J.A.C. 5:80-26.1 et seq. as amended.

Unit Adaptability

All new construction units shall be adaptable in conformance with P.L.2005, c.250/N.J.S.A. 52:27D-311a and -311b and all other applicable laws.

Bonus Credits

Bonus credits shall not exceed 25% of a municipality's prospective need obligation, nor shall a municipality receive more than one type of bonus credit for any one unit. Bonus credits may be granted on the following schedule:

Unit Type	Unit Credit	Bonus Credit
Each unit of low- or moderate-income housing for individuals with special needs or permanent supportive housing, as those terms are defined in section 2 of P.L. 2004, c.70 (C.34:1B-21.24).	1	1
Each low- or moderate-income ownership unit created in partnership sponsorship with a non-profit housing developer.	1	0.5
Each unit of low- or moderate-income housing located within a one-half mile radius, or one-mile radius for projects located in a Garden State Growth Zone, as defined in section 2 of P.L.2011, c.149 (C.34:1B-243), surrounding a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station, including all light rail stations. ¹	1	0.5
A unit of age-restricted housing, provided that a bonus credit for age-restricted housing shall not be applied to more than 10 percent of the units of age-restricted housing constructed in compliance with the Uniform Housing Affordability Controls promulgated by the New Jersey Housing and Mortgage Finance Agency in a municipality that count towards the municipality's affordable housing obligation for any single 10-year round of affordable housing obligations.	1	0.5
A unit of low- or moderate-income housing constructed on land that is or was previously developed and utilized for retail, office, or commercial space.	1	0.5
Each existing low- or moderate-income rental housing unit for which affordability controls are extended for a new term of affordability, in compliance with the Uniform Housing Affordability Controls promulgated by the New Jersey Housing and Mortgage Finance Agency, and the municipality contributes funding towards the costs necessary for this preservation.	1	0.5
Each unit of low- or moderate-income housing in a 100 percent affordable housing project for which the municipality contributes toward the costs of the project. ²	1	1
Each unit of very low-income housing for families above the 13 percent of units required to be reserved for very low-income housing pursuant to section 7 of P.L.2008, c.46 (C.52:27D-329.1).	1	0.5
Each unit of low- or moderate-income housing created by transforming an existing rental or ownership unit from a market rate unit to an affordable housing unit. ³	1	1

¹ The distance from the bus, rail, or ferry station to a housing unit shall be measured from the closest point on the outer perimeter of the station, including any associated park-and-ride lot, to the closest point of the housing project property.

² This contribution may consist of: (a) real property donations that enable siting and construction of the project or (b) contributions from the municipal affordable housing trust fund in support of the project, if the contribution consists of no less than three percent of the project cost.

³ A municipality may only rely on this bonus credit as part of its fair share plan and housing element if the municipality demonstrates that a commitment to follow through with this market to affordable agreement has been made and: (a) this agreement has been signed by the property owner; or (b) the municipality has obtained ownership of the property.

WEST ORANGE TOWNSHIP AFFORDABLE HOUSING OBLIGATIONS

The Township's affordable housing obligations are as follows:

West Orange Township Obligation	
Fourth Round Rehabilitation Share	409
Prior Round Prospective Need Obligation (1987-1999)	226
Third Round Prospective Need Obligation (1999-2025)	954
Fourth Round Prospective Need Obligation (2025-2035)	660

REVIEW OF PRIOR ROUND COMPLIANCE

As part of any Housing Element and Fair Share Plan, a municipality shall include an assessment of the degree to which the municipality has met its fair share obligation from the previous rounds of affordable housing obligations as established by prior Court approval or approval by COAH and determine to what extent this obligation is unfulfilled or whether the municipality has credits in excess of its previous round obligations. If a previous round obligation remains unfulfilled, or a municipality never received an approval from the Court or COAH for any previous round, the municipality shall address such unfulfilled previous round obligation in its Housing Element and Fair Share Plan.

In addressing previous round obligations, the municipality shall retain any sites that, in furtherance of the previous round obligation, are the subject of a contractual agreement with a developer, or for which the developer has filed a complete application seeking subdivision or site plan approval prior to the date by which the Housing Element and Fair Share Plan are required to be submitted, and shall demonstrate how any sites that were not built in the previous rounds continue to present a realistic opportunity.

Prior Round Compliance (1987-1999)

The Township had a Prior Round obligation of 226 units. Per the Court-approved Third Round Settlement Agreement and the Township's Third Round JOR, West Orange met their Prior Round obligation through the following mechanisms:

Existing 100% Affordable Developments

Degnan House/ Eagle Rock Senior Citizen's Housing

Degnan House/ Eagle Rock Senior Citizen's Housing is located at 430 Main Street and includes Lot 27.01 of Block 113.01. The five-story apartment building was completed in 1979, and includes 62 age-restricted rental units. Of these 62 units, 10 units are applied toward the Township's Prior Round obligation, since only these units were occupied after April 1, 1980. This project was funded by the US Department of Housing and Urban Development (HUD), and its affordability controls have since expired.

All associated documentation can be found in the appendix of the Township's Court-approved Third Round Housing Element and Fair Share Plan, adopted on November 17, 2020.

Federation Plaza

Federation Plaza is located at 750 Northfield Avenue and includes Lot 16 of Block 65. The 100% affordable age-restricted complex includes a total of 134 rental units across four (4) internally connected buildings, ranging between 3 and 5 stories in height. The complex opened in December of 1980. This project was funded by Low-Income Housing Tax Credits (LIHTC), and affordability controls will remain in effect until November 1, 2029.

Of the 134 units, 92 units were applied toward the Township's Prior Round obligation. All associated documentation can be found in the appendix of the Township's Court-approved Third Round Housing Element and Fair Share Plan, adopted on November 17, 2020.

Habitat for Humanity

Habitat for Humanity Newark Inc., owns two (2) for-sale family units located within a two-family residence at 112 Whittlesey Avenue (Block 123, Lot 29). The first unit was occupied in 2007, and the second was occupied in 2013. The 30-year affordability controls for the two-family dwelling began on February 22, 2013.

A total of two (2) credits were applied to the Township's Prior Round obligations. All associated documentation can be found in the appendix of the Township's Court approved Third Round Housing Element and Fair Share Plan, adopted on November 17, 2020.

Existing Alternative Living Arrangements

Wedgewood Drive

Wedgewood is located at 4 Wedgewood Drive and includes Lots 29.03 and 29.04 of Block 15. The alternative living arrangement is owned and operated by the ARC of Essex County and includes four (4) very-low-income rental bedrooms . The 20-year affordability controls for the group home began shortly after it was occupied, on December 31, 1984.

Two (2) of the four units were applied toward the Township's Prior Round obligation, in addition to two (2) rental bonus credits. All associated documentation can be found in the appendix of the Township's Court-approved Third Round Housing Element and Fair Share Plan, adopted on November 17, 2020.

30-32 Kingsley

30-32 Kingsley is located at 30-32 Kingsley Street and includes Lot 61 of Block 155.20. The alternative living arrangement is owned and operated by the Easter Seal Society of New Jersey and includes eight (8) very-low-income rental bedrooms. The 10-year affordability controls for the group home began shortly after it was occupied, on May 1, 1992.

All eight units were applied toward the Township's Prior Round obligation. All associated documentation can be found in the appendix of the Township's Court-approved Third Round Housing Element and Fair Share Plan, adopted on November 17, 2020.

1 Marmon Terrace

1 Marmon Terrace is located at 1 Marmon Terrace and includes Lot 4 of Block 176.02. The alternative living arrangement is owned and operated by the ARC of Essex County and includes six (6) very-low-income rental bedrooms. The 20-year affordability controls for the group home began shortly after it was occupied, on December 31, 1992.

All six units were applied toward the Township's Prior Round obligation, in addition to six (6) rental bonus credits. All associated documentation can be found in the appendix of the Township's Court-approved Third Round Housing Element and Fair Share Plan, adopted on November 17, 2020.

Merrywood Drive

Merrywood Drive is located at 2 Merrywood Drive and includes Lot 3 of Block 76. The alternative living arrangement is owned and operated by the Developmental Disabilities Association and includes five (5) very-low-income rental bedrooms. The group home opened in 1998. The 20-year affordability controls for the group home began shortly after it was occupied, on January 9, 1998.

All five units were applied toward the Township's Prior Round obligation, in addition to five (5) rental bonus credits. All associated documentation can be found in the appendix of the Township's Court-approved Third Round Housing Element and Fair Share Plan, adopted on November 17, 2020.

Proposed Development

PRISM Redevelopment

Phase 1

On February 9, 2003, the Township Council approved an Ordinance adopting a redevelopment plan for the Downtown Redevelopment Area (the "Redevelopment Plan"), which has been amended several times. The Township and Prism Green Associates IV, LLC ("Prism") entered into a Redevelopment Agreement on December 20, 2006 (the "Original Redevelopment Agreement"), which authorized Prism to redevelop certain properties including but not limited to Block 66, Lots 1, 5 and 7 (collectively, the "Edison Battery Parcels"). Amendments to the Redevelopment Agreement were on May 8, 2007, June 21, 2007, September 11, 2007, and October 27, 2009.

The Original Redevelopment Agreement defined the scope of work throughout the entire Redevelopment Area as the "construction or rehabilitation of a total of 609 residential units comprising approximately 538 "for sale" market rate residential units and uses attendant and necessary thereto; up to 71 low and moderate income affordable residential units pursuant to the applicable regulations of the NJ Council on Affordable Housing ("COAH") and the Township's growth share obligations thereunder."

The Township and Prism entered into a modified Agreement dated August 8, 2014 (the "First Agreement Amendment"). The Modification Agreement redefined the scope of the Phase 1 Project to contain "(i) approximately 333 residential rental units; (ii) approximately 18,500 square feet of commercial retail space; (iii) approximately 31,700 square feet of other amenity support space; (iv) a parking structure containing approximately 635 spaces (the "Parking Deck"); and (v) such other parking areas as may be approved by the Planning Board in accordance with the provisions of the Redevelopment Plan to accommodate parking for residential and retail uses as hereinafter provided; together with certain public infrastructure and

improvements relating thereto, including utilities, roadways, pathways, sidewalks, public rights of way and open space, and other amenities on the Edison Battery Parcels.”

A revised Redevelopment Agreement was executed between the Township and DGP Urban Renewal LLC., on August 11, 2015 (the “Second Agreement Amendment”). This Second Amendment redefined the affordable housing obligations of the Phase 1 construction:

“The Township hereby expressly agrees and acknowledges that Redeveloper shall have no obligation to include any affordable housing units within the Phase 1 Project or on the Phase 1 Property. However, Redeveloper will make payment of a non-residential development fee in accordance with N.J.S.A. 40:55D-8.1 et seq. (the “Non Residential Development Fee”), but only in the event and to the extent that such fee applies at the time of issuance of the Certificate of Occupancy for the non-residential portion of the Project” (Section 4.7).

Further, the Second Amendment also established a timeframe for construction: “Commencement of Construction of the Phase 1 Project will commence by September 30, 2015, and Completion of Construction of Phase 1 Project will take place by September 30, 2017.” Phase 1 was completed according to this timeline, thus creating the current Edison Lofts building on the site.

Phase 2

Phase 2 of the Downtown Redevelopment Plan is divided into four (4) subphases: Phases 2A, 2B, 2C, and 2D (see following map). Collectively, the subphases will result in the construction of 296 additional residential units, including 44 affordable rental units for low- and moderate-income residents. Phase 2C outlines the construction of the 44 affordable apartments at 28, 32, 38-40, and 42 Ashland Avenue and 64 Park Avenue (Block 64, Lots 3, 21, 22, 25, and 27).

A financial agreement was executed for these lots between the Township and GP Ashland Housing, LLC., on August 3, 2017 (Appendix F). A proposal to create these 44 affordable units through new inclusionary developments along Ashland Avenue and/or at 216-22 Main Street was submitted on March 13, 2024.

A total of 44 credits were applied toward the Township’s Prior Round obligation. The Township finds that the zoning in place remains appropriate for the character of the area and the need for affordable housing, particularly in proximity to Main Street.

The sites are appropriate for multi-family low- and moderate-income housing as they are available, approvable, developable, and suitable:

- *Available:* The sites have no easements or title issues preventing their development.
- *Suitable:* The sites are adjacent to compatible land uses, as established residential neighborhoods are located on Ashland Street. The lots are located across from the multifamily Edison Lofts

building. Their development is consistent with the goals and strategies outlined in the State Plan, as they are located within the Metropolitan Planning Area (PA 1). Further, the sites have direct street access to Ashland Street, and are located within three blocks northwest of Interstate 280, offering more direct access to employment and service establishments.

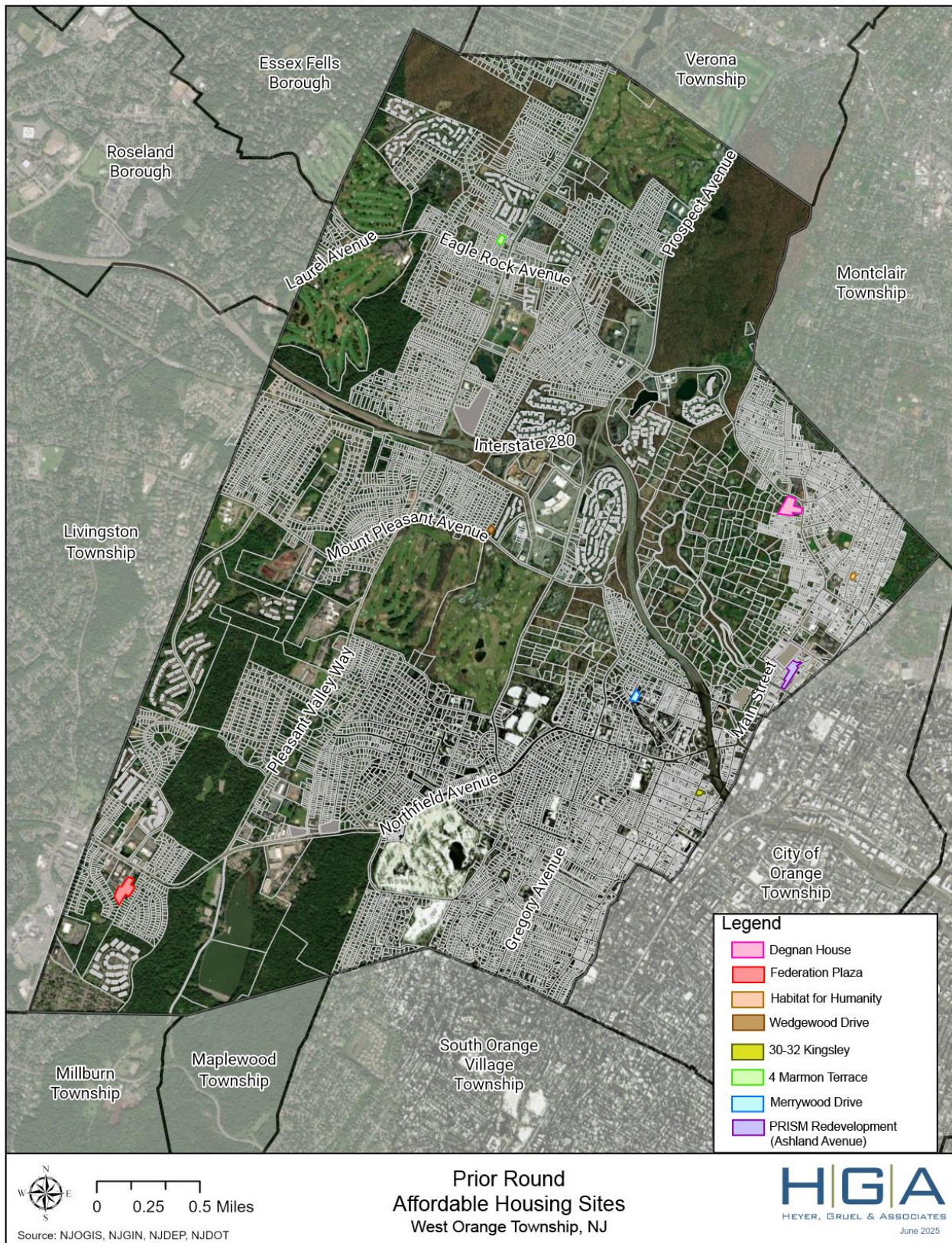
- *Developable:* The sites fall within a drinking water service area, and within the sewer service area. The sites are not constrained by wetlands or any special flood hazard areas.
- *Approvable:* The sites are within the Downtown Redevelopment Area, where residential uses are permitted. In addition, a Redevelopment Agreement has been executed which requires the development of the 44 affordable units.



Summary of Prior Round Obligation

The Township fully addressed its 226-unit Prior Round obligation as follows:

Summary of West Orange's Prior Round Obligation of 226	
Existing 100% Affordable Developments: Degnan House/ Eagle Rock Senior Citizen's Housing Federation Plaza Habitat for Humanity	10 units 92 units 2 units
Existing Alternative Living Arrangements: Wedgewood Drive 30-32 Kingsley 1 Marmon Terrace Merrywood Drive	2 bedrooms 8 bedrooms 6 bedrooms 5 bedrooms
Proposed Development: PRISM Redevelopment	44 units
Total Units	169
Bonus Credits: Wedgewood Drive 1 Marmon Terrace Merrywood Drive PRISM Redevelopment	2 credits 6 credits 5 credits 44 credits
Total Bonus Credits	57
Total Prior Round	226



Third Round Compliance

The Township had a Third Round obligation of 954 units. As part of its Third Round compliance process, the Township received a Vacant Land Adjustment in 2017 due to its lack of vacant and developable land (the “2017 VLA”). Based on the approved 2017 VLA, the Township received a Realistic Development Potential (RDP) of 421 units and an Unmet Need of 533 units.

Per the Court-approved Third Round settlement agreement and the Township’s Third Round JOR, West Orange met its Third Round RDP and unmet need obligation through the following mechanisms:

Addressing the Third Round RDP

Existing Alternative Living Arrangements

Wedgewood Drive

The remaining two (2) of the group home’s four bedrooms were applied toward the Township’s Third Round obligation. Two (2) rental bonus credits were also applied. All associated documentation can be found in the appendix of the Township’s Court-approved Third Round Housing Element and Fair Share Plan, adopted on November 17, 2020.

Dogwood Drive

Dogwood Drive is located at 1919 Dogwood Drive and includes Lot 10 of Block 165.04. The alternative living arrangement is owned and operated by Project Live and includes four (4) very-low-income rental bedrooms. The group home opened in 1998. The 20-year affordability controls for the group home began on June 16, 1999.

All four units were applied toward the Township’s Third Round obligation. All associated documentation can be found in the appendix of the Township’s Court-approved Third Round Housing Element and Fair Share Plan, adopted on November 17, 2020.

525 Pleasant Valley Way

Pleasant Valley Way is located at 525 Pleasant Valley Way and includes Lot 8.03 of Block 176.01. The alternative living arrangement is owned and operated by Cerebral Palsy of North Jersey and includes six (6) very-low-income rental bedrooms. The 20-year affordability controls for the group home began shortly after it was occupied, on June 23, 1997.

All six units were applied toward the Township’s Third Round obligation. All associated documentation can be found in the appendix of the Township’s Court-approved Third Round Housing Element and Fair Share Plan, adopted on November 17, 2020.

Forest Avenue

The Forest Avenue group home is located at 2A Forest Avenue and includes Lot 962 of Block 152.18. The alternative living arrangement is owned and operated by Our House Inc. The group home includes four (4) very-low-income rental bedrooms. The group home opened in 2013. The 30-year affordability controls for the site began on August 15, 2012.

All four units were applied toward the Township's Third Round obligation. All associated documentation can be found in the appendix of the Township's Court-approved Third Round Housing Element and Fair Share Plan, adopted on November 17, 2020.

St. Cloud

The St. Cloud group home, located at 19 Lessing Road (Block 158.06, Lot 36) is also owned and operated by Our House Inc. The group home includes four (4) very-low-income rental bedrooms, and opened in 2009. The 30-year affordability controls for the site began on August 14, 2007.

All four units were applied toward the Township's Third Round obligation. All associated documentation can be found in the appendix of the Township's Court-approved Third Round Housing Element and Fair Share Plan, adopted on November 17, 2020.

Existing 100% Affordable Developments

Federation Plaza.

Of the complex's 134 age-restricted units, the remaining 42 credits were applied to the Third Round obligation.

Washington Street

Washington Street is located at 39 Washington Street and includes Lot 1 of Block 121. Located on the site is a 100% affordable development containing three (3) rental units for families of low- and moderate-income. The project was funded by LIHTC. Certificates of occupancy were issued soon after. The 45-year affordability controls for the site began on January 1, 2007.

All three units were applied to the Township's Third Round obligation. All associated documentation can be found in the appendix of the Township's Court-approved Third Round Housing Element and Fair Share Plan, adopted on November 17, 2020.

152 Main Street

The property at 152 Main Street includes Lot 23 of Block 89. In 2007, a 100% affordable development was constructed on the site, which includes three (3) rental units for families of low- and moderate- income.

Certificates of occupancy were issued soon after. The project was funded by LIHTC. The 45-year affordability controls for the site began on January 1, 2007.

All three units were applied to the Township's Third Round obligation. All associated documentation can be found in the appendix of the Township's Court-approved Third Round Housing Element and Fair Share Plan, adopted on November 17, 2020.

158 Main Street

The property at 158 Main Street includes Lot 20 of Block 89. In 2007, a 100% affordable development was constructed on the site, which includes three (3) rental units for families of low- and moderate- income. Certificates of occupancy were issued soon after. The project was funded by LIHTC. The 45-year affordability controls for the site began on January 1, 2007.

All three units were applied to the Township's Third Round obligation. All associated documentation can be found in the appendix of the Township's Court-approved Third Round Housing Element and Fair Share Plan, adopted on November 17, 2020.

46 Mount Pleasant Avenue

The property at 46 Mount Pleasant Avenue (Block 68, Lot 1) previously contained the West Orange Township Library. The Township's Third Round Housing Element and Fair Share Plan outlined a total of 64 affordable units to be constructed on this site.

Site plan approval was granted to construct a 100% affordable four-story multifamily development for seniors on the site on August 7, 2019 (Planning Board Resolution B-19-05C). The approval included the construction of 65 age-restricted units, which includes 61 one-bedroom units, three (3) two-bedrooms, and one (1) two-bedroom superintendent unit. Resolution B-19-05C outlines that half of the units (i.e., 32 units) are for moderate-income residents, 23 units are for low-income residents, four (4) units are for very-low-income residents, and five (5) units are to serve as supportive housing for homeless residents. The building also includes 7,500 square feet of community space, and on-site parking is provided for residents. Subsequent to site plan approval, the site was granted subdivision approval to vacate an existing right-of-way and thus accommodate a new circulation pattern into the development (Planning Board Resolution 22-07).

The development was completed in 2024, and certificates of occupancy were issued on December 11, 2024. As of the writing of this Plan, all units are occupied.

Of the 64 total units, only 17 credits could be applied toward the Township's Third Round RDP obligation, due to caps on age-restricted units during that Round. The remaining 47 credits from this development were applied to the Third Round Unmet Need. See Appendix G for documentation.

Inclusionary Developments

Valley Road Residential

Valley Road Residential is an inclusionary development located at 22-27 Central Avenue and includes Lot 1.01 of Block 9. The five-story building includes 55 affordable family rental units and 45 market rate units. The affordable units include a total of 11 one-bedroom units, 36 two-bedroom units, and eight (8) three-bedroom units.

A recipient of LIHTC in 2018, the building was completed in 2020. All units within the building are now occupied. The site's 30-year affordability controls began on August 23, 2018.

All 55 affordable units were applied toward the Township's Third Round obligation, in addition to 55 rental bonus credits. All associated documentation can be found in the appendix of the Township's Court-approved Third Round Housing Element and Fair Share Plan, adopted on November 17, 2020.

West Essex Highlands

West Essex Highlands is a 120-acre lot located in the northwestern corner of the Township adjacent to Warner Road (Lot 32 of Block 179). The site was the subject of a settlement agreement, executed by the Township and West Essex Highlands, Inc. ("WEHI"), and the West Essex Highlands Condominium Association (the "Association") on April 23, 2020. On October 10, 2020, the Township adopted an ordinance rezoning the property to the IH-1 Inclusionary Housing District (Ordinance 2614-20). See Appendix H.

An application for the site has been filed seeking Preliminary and Final Major Site Plan Approval. The Planning Board is currently holding public hearings on the application. Ordinance 2614-20 outlines a maximum of four hundred and ninety-six (496) units on the site, with a mandatory 20% affordable set-aside (i.e., 100 units).

Of the site's 100 affordable units, 12 will be one-bedroom units, 64 will be two-bedroom units, and 24 will be three-bedroom units. Affordability controls on the site will expire 30 years from the date of initial occupancy.

The site is appropriate for inclusionary development, as it is available, approvable, developable, and suitable:

- *Available:* The site has no easements or title issues preventing its development.
- *Suitable:* The site is adjacent to compatible land uses, with established residential neighborhoods within the existing Highlands at West Essex condominium complex. The site's development is consistent with the goals and strategies outlined in the State Plan, as it is located within the Metropolitan Planning Area (PA 1). Further, the site has street access to Warner Road, which offers direct connections to Oval Road and Eagle Rock Avenue.

- *Developable:* The site falls within the sewer and water service areas. While a portion of the site is constrained by wetlands, proposed development is concentrated within the unconstrained areas of the site.
- *Approvable:* The site was rezoned to the IH-1 Inclusionary Housing District in October of 2020 (Ordinance 2614-20), which permits multifamily development as a principal use. The ordinance permits a maximum number of 496 dwelling units on the site and requires an affordable housing set-aside of 20% of the units constructed. An application for the development outlined above is currently being reviewed by the Township's Planning Board.



Selecto Flash

The Selecto Flash sites include Block 9, Lots 32 and 36 (8-10 Central Avenue and 18 Central Avenue), as well as Block 6, Lot 36.01 (25 Tompkins Street). Lot 36 measures approximately 1.3 acres in area. The two lots located on Block 9 are included within the Central Avenue Redevelopment Plan, which was adopted on December 12, 2016. The redevelopment plan permits a gross density of up to 70 dwelling units/acre for inclusionary multifamily development. Block 6, Lot 36.01 is located within the R-M Multi-family residences district of the Township, where multifamily development is a permitted principal use.

Central Avenue Redevelopment Area

Block 9, Lot 32 measures approximately 0.5 acres in area and includes the remains of the historic building of Biddelman, Inc. (the “Biddelman building”). From approximately 1985 to 2004, the building was used for both a letter printing business and a company which assembled plastic forms. All operations within the Biddelman building ceased in April 2004, and the site has been vacant since.

Abutting Lot 32 to the east is Lot 36 of Block 9, which the Township acquired through foreclosure in April 2016. After standing vacant for over a year, the buildings were demolished in the fall of 2017. Remediation efforts have been underway since the demolition. As of the writing of this Plan, remediation is almost complete, and the lot remains vacant.

The Central Avenue Redevelopment Plan permits up to 111 residential units (including a 15% set aside of 17 affordable units), to be constructed on these two lots. Further, on April 7, 2021, the Township Planning Board granted preliminary and final major site plan and bulk variance approval to construct a five-story mixed-use development on Lots 32 and 36 (i.e., 18 Central Avenue). The development includes 94 market rate residential units, 1,223 square feet of residential amenity space, 3,500 square feet of a ground floor commercial space, and on-site parking accommodations. The approval for 18 Central Avenue also states that the 17 affordable units are to be constructed on an off-site lot, at 25 Tompkins Street (Block 36.01, Lot 6).

25 Tompkins Street

On May 5, 2021, the Township of West Orange approved an application to develop the 14,788 square foot (0.3 acre) lot with a new 100% affordable multifamily development. The building is three stories tall and includes an on-site management office. The development includes three (3) one-bedroom units, ten (10) two-bedroom units, and four (4) three-bedroom units.

The building is fully constructed and awaiting a certificate of occupancy. Affordability controls on the site will expire 30 years from the date of initial occupancy. See Appendix I for documentation.

The site at 25 Tompkins Street is appropriate for inclusionary development, as it is available, approvable, developable, and suitable:

- *Available:* The site has no easements or title issues preventing its development.
- *Suitable:* The site is adjacent to compatible land uses, with established residential neighborhoods along Tompkins Street and Mitchell Street. The site's development is consistent with the goals and strategies outlined in the State Plan, as it is located within the Metropolitan Planning Area (PA 1).
- *Developable:* The site falls within both the sewer and public water service areas. The site is not constrained by wetlands, or located within a flood hazard area.
- *Approvable:* The site was approved for a 100% affordable multifamily development by the Township Planning Board on May 5, 2021, and is fully constructed.

Essex Green/Executive Drive Redevelopment Area

The Essex Green/Executive Drive Redevelopment Area encompasses five (5) parcels along Executive Drive and Rooney Circle in the Township: 100 Executive Drive (Block 155, Lot 40.02), 200 Executive Drive (Block 155, Lot 42.02), 10 Rooney Circle (Block 155, Lot 41.02), 300 Executive Drive (Block 155, Lot 40.04), and Block 155, Lot 40.03.

The Township designated the area as a Redevelopment Area and adopted a redevelopment plan for all five parcels on June 11, 2019 (Ordinance 2573-19). Green Essex Partners was named as a conditional redeveloper on July 16, 2019 (Resolution 186-19). An amendment to the redevelopment plan which amended the Essex Green/Executive Drive Redevelopment Area to include only 100 Executive Drive, 200 Executive Drive, and 10 Rooney Circle was adopted on February 9, 2021 (Ordinance 2632-21). The following development is within the Essex Green/Executive Drive Redevelopment Area.

Stonehill

On August 6, 2020, the Township Planning Board adopted a resolution granting site plan approval for 100 and 200 Executive Drive. The application proposed a total of three (3) four-story multifamily residential buildings to be constructed, as well as a dog park, surface parking lots, and a parking garage. This new residential community, now known as Stonehill, includes a total of 425 rental apartments throughout the three buildings.

As outlined in the Third Round Housing Plan, the development requires a 15% affordable set-aside, which amounts to 64 affordable units. Of the 64 affordable units, 13 are one-bedroom units, 38 are two-bedroom units, and 13 are three-bedroom units. Certificates of occupancy for Stonehill were issued on December 12, 2024, which initiated the site's 30-year affordability controls. All units are occupied. See Appendix J for documentation.

Block 155, Lot 40.03

The Township's Third Round Housing Element and Fair Share plan states that a total of 23 affordable units are to be constructed on Block 155, Lot 40.03. The lot abuts the Stonehill development and is accessed along Rooney Circle. This parcel measures approximately 5.3 acres in area and was rezoned to the IH-2 Inclusionary Housing District through Township Ordinance 2642-21 (adopted on March 23, 2021) (see Appendix H).

This rezoning has not produced affordable units. The Township finds that the zoning in place remains appropriate for the character of the area and the need for affordable housing. A total of 23 credits were applied toward the Township's Third Round obligation.

The site continues to be appropriate for inclusionary development, as it is available, approvable, developable, and suitable:

- *Available:* The site has no easements or title issues preventing its development.
- *Suitable:* The site is adjacent to compatible land uses, including the newly-established multifamily residential Stonehill community along Executive Drive. The site's development is consistent with the goals and strategies outlined in the State Plan, as it is located within the Metropolitan Planning Area (PA 1).
- *Developable:* The site falls within both the sewer and public water service areas. The site is not constrained by wetlands, or located within a flood hazard area.
- *Approvable:* The site was rezoned within the Essex Green/Executive Drive Redevelopment Area on June 11, 2019 (Ordinance 2573-19).



Summary of West Orange's Third Round RDP of 421	
Existing 100% Affordable Developments Federation Plaza Washington Street 152 Main Street 158 Main Street 46 Mount Pleasant Avenue	42 units 3 units 3 units 3 units 17 units
Existing Alternative Living Arrangements: Wedgewood Drive Dogwood Drive 525 Pleasant Valley Way St. Cloud/Forest Avenue	2 bedrooms 4 bedrooms 6 bedrooms 8 bedrooms
Inclusionary Development: Valley Road Residential West Essex Highlands Selecto Flash/25 Tompkins Street Essex Green/Executive Drive Redevelopment Area Stonehill Block 155, Lot 40.03	55 units 100 units 17 units 64 units 23 units
Total Units	347
Bonus Credits: Valley Road Residential West Essex Highlands	23 credits 51 credits
Total Bonus Credits	74
Total Third Round RDP	421

Addressing the Third Round Unmet Need

According to the FSHC Settlement Agreement, the Township had an unmet need of 533 units. The Township has addressed its unmet need of 533 by utilizing the following mechanisms:

Third Round RDP Surplus Credits

A surplus of 32 bonus credits from the Third Round RDP were applied to the Township's Third Round Unmet Need obligation.

46 Mount Pleasant Avenue

Due to caps on age-restricted units during the Third Round, only 17 of the 64 total affordable units within the 46 Mount Pleasant Avenue development could be applied toward the Township's Third Round RDP obligation. Therefore, the remaining 47 credits from this development were applied to the Third Round Unmet Need.

K-Mart/Whole Foods Shopping Center

The K-Mart/Whole Foods Shopping Center is located at 235 Prospect Avenue and includes Block 152.01, Lots 1445 and 1445.05. Collectively, these lots measure approximately 32.3 acres in area and are developed with a commercial shopping center and surface parking lot. The shopping center is not operating at full capacity; K-Mart, the former anchor tenant, vacated years ago. Smaller-scale tenants continue to operate within the complex.

This lot was rezoned as the IHO-1 Inclusionary Housing Overlay District through Ordinance 2619-20 (adopted on October 20, 2020) (see Appendix H).

Further, the Township's Planning Board granted bulk variance and preliminary and final site plan approval for renovation and expansion of the shopping center on October 25, 2023 (PB Application #21-01). The scope of this approval was entirely commercial and did not include residential or mixed-use components. The approval includes establishing Target as the complex's new anchor tenant, as well as the construction of three new commercial buildings, circulation and parking improvements, new signage, upgraded landscaping, new lighting, and more.

A total of 104 credits from the Kmart/Whole Foods Shopping Center site were applied toward the Township's Third Round obligation.

Mayfair Farms

The Mayfair Farms site is located at 481 Eagle Rock Avenue and includes Block 152.01, Lot 1445.01. Measuring approximately 11.1 acres in area, the lot is currently developed with the remains of the Mayfair Farms banquet hall and parking improvements.

After the banquet hall closed in 2022, the site became partially occupied by Wonder, a food delivery and take-out service. Within the rear section of the property, the company is utilizing a vacant outbuilding for barbeque smokestacks. However, Wonder expects to vacate the outbuilding by September.

The Third Round Housing Plan required an overlay for this property of up to 16 dwelling units/acre, with a 20% affordable set-aside. This lot was rezoned as the IHO-1 Inclusionary Housing Overlay District through Ordinance 2619-20 (adopted on October 20, 2020) (see Appendix H).

Discussions to construct an inclusionary development on the site have been ongoing. It should be noted that the Redeveloper filed a builder's remedy lawsuit in July of this year. The Township finds that the zoning in place remains appropriate for the character of the area and the need for affordable housing.

The site is appropriate for inclusionary development, as it is available, approvable, developable, and suitable:

- *Available:* The site has no easements or title issues preventing its development.
- *Suitable:* The site is adjacent to compatible land uses, with the K-Mart/Whole Foods Shopping Center to the east, commercial uses and restaurants along Eagle Rock Avenue, and residential communities located south of Eagle Rock Avenue and west of Prospect Avenue. The site's development is consistent with the goals and strategies outlined in the State Plan, as it is located within the Metropolitan Planning Area (PA 1). Further, residents will have direct access to Eagle Rock Avenue.
- *Developable:* The site falls within both a sewer and public water service areas. The site is not constrained by wetlands, or located within a flood hazard area.
- *Approvable:* The site was rezoned with an IHO-1 Inclusionary Housing Overlay on October 20, 2020 (Ordinance 2619-20).



Redwood Site

The Redwood Site is located at 200 Pleasant Valley Way (Block 151, Lot 33). The Third Round Housing Plan required an overlay for this property of up to 24 dwelling units/acre, with a 20% affordable set-aside. These 28 credits were applied toward the Township's Third Round Unmet Need obligation.

This lot was rezoned as the IHO-2 Inclusionary Housing Overlay District through Ordinance 2619-20 (adopted on October 20, 2020) (see Appendix H).

On June 7, 2023, the Township of West Orange's Planning Board granted preliminary and final major site plan approval to construct a multifamily residential development on the site. The approved development includes a total of 142 units, which includes 28 affordable units. The affordable units include four (4) one-bedroom units, 16 two-bedroom units, and eight (8) three-bedroom units. The Township is anticipating building permits to be issued within the coming months.

The site is appropriate for inclusionary development, as it is available, approvable, developable, and suitable:

- *Available:* The site has no easements or title issues preventing its development.
- *Suitable:* The site is adjacent to compatible land uses, including the Brighton Gardens of West Orange assisted living facility, and single-family residential neighborhood to the southeast. The site's development is consistent with the goals and strategies outlined in the State Plan, as it is located within the Metropolitan Planning Area (PA 1). Further, residents will have direct access to Eagle Rock Avenue.
- *Developable:* The site falls within both sewer and public water service areas. The site is not constrained by wetlands, or located within a flood hazard area.
- *Approvable:* The site was rezoned with an IHO-2 Inclusionary Housing Overlay on October 20, 2020 (Ordinance 2619-20) and has recently received site plan approval.



10 Rooney Circle

The property at 10 Rooney Circle (Block 155, Lot 41.02) is also located within the Essex Green/Executive Drive Redevelopment Area. This lot measures approximately 5.2 acres in area and is accessed from Rooney Circle. The Third Round Housing Plan states that a zoning overlay may be placed on the site to accommodate future residential uses, if this was the path decided by the previous owner and the Township. The residential component would include a total of 83 dwelling units, including 17 affordable units (representing a 20% affordable set aside).

The Township purchased the property in November of 2021, and it has not rezoned the site for residential use. The former office building on the site was renovated and contains the new West Orange Public Library, which was reopened to the public in December of 2023.

Rock Spring Golf Club

The Rock Spring Golf Club, which is owned by the Township, is accessed along Rock Spring Road and includes Lot 10 of Block 160. The golf course is approximately 138 acres in area, and is located within the R-1 (One-family dwellings on 80,000 square foot lots) district of the Township.

The Third Round Housing Plan states that a portion of the site may be rezoned to accommodate at least 150 dwelling units, including a total of 30 affordable units (representing a 20% set aside) if the continued use as a golf course is not viable. The golf course continues to operate and has been placed on the Township's Green Acres inventory.

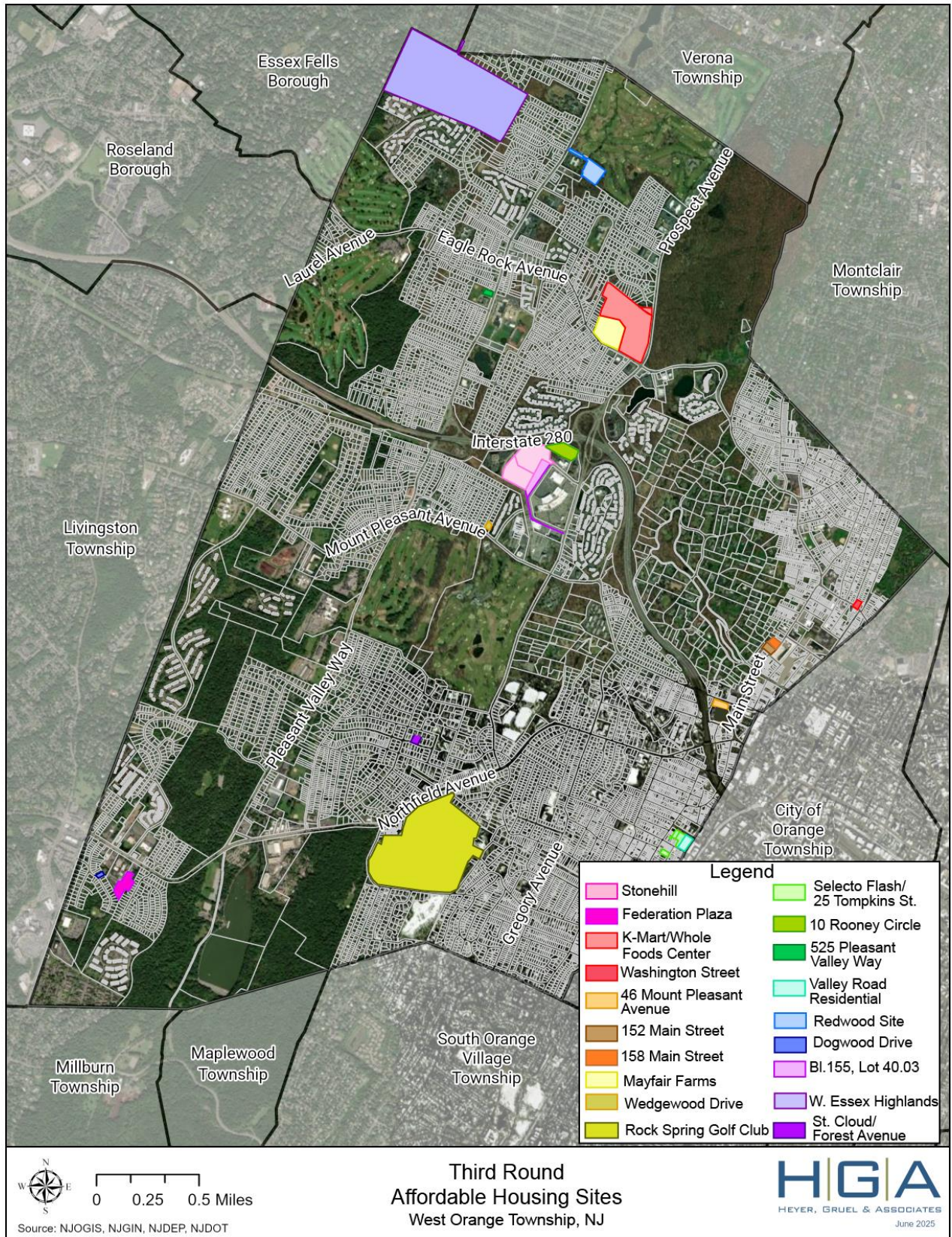
Mandatory Set-Aside Ordinance

The Township adopted a Mandatory Set-Aside Ordinance (MSO) for all new multi-family residential development of 5 units or more to provide a 15% set aside for rental developments and a 20% set aside for for-sale developments. The mandatory set aside ordinance was adopted on October 20, 2020 (Ordinance 2619-20) (see Appendix K).

All affordable units developed through the MSO are subject to UHAC regulations.

The MSO does not give any developer the right to any such rezoning, variance, redevelopment designation or other relief, or establish any obligation on the part of Township of West Orange to grant such rezoning, variance, redevelopment designation or other relief.

Summary of West Orange's Third Round Unmet Need of 533	
Surplus Credits from Third Round RDP	32 units
Existing 100% Affordable Development: 46 Mount Pleasant Avenue (remaining units)	47 units
Overlay Zoning:	
Redwood Site	28 units
Mayfair Farms	36 units
K-Mart/Whole Foods Shopping Center	104 units
Additional Mechanisms	
10 Rooney Circle	17 units
Rock Spring Golf Club	30 units
Mandatory Set-Aside Ordinance	-



FOURTH ROUND OBLIGATION

The amended FHA called on the DCA to issue a non-binding report on the new Present Need Obligation (commonly referred to as the rehabilitation obligation) and the Prospective Need for Round 4 and subsequent rounds. The amended FHA requires the DCA to base its analysis of the obligations for each municipality based upon the standards set forth in the amended FHA.

On October 18, 2024, the New Jersey Department of Community Affairs (“DCA”) released a report outlining the Fourth Round (2025-2035) Fair Share methodology and its calculations of present need and prospective need low- and moderate-income obligations for each of the State’s municipalities. The obligations were calculated in alignment with the formulas and criteria found in P.L.2024, c.2. The DCA calculated a Present Need obligation for the Township of 409 units, and a Perspective Need obligation of 660 units.

On January 28, 2025, the Township Council adopted a binding resolution (Resolution 67-25, see Appendix E) accepting their Fourth Round DCA calculated rehabilitation obligation of 409 and the Prospective Need obligation of 660.

Addressing Present Need / Rehabilitation Obligation

Present Need was previously determined in N.J.A.C. 5:93-1.3 to be the sum of a municipality’s indigenous need, the deficient housing units occupied by low- and moderate-income households, and the reallocated present need, which is the portion of a housing region’s present need that is redistributed throughout the housing region. Under the Second Round rules, evidence for deficient housing included: year structure was built, persons per room, plumbing facilities, kitchen facilities, heating fuel, sewer service, and water supply. (N.J.A.C. 5:92, Appendix A).

The Third Round Rules (N.J.A.C. 5:97-1.1 et seq.) reduced the number of criteria of evidence of deficient housing to three: pre-1960 over-crowded units, which are units that have more than 1.0 persons per room; incomplete plumbing, and incomplete kitchen facilities. (N.J.A.C. 5:97). This reduction in the number of criteria was found to be by the Appellate Division to be within the Council’s discretion and was upheld in the Supreme Court’s decision in Mount Laurel IV.

The previously discussed Mount Laurel IV decision found that the reallocated need is no longer a component in the determination of Present Need. Therefore, the Present Need now equates to indigenous need, which means the obligation is based on deficient housing as determined by pre-1960 over-crowded units, incomplete plumbing, and incomplete kitchen facilities.

West Orange Homeowners Rehabilitation Program (WOHRP)

The Township intends to address its 409-unit Fourth Round Rehabilitation Obligation through a continuation of the West Orange Homeowners Rehabilitation Program (WOHRP). The WOHRP offers

assistance to low and moderate-income Township homeowners, lending up to \$25,000 at 0% interest to assist in home repairs. Such home repairs include:

- Roofs & Gutters
- Doors & Windows
- Kitchen & Bathroom updates
- Insulation
- Heating Systems
- Electrical Systems
- Painting or Siding
- Exterior Stairs, Porches, Decks

These 0% interest loans require no monthly payments and are repaid only at the time of a home sale or a transfer of title. This program is funded through the Township's Affordable Housing Trust Fund.

Since the inception of the WOHRP in 1999, a total of 223 homes has been rehabilitated. Presently, the WOHRP has a total of 119 homes on its waiting list, which are being processed. See Appendix L for documentation on the WOHRP.

Essex County Home Improvement Program

West Orange Township will also continue to participate in the Essex County Home Improvement Program (HIP), which is operated by the Essex County Division of Housing and Community Development. This program provides deferred loans to low-income and moderate-income homeowners who occupy a one-family to three-family home. Home improvements eligible for funding through this program include new heating systems, roofing, plumbing, electrical and code violation abatements.

Additional information for these programs can be found in the appendix of the Township's Court-approved Third Round Housing Element and Fair Share Plan, adopted November 17, 2020.

Vacant Land Adjustment

Municipalities can request an adjustment to their obligation based on the determination that there is not sufficient vacant or developable land within the municipality. As permitted by N.J.A.C. 5:93-4 and the Fair Housing Act, a municipality can submit a Vacant Land Adjustment (VLA) that examines the number of parcels available for development. The end result of the Vacant Land Adjustment is the determination of the Township's Realistic Development Potential (RDP) for new affordable housing units. After subtracting out the RDP from the obligation, the remaining calculation is known as the "unmet need."

Since the Township lacked sufficient land to satisfy its Round 3 obligation, it lacks sufficient land to satisfy the additional 660-unit obligation for Round 4. Moreover, there have been no changed circumstances since the Court entered a Judgment of Repose approving the Township's VLA and RDP on March 17, 2021.

It should be noted that the amended FHA permits a municipality to rely on COAH regulations that are not inconsistent with the amended FHA or a binding Court decision. The following COAH regulation is relevant:

N.J.A.C. 5:97-5.1(d): A vacant land adjustment that was granted as part of a first round certification or judgment of compliance shall continue to be valid provided the municipality has implemented all of the terms of the substantive certification or judgment of compliance, and received or petitioned to the Council for second round substantive certification or was under the Court's jurisdiction for second round. If the municipality failed to implement the terms of the substantive certification or judgment of compliance, the Council may reevaluate the vacant land adjustment.

Therefore, due to the lack of developable land, the Township has an RDP of 0 for the Fourth Round Prospective Need obligation.

The amended Fair Housing Act requires municipalities seeking a VLA to identify sufficient parcels likely to redevelop during the current round of obligations to address at least 25% of the Prospective Need obligation that has been adjusted. This amounts to a total of 165 total units for West Orange Township.

Fourth Round Adjusted Obligation

In summary, the Township's Rehabilitation Share and Fourth Round Prospective Need Obligations are detailed as follows:

West Orange Township Obligation	
Rehabilitation Share	409
Fourth Round Prospective Need Obligation (2025-2035)	660
Fourth Round RDP	0
Fourth Round Unmet Need	660

Addressing the Fourth Round Unmet Need

The Township plans to address its 660-unit Fourth Round Unmet Need obligation through the following mechanisms:

Existing/Approved Inclusionary Developments

555 Northfield Avenue

The property at 555 Northfield Avenue includes Block 168, Lots 26 and 28. The lots measure approximately 2 acres in area and are located in the B-2 (General business) zone. Surrounding uses include the Turtleback Zoo and a hockey arena located across Northfield Avenue, commercial establishments to the east and west, and a ballfield to the north. St. Cloud Elementary School is located along Sheridan Avenue. A minimal amount of the site is constrained by flood hazard areas and steep slopes.



On October 17, 2019, the Township Zoning Board adopted a resolution, which granted site plan approval to construct a mixed-use apartment building with a retail space and a childcare center on the site (Zoning Board Resolution 18-09). The development comprises of 70 total units, including 11 affordable units. This new residential community, now known as “The West,” was completed in 2023, and is fully occupied. Prior to the construction of the West, a hotel occupied the site.

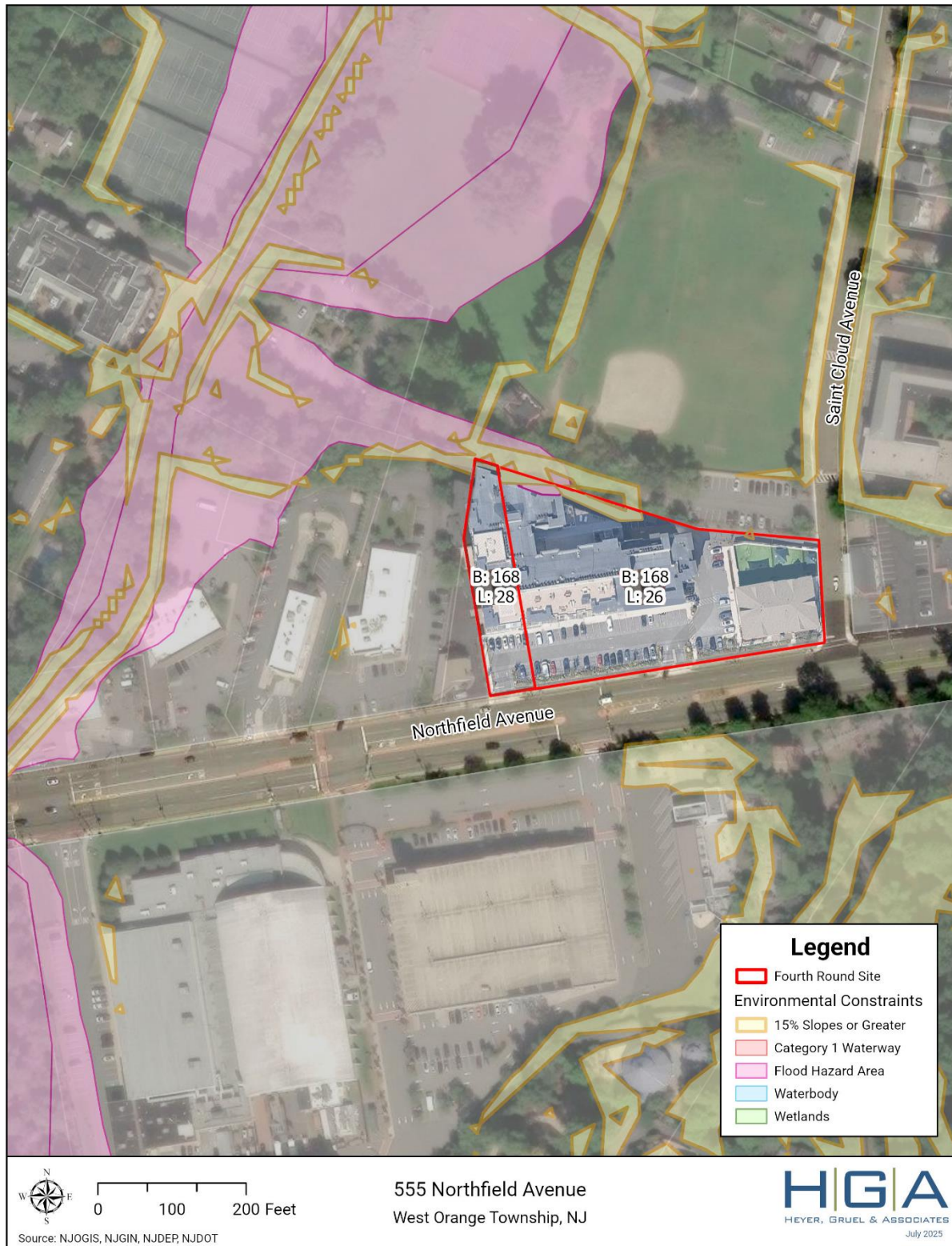
A deed which established the affordability controls and established the affordable housing covenants for the site was filed on March 23, 2023. The deed notes that the affordable units may only be used for providing rental dwelling units for very-low-income residents in need of supportive and special needs housing. According to the deed restriction, the control period for the affordable units is 30 years.

All 11 units are being applied to the Township’s Fourth Round Unmet Need obligation. See Appendix M for documentation. The Township will claim all 11 bonus credits, at a ratio of 1 bonus credits per 1 unit, as the proposed units meet the COAH criteria described below:

“Each unit of low- or moderate-income housing for individuals with special needs or permanent supportive housing, as those terms are defined in section 2 of P.L. 2004, c.70 (C.34:1B-21.24).”

The site is appropriate for multifamily low- and moderate-income housing as it is available, approvable, developable, and suitable:

- *Available:* The site has no easements or title issues preventing its development.
- *Suitable:* The site borders residential neighborhoods and is located along a roadway with commercial and recreational assets. Its development is consistent with the goals and strategies outlined in the State Plan. The site is located within the Metropolitan Planning Area (PA 1). Further, the site’s frontage along Northfield Avenue offers access to employment and service establishments.
- *Developable:* The site falls within sewer and public water service areas and has access to appropriate public streets with frontage on Northfield Avenue. While a portion of the site is constrained by steep slopes and flood hazard areas, the proposed development has been concentrated within the unconstrained areas of the site.
- *Approvable:* The site received approval from the Zoning Board on October 17, 2019, to construct a multifamily development on the site, which includes 11 affordable units. The development is fully occupied.



172-174 Main Street

The property at 172-174 Main Street includes Block 89, Lot 6. The lot measures approximately 0.35 acres in area and is located in the B-1 (Retail business) zone. Surrounding uses include neighborhood-scale commercial uses and multifamily residences to the southwest, the mixed-use Edison Lofts located directly across Main Street, and a single-family residential neighborhood to the northwest along Edgehill Avenue. The property is currently developed with a two-story commercial building and parking area.

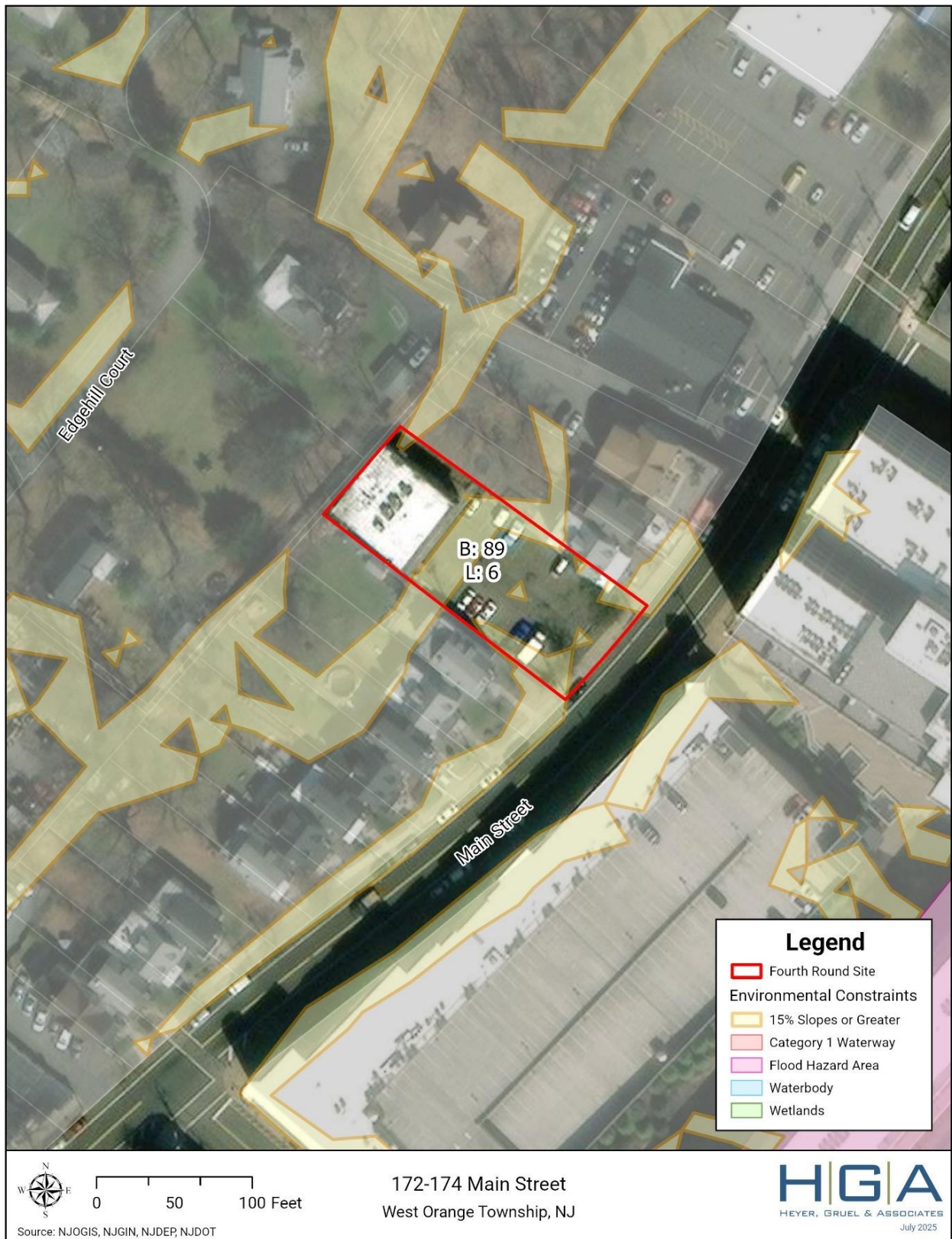


On July 2, 2025, the Township Planning Board adopted a resolution granting site plan approval to renovate the existing commercial building on the site into a three-story, mixed-use apartment building with a retail space and seven (7) total residential units (Planning Board Resolution PB 24-14). Of the seven (7) units, one (1) unit will be affordable for low- and moderate-income residents. A deed outlining affordability controls for the property has not been created as of the writing of this Plan.

The one (1) affordable unit is being applied to the Township's Fourth Round Unmet Need obligation. See Appendix N for documentation.

The site is appropriate for multi-family low- and moderate-income housing as it is available, approvable, developable, and suitable:

- *Available:* The site has no easements or title issues preventing its development.
- *Suitable:* The site borders residential neighborhoods and is located adjacent to the Downtown Redevelopment Area along Main Street. Its development is consistent with the goals and strategies outlined in the State Plan. The site is located within the Metropolitan Planning Area (PA 1). Further, the site's frontage along Main Street offers access to employment and service establishments.
- *Developable:* The site falls within sewer and public water service areas and has access to appropriate public streets with frontage on Main Street. While a portion of the site is constrained by steep slopes, the proposed development would be concentrated within the unconstrained areas of the site.
- *Approvable:* The site received approval from the Planning Board to construct a multifamily development on the site on July 2, 2025, which included one (1) affordable unit.



Proposed Inclusionary Developments

216-222 Main Street

The property at 216-222 Main Street includes Block 114, Lots 110 and 114. Collectively, the lots measure approximately 0.5 acres in area and are located in the Main Street Subdistrict (MSS) of the Downtown Redevelopment Area. Surrounding uses include neighborhood-scale commercial uses and multifamily residences along Main Street, the mixed-use Edison Lofts, and a single-family residential neighborhood to the northwest, along Edisonia Terrace and Shepard Terrace. Both lots are developed with vacant buildings and surface parking lots. The site is not subject to any environmental constraints.



In March of 2024, a developer approached the Township with a proposal to utilize the site as a four-story residential development.

The Township proposes to rezone the site to accommodate a multifamily development at a gross density of 24 dwelling units/acre, with an affordable set aside of 20%. This would create a total of 12 rental units on the site, which includes three (3) affordable family rental units. The three units will be applied to the Township's Fourth Round Unmet Need obligation.

Further, the Township will claim 1 bonus credit, at a ratio of 0.5 bonus credits per 1 unit, as the proposed units meet the COAH criteria described below:

"A unit of low- or moderate-income housing constructed on land that is or was previously developed and utilized for retail, office, or commercial space."

The site is appropriate for multi-family low- and moderate-income housing as it is available, approvable, developable, and suitable:

- *Available:* The site has no easements or title issues preventing its development.
- *Suitable:* The site is almost entirely surrounded by residential uses. Its development is consistent with the goals and strategies outlined in the State Plan. The site is located within the Metropolitan Planning Area (PA 1). Further, the site's proximity frontage along Main Street offers access to employment and service establishments.
- *Developable:* The site falls within sewer and public water service areas, and has access to appropriate public streets with frontage on Main Street.
- *Approvable:* The site is proposed to be rezoned, to accommodate a multifamily development at a gross density of 24 dwelling units/acre with a 20% set aside. This will create a total of 3 affordable family rental units on the site.



217 Main Street

The property at 217 Main Street includes Block 116.02, Lot 1.01. The lot measures approximately 2.1 acres in area. Located in the Edison Mixed-Use Residential subdistrict (E-MR) of the Downtown Redevelopment Area, the lot currently is developed with a standalone shopping mall and a large surface parking lot containing approximately 144 parking spaces. The existing tenants within the shopping mall include Family Dollar, Sherwin Williams, and CVS, which serves as the anchor tenant. Surrounding uses include neighborhood commercial establishments and mixed-use buildings with ground level retail and upper-level apartments along Main Street. The entire site is developed and unconstrained.



The Township of West Orange proposes to rezone the property to allow for multifamily development at a maximum density of 24 dwelling units/acre. For the 2.1 acre-lot, this amounts to a total of 51 units. Further, implementing a mandatory 20% affordable set aside will create 11 affordable units. The proposed development supports the intent of the 2021 Fourth Amendment to the Downtown Redevelopment Plan for the E-MR subdistrict: “to encourage appropriate residential development, in order to further address the Township’s affordable housing obligations” (page 1).

Further, the Township will claim 5 bonus credits, at a ratio of 0.5 bonus credits per 1 unit, as the proposed units meet the COAH criteria described below:

“A unit of low- or moderate-income housing constructed on land that is or was previously developed and utilized for retail, office, or commercial space.”

The site is appropriate for multi-family low- and moderate-income housing as it is available, approvable, developable, and suitable:

- *Available:* The site has no easements or title issues preventing its development.
- *Suitable:* The site is surrounded by mixed-use developments and commercial establishments along Main Street. Its development is consistent with the goals and strategies outlined in the State Plan. The site is located within the Metropolitan Planning Area (PA 1). Further, the site’s adjacency to Main Street offers access to employment and service establishments.
- *Developable:* The site falls within sewer and public water service areas, and has access to appropriate public streets with frontage on Main Street. The site is not subject to environmental constraints.
- *Approvable:* The site is proposed to be rezoned to permit multifamily development at a maximum gross density of 24 dwelling units/acre with a 20% set aside. This will create a total of 11 affordable units on the site.



525 Northfield Avenue (Essex House)

The property at 525 Northfield Avenue includes Block 159.04, Lot 1.01. The lot measures approximately 2.5 acres in area. Located in the B-2 (General business) zone, the lot has been vacant for years and includes the remains of the Essex House restaurant and a surface parking lot. Surrounding uses include preserved land and the Turtleback Zoo located across Northfield Avenue, commercial establishments to the west, and the St. Cloud Elementary School to the northwest along Sheridan Avenue. The disturbed area of the site is unconstrained.



In 2025, a developer approached the Township to discuss the potential of utilizing the site for a mixed use residential and commercial building. The Township proposes to rezone the site to permit the development of a total of 60 units which includes 12 affordable units.

Further, the Township will claim 6 bonus credits, at a ratio of 0.5 bonus credits per 1 unit, as the proposed units meet the COAH criteria described below:

"A unit of low- or moderate-income housing constructed on land that is or was previously developed and utilized for retail, office, or commercial space."

The site is appropriate for multi-family low- and moderate-income housing as it is available, approvable, developable, and suitable:

- *Available:* The site has no easements or title issues preventing its development.
- *Suitable:* The site borders residential neighborhoods and is located along a roadway with commercial and recreational assets. Further, it is located in proximity to The West multifamily development, which was completed in 2023. Its development is consistent with the goals and strategies outlined in the State Plan. The site is located within the Metropolitan Planning Area (PA 1). Further, the site's proximity to Northfield Avenue offers access to employment and service establishments.
- *Developable:* The site falls within sewer and public water service areas, and has access to appropriate public streets with frontage on Northfield Avenue. While a portion of the site is constrained by flood hazard areas and steep slopes, the proposed development will be concentrated within the unconstrained areas of the site.
- *Approvable:* The site will be rezoned to accommodate a 60-unit inclusionary multifamily development with a 20% affordable set aside. This will create a total of 12 affordable units on the site.



103 Pleasant Valley Way (Greenhill)

The property at 103 Pleasant Valley Way includes Block 179, Lot 3. The lot measures approximately 20.6 acres in area and is located in the R-4 (One-family dwellings on 15,000 square foot lots) zone of the Township. Surrounding uses include single-family residential neighborhoods to the north and south, and the Montclair Golf Club and Course to the east, across Pleasant Valley Way. The site is currently developed with the Green Hill Senior Living and Rehabilitation Center. Approximately 11% of the site is constrained by steep slopes.



In 2025, a developer approached the Township to discuss the potential of utilizing the rear 12 acres of the site for an inclusionary development. The existing rehabilitation center would remain on the site.

The Township proposes to rezone the rear portion of the site to permit a maximum of 195 units which includes 39 affordable family units (i.e., a 20% affordable set-aside). A total of five (5) affordable units (i.e., 13%) will be for very low-income families.

The site is appropriate for multi-family low- and moderate-income housing as it is available, approvable, developable, and suitable:

- *Available:* The site has no easements or title issues preventing its development.
- *Suitable:* The site is almost entirely surrounded by residential uses. Its development is consistent with the goals and strategies outlined in the State Plan. The site is located within the Metropolitan Planning Area (PA 1). Further, the site's proximity to Pleasant Valley Way offers access to employment and service establishments.
- *Developable:* The site falls within sewer and public water service areas, and has access to appropriate public streets with frontage on Pleasant Valley Way. The proposed development will be concentrated within the unconstrained areas of the site.
- *Approvable:* The site is proposed to be rezoned to permit the development of 195 units on the rear 12-acre portion of the site. The development will have a 20% affordable set aside, creating a total of 39 affordable family units on the site.



350 Pleasant Valley Way

The property at 350 Pleasant Valley Way includes Block 152.22, Lot 1428 of the Township. The lot measures approximately 12.3 acres in area, and is located in the R-5 (One-family dwellings on 10,000 square foot lots) zone. Surrounding uses include commercial establishments and professional offices along Pleasant Valley Way, single-family residences along Kenz Terrace and Ronald Terrace, and townhouses along Sullivan Drive. The lot is currently developed with the Wilshire Grand, a three-story hotel with banquet/catering facilities. The undeveloped portion of the site is constrained by steep slopes, wetlands, and flood hazard areas.



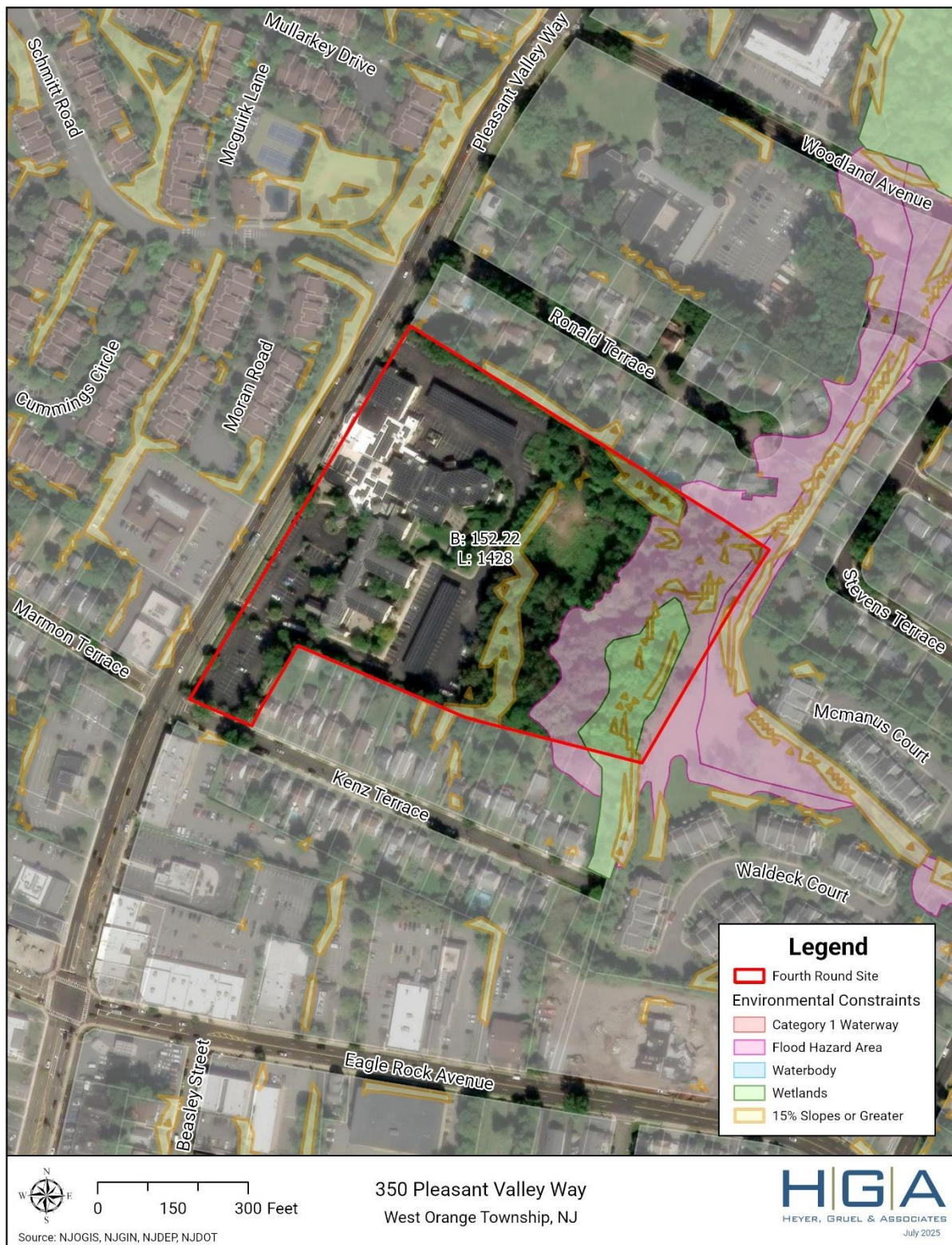
In 2025, a developer approached the Township to discuss the potential of utilizing the site for an inclusionary development. The Township proposes to rezone the site to permit an inclusionary development of approximately 295 units including 59 affordable family rental units. A total of eight (8) affordable units (i.e., 13%) will be for very low-income families.

Further, the Township will claim 29 bonus credits, at a ratio of 0.5 bonus credits per 1 unit, as the proposed units meet the COAH criteria described below:

"A unit of low- or moderate-income housing constructed on land that is or was previously developed and utilized for retail, office, or commercial space."

The site is appropriate for multi-family low- and moderate-income housing as it is available, approvable, developable, and suitable:

- *Available:* The site has no easements or title issues preventing its development.
- *Suitable:* The site is almost entirely surrounded by residential uses. Its development is consistent with the goals and strategies outlined in the State Plan. The site is located within the Metropolitan Planning Area (PA 1). Further, the site's proximity to Pleasant Valley Way offers access to employment and service establishments.
- *Developable:* The site falls within sewer and public water service areas, and has access to appropriate public streets with frontage on Pleasant Valley Way. While a portion of the site is constrained by steep slopes and wetlands, the proposed development will be concentrated within the unconstrained areas of the site.
- *Approvable:* The site is proposed to be rezoned to accommodate a 295-unit inclusionary multifamily development with a 20% affordable set aside. This will create a total of 59 affordable family rental units on the site.



275 Northfield Avenue

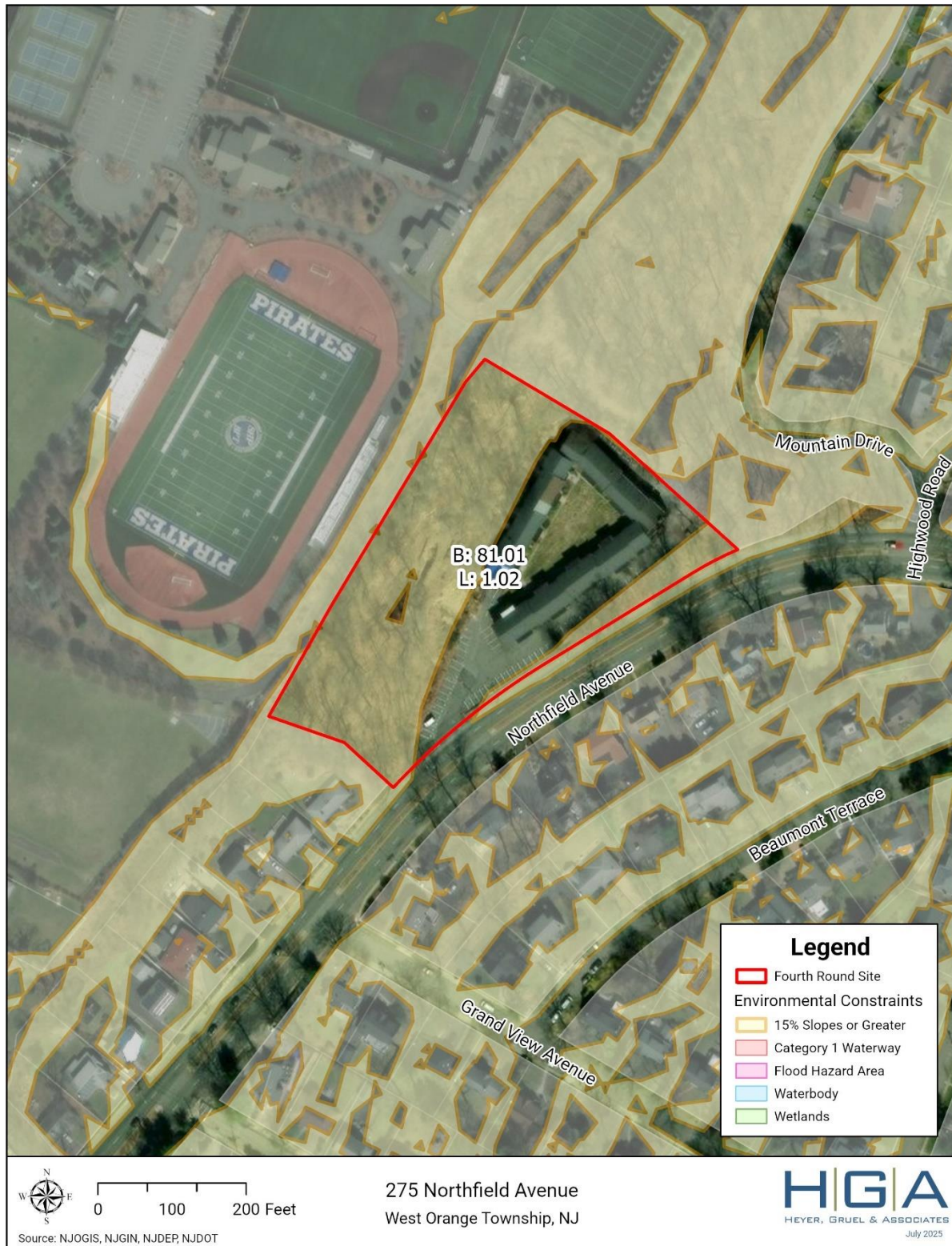
The property at 275 Northfield Avenue includes Block 81.01, Lot 1.02. The lot measures approximately 4.1 acres in area and is located in the R-G (Garden apartments) zone of the Township. Surrounding uses include single-family residential uses along Northfield Avenue, and an athletic complex to the northwest. The lot is currently developed with a two-story apartment building that experienced severe damage in a landslide during Hurricane Ida in 2021. The building has been fully vacated ever since.



In 2025, a developer approached the Township to discuss the potential of utilizing the site for an inclusionary development. The Township proposes to rezone the site to permit the development of 66 units. A required 20% affordable set aside will create a total of 14 affordable family units on the site. A total of two (2) affordable units (i.e., 13%) will be for very low-income families.

The site is appropriate for multi-family low- and moderate-income housing as it is available, approvable, developable, and suitable:

- *Available:* The site has no easements or title issues preventing its development.
- *Suitable:* The site is almost entirely surrounded by residential uses. Its development is consistent with the goals and strategies outlined in the State Plan. The site is located within the Metropolitan Planning Area (PA 1). Further, the site's frontage along Northfield Avenue offers access to employment and service establishments.
- *Developable:* The site falls within sewer and public water service areas, and has access to appropriate public streets with frontage on Northfield Avenue. While the rear portion of the site is constrained by steep slopes, the proposed development will be concentrated within the unconstrained areas of the site.
- *Approvable:* The site is proposed to be rezoned to permit a 66-unit inclusionary development with a 20% affordable set aside. This will create a total of 14 affordable family units on the site.



Proposed 100% Affordable Sites

28 Babcock Place

The property at 28 Babcock Place includes Block 116.02, Lot 12. The lot measures approximately 7,750 square feet (0.18 acres) in area and is located in the Edison Mixed-Use Residential subdistrict (E-MR) of the Downtown Redevelopment Area. Surrounding uses include two-family dwellings along Babcock Place, CVS Pharmacy and neighborhood and commercial uses along Main Street. The property is located one block north of the Township's Public Works facility and two blocks north of Edison Lofts project. This lot is currently vacant and owned by the Township. The site is not subject to any environmental constraints.



The Township proposes to develop the site with four affordable units with a preference for veteran's housing or a group home.

Further, the Township will claim all 4 bonus credits, at a ratio of 1 bonus credits per 1 unit as the proposed units meet the COAH criteria described below:

"Each unit of low- or moderate-income housing in a 100 percent affordable housing project for which the municipality contributes toward the costs of the project."

The site is appropriate for multi-family low- and moderate-income housing as it is available, approvable, developable, and suitable:

- *Available:* The site has no easements or title issues preventing its development.
- *Suitable:* The site is almost entirely surrounded by residential uses. Its development is consistent with the goals and strategies outlined in the State Plan. The site is located within the Metropolitan Planning Area (PA 1). Further, the site's adjacency to Main Street offers access to employment and service establishments.
- *Developable:* The site falls within sewer and public water service areas, and has access to appropriate public streets with frontage on Main Street. The site is not subject to environmental constraints.
- *Approvable:* A total of four (4) affordable units is proposed on the site.



4 Tompkins Street

The property at 4 Tompkins Street includes Block 7, Lot 22. The lot measures approximately 7,200 square feet (0.16 acres) in area and is located in the R-M (Multi-family residences) district of the Township. Surrounding uses include single- and low-density multifamily dwellings along Tompkins and Mitchell Street; and the higher-density Harvard Printing II building along Central Avenue. This lot is currently vacant and owned by the Township. The site is not subject to any environmental constraints.



The Township proposes to develop the site with four affordable units with a preference for veteran's housing or a group home.

Further, the Township will claim all 4 bonus credits, at a ratio of 1 bonus credits per 1 unit, as the proposed units meet the COAH criteria described below:

"Each unit of low- or moderate-income housing in a 100 percent affordable housing project for which the municipality contributes toward the costs of the project."

The site is appropriate for multi-family low- and moderate-income housing as it is available, approvable, developable, and suitable:

- *Available:* The site has no easements or title issues preventing its development.
- *Suitable:* The site is almost entirely surrounded by residential uses. Its development is consistent with the goals and strategies outlined in the State Plan. The site is located within the Metropolitan Planning Area (PA 1). Further, the site's proximity to Valley Road and S. Jefferson Street offers access to employment and service establishments.
- *Developable:* The site falls within sewer and public water service areas and has access to appropriate public streets along Valley Road and S. Jefferson Street. The site is not subject to environmental constraints.
- *Approvable:* A total of four (4) affordable units is proposed on the site.



Proposed Continuing Care Retirement Community (CCRC)

1155 Pleasant Valley Way (Daughters of Israel)

The property at 1155 Pleasant Valley Way includes Block 171, Lot 12. The lot measures approximately 17.9 acres in area and is located in the R-2 (One-family dwellings on 40,000 square foot lots) zone of the Township. Surrounding uses include Kessler Rehabilitation Institute to the south, single-family residential neighborhoods to the north and northwest, and the Essex County Country Club to the east, along Pleasant Valley Way. On the site, the 303-bed Daughters of Israel nursing home continues to operate.



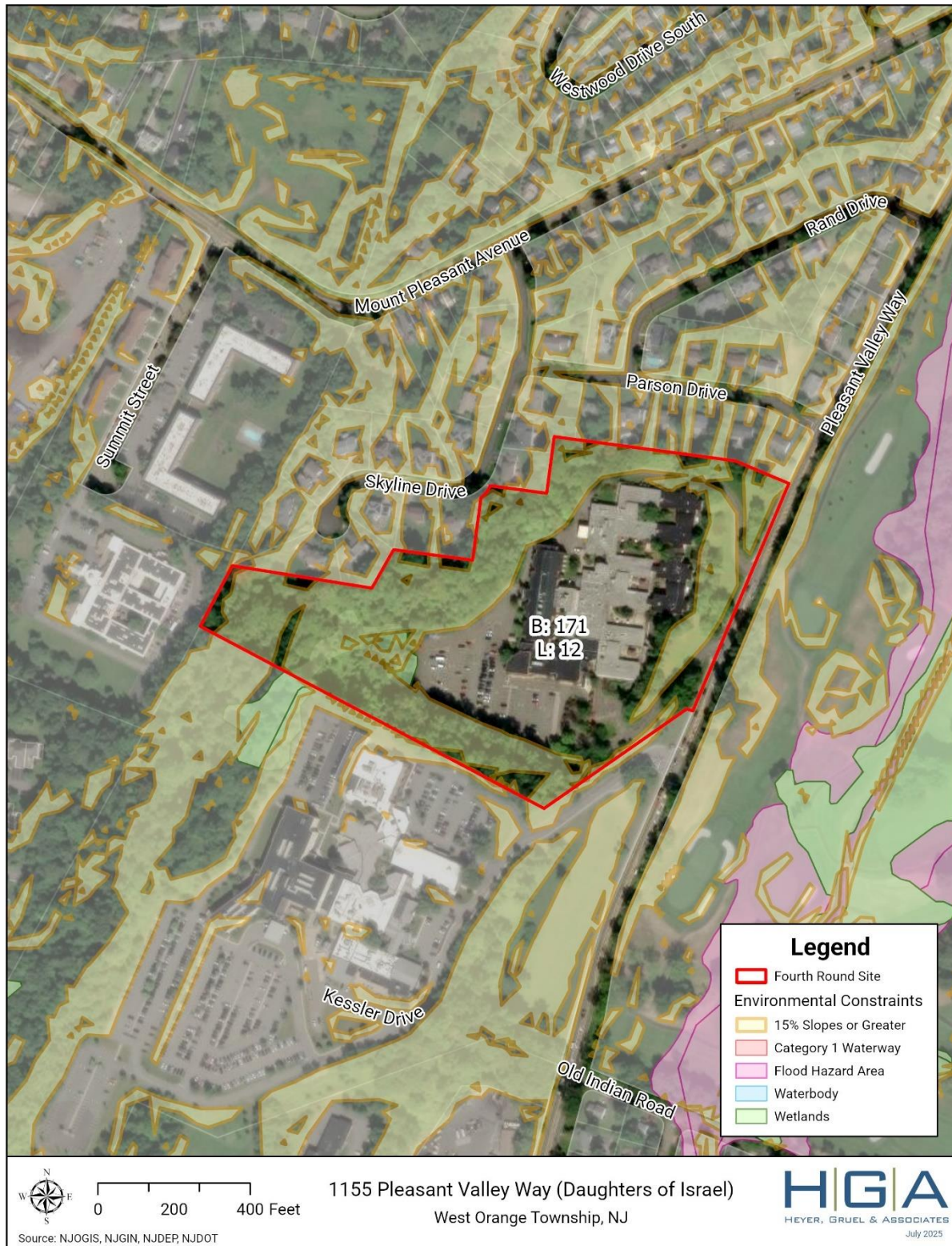
On May 11, 2023, an application to convert the existing nursing home into a new Continuing Care Retirement Community (CCRC) was denied by the Township's Zoning Board of Adjustment. The CCRC proposed at that time would accommodate 326 total units (including assisted living, skilled nursing, and independent living units).

A developer approached the Township in 2025 to discuss the potential of reducing the scale of the CCRC to 311 total units, which would include a minimum of 41 affordable beds. It should be noted that the Developer filed a builder's remedy lawsuit in July of this year.

The Township proposes to rezone the parcel within a new district, the CCRC Zone in order to permit a CCRC with a total of 311 units. Further, an affordable bed set aside will be required (41 beds) for very-low-income seniors.

The site is appropriate for multi-family low- and moderate-income housing as it is available, approvable, developable, and suitable:

- *Available:* The site has no easements or title issues preventing its development.
- *Suitable:* The site is almost entirely surrounded by residential uses. Its development is consistent with the goals and strategies outlined in the State Plan. The site is located within the Metropolitan Planning Area (PA 1). Further, the site's proximity to Pleasant Valley Way offers access to employment and service establishments.
- *Developable* The site falls within sewer and public water service areas, and has access to appropriate public streets with frontage on Pleasant Valley Way. While a portion of the site is constrained by steep slopes and wetlands, the proposed development will be concentrated within the unconstrained areas of the site.
- *Approvable:* The site will be rezoned to the CCRC zone, to accommodate a continuing care and rehabilitation center, with a required affordable set aside for very-low-income seniors.



Existing Group Homes

19 Terrace Avenue

The property at 19 Terrace Avenue includes Lot 1392 of Block 152.21. The lot measures approximately 14,000 square feet (0.3 acres) in area and is located in the R-5 District (One-family dwellings on 10,000 square foot lots) of the Township.

The alternative living arrangement is owned and operated by the ARC of Essex County and includes three (3) very-low-income rental bedrooms . The home on the site was constructed in 1960 and was used as a single-family residence until 2012. A deed transferring ownership to the ARC of Essex County was made on August 16, 2012.

Three (3) credits are being applied to the Township's Fourth Round obligation. Further, the Township will claim all three bonus credits, at a ratio of 1 bonus credits per 1 unit as the proposed units meet the COAH criteria described below:

"Each unit of low- or moderate-income housing for individuals with special needs or permanent supportive housing, as those terms are defined in section 2 of P.L. 2004, c.70 (C.34:1B-21.24)."

All associated documentation can be found in Appendix O.

97 Edgewood Avenue

The property at 97 Edgewood Avenue includes Lot 38 of Block 159.06. The lot measures approximately 17,600 square feet (0.4 acres) in area and is located in the R-5 District (One-family dwellings on 10,000 square foot lots) of the Township.

The alternative living arrangement is owned and operated by Project Live, Inc. and includes five (5) very-low-income rental bedrooms . The home on the site was constructed in 1954 and was used as a single-family residence until 1997. A deed transferring ownership to Project Live, Inc was made on October 23, 1997. The development received funding from the federal HOME Investment Partnership Program (HOME). The 20-year affordability controls for the group home began shortly after it was occupied.

Five (5) credits are being applied to the Township's Fourth Round obligation. Further, the Township will claim all five bonus credits, at a ratio of 1 bonus credits per 1 unit as the proposed units meet the COAH criteria described below:

"Each unit of low- or moderate-income housing for individuals with special needs or permanent supportive housing, as those terms are defined in section 2 of P.L. 2004, c.70 (C.34:1B-21.24)."

All associated documentation can be found in Appendix O.

23 Oak Avenue

The property at 23 Oak Avenue includes Lot 27 of Block 161. The lot measures approximately 10,000 square feet (0.2 acres) in area and is located in the R-5 District (One-family dwellings on 10,000 square foot lots) of the Township.

The alternative living arrangement is owned and operated by CPNJ West Orange Residence II and includes three (3) very-low-income rental bedrooms. The home on the site was constructed in 1970 and was used as a single-family residence until 1997. A deed transferring ownership to CPNJ West Orange Residence II was made on June 10, 2008.

Three (3) credits are being applied to the Township's Fourth Round obligation. Further, the Township will claim all three bonus credits, at a ratio of 1 bonus credits per 1 unit as the proposed units meet the COAH criteria described below:

"Each unit of low- or moderate-income housing for individuals with special needs or permanent supportive housing, as those terms are defined in section 2 of P.L. 2004, c.70 (C.34:1B-21.24)."

All associated documentation can be found in Appendix O.

60 Glenview Drive

The property at 60 Glenview Drive includes Qualifier C0060 Lot 5 of Block 166.15. The lot measures approximately 2,200 square feet in area and is located in the RC Residential Cluster Development District of the Township.

The alternative living arrangement is owned and operated by Jewish Service for the Developmentally Disabled of Metrowest, Inc. and includes three (3) very-low-income rental bedrooms. The home on the site was constructed in 1980 and was used as a single-family residence until 2010. The transfer of ownership to Jewish Service for the Developmentally Disabled of Metrowest, Inc. and the creation of the group home is outlined in a Financing, Deed Restriction, and Regulatory Agreement made on August 25, 2010. Financing for the facility was provided by the Special Needs Housing Trust Fund. The 30-year affordability controls for the group home began on the date of the mortgage, August 25, 2010.

Three (3) credits are being applied to the Township's Fourth Round obligation. Further, the Township will claim all three (3) bonus credits, at a ratio of 1 bonus credits per 1 unit as the proposed units meet the COAH criteria described below:

"Each unit of low- or moderate-income housing for individuals with special needs or permanent supportive housing, as those terms are defined in section 2 of P.L. 2004, c.70 (C.34:1B-21.24)."

All associated documentation can be found in Appendix O.

167 Pleasant Valley Way

The property at 167 Pleasant Valley Way includes Lot 13.03 of Block 179.14. The lot measures approximately 34,000 square feet (0.8 acres) in area and is located in the R-5 District (One-family dwellings on 10,000 square foot lots) of the Township.

The alternative living arrangement is owned and operated by Children's Aid and Family Service and includes five (5) very-low-income rental bedrooms. The home on the site was constructed in 1955 and was used as a single-family residence until 2008. A deed transferring ownership to Children's Aid and Family Service was made on October 28, 2008. Further, a deed restriction covenant was made on January 21, 2021, which established affordability controls for the site and outlined the funding received from the HOME Program. The 15-year affordability controls for the group home began on the date of the deed restriction covenant.

Five (5) credits are being applied to the Township's Fourth Round obligation. Further, the Township will claim all five (5) bonus credits, at a ratio of 1 bonus credits per 1 unit as the proposed units meet the COAH criteria described below:

"Each unit of low- or moderate-income housing for individuals with special needs or permanent supportive housing, as those terms are defined in section 2 of P.L. 2004, c.70 (C.34:1B-21.24)."

All associated documentation can be found in Appendix O.

177 Marion Drive

The property at 177 Marion Drive includes Qualifier C0177 of Lot 27 of Block 155. The lot measures approximately 1,676 square feet in area and is located in the Planned Unit Residential Development (PURD) District of the Township.

The alternative living arrangement is owned and operated by ARC of Essex County and includes two (2) very-low-income rental bedrooms. The home on the site was constructed in 1980 and was used as a single-family residence until 2013. A deed transferring ownership to ARC of Essex County was made on August 29, 2013. Further, a deed restriction covenant was made on June 26, 2014, which established affordability controls for the site and outlined the funding received from the HOME Program. The 15-year affordability controls for the group home began on the date of the deed restriction covenant.

Two (2) credits are being applied to the Township's Fourth Round obligation. Further, the Township will claim both bonus credits, at a ratio of 1 bonus credits per 1 unit as the proposed units meet the COAH criteria described below:

"Each unit of low- or moderate-income housing for individuals with special needs or permanent supportive housing, as those terms are defined in section 2 of P.L. 2004, c.70 (C.34:1B-21.24)."

All associated documentation can be found in Appendix O.

Additional Mechanisms

Affordable Housing Ordinance

An Affordable Housing Ordinance was most recently amended by the Township on October 10, 2020 (Ordinance No. 2619-20) (see Appendix H), establishing the criteria for implementing affordable housing units in conformance with the Uniform Housing Affordability Controls (UHAC). While this Plan acknowledges that an amendment to the UHAC was released on an emergency basis in December 2024, those rules are set to expire in December 2025. It is also the understanding that the Housing Mortgage and Finance Agency (HMFA), the entity currently responsible for the UHAC regulations, is in the process of establishing further amendments to those rules. Because of the uncertainty with the UHAC regulations, the Township will refrain from adopting an updated ordinance until such rules are finalized, acknowledging that the December 2024 UHAC rules adopted under emergency measures are the current governing regulations. Should there be any discrepancy between the Township's adopted ordinance and the current UHAC regulations, the current UHAC regulations shall govern.

Development Fee Ordinance

A Development Fee Ordinance was adopted by the Township on October 10, 2020 (Ordinance No. 2619-20) (see Appendix H).

Additional Affordable Housing Resolutions

The Township adopted several additional affordable housing resolutions (Appendix P). These include:

- Resolution 186-25 – Appointing Geniece Gary-Adams as the Township's Municipal Housing Liaison, and Peter F. Smeraldo, Jr. as the Alternate Municipal Housing Liaison
- Resolution 17-24 – Appointing CGP&H as the Township's Administrative Agent

Accessory Apartment Ordinance

West Orange proposes to adopt an Accessory Apartment Ordinance, to create a Township Accessory Apartment Program. This Ordinance will only apply to existing accessory structures (e.g., garages and carriage houses). The Program will be modeled upon the accessory apartment regulations outlined in N.J.A.C. 5:93-5.9, as most recently amended. These regulations permit up to 10 accessory apartments to be used to address a municipality's affordable obligation. The Township's Program will require the standard 10-year deed restriction as per N.J.A.C. 5:93-5.9(e), and a minimum subsidy of \$10,000 per unit allowed for under N.J.A.C. 5:93-5.9(a)(2).

Summary of West Orange's Fourth Round Unmet Need of 660	
Existing/Approved Inclusionary Developments: 555 Northfield Avenue 172-174 Main Street	11 units 1 unit
Proposed Inclusionary Developments: 216-222 Main Street 275 Northfield Avenue 217 Main Street 525 Northfield Avenue (Essex House) 103 Pleasant Valley Way (Greenhill) 350 Pleasant Valley Way	3 units 14 units 11 units 12 units 39 units 59 units
Proposed 100% Affordable Developments: 28 Babcock Place 4 Tompkins Street	4 units 4 units
Proposed Continuing Care Retirement Community (CCRC): 1155 Pleasant Valley Way (Daughters of Israel)	41 beds
Existing Group Homes 19 Terrace Avenue 97 Edgewood Avenue 23 Oak Avenue 60 Glenview Drive 167 Pleasant Valley Way 177 Marion Drive	3 bedrooms 5 bedrooms 3 bedrooms 3 bedrooms 5 bedrooms 2 bedrooms
Accessory Apartment Ordinance	10 units
Mandatory Set-Aside Ordinance	-
Total Units	230

Bonus Credits:	
555 Northfield Avenue	11 credits
217 Main Street	5 credits
28 Babcock Place	4 credits
4 Tompkins Street	4 credits
525 Northfield Avenue (Essex House)	6 credits
350 Pleasant Valley Way	29 credits
216-222 Main Street	1 credit
19 Terrace Avenue	3 credits
97 Edgewood Avenue	5 credits
23 Oak Avenue	3 credits
60 Glenview Drive	3 credits
167 Pleasant Valley Way	5 credits
177 Marion Drive	2 credits
Total Bonus Credits	81
Total Fourth Round Unmet Need	301

Addressing Additional Fourth Round Requirements

As outlined in the “Current Standards” section of this Plan, the Township must comply with the established minimum requirements for rental units, units for families with children, and the very-low-income requirement. Further, the age-restricted housing cap must not be exceeded. These standards are outlined below, along with a discussion to address each requirement. A total of 230 actual affordable housing units is proposed.

Age-Restricted Housing

As a municipality may not satisfy more than 30% of the affordable units, exclusive of bonus credits, to address its prospective need affordable housing obligation through the creation of age-restricted housing, a maximum of 69 age-restricted units (i.e., 30% of 230) can be created.

Fourth Round Unmet Need: Age-Restricted Housing	
<i>Proposed Units:</i> 1155 Pleasant Valley Way (Daughters of Israel)	41 beds
Total Units	41

Families with Children

As a minimum of 50% of a municipality's actual affordable housing units, exclusive of bonus credits, must be made available to families with children, a minimum of 115 family units (i.e., 50% of 230) must be created.

Fourth Round Unmet Need: Families with Children	
<i>Proposed Units:</i> 216-222 Main Street 275 Northfield Avenue 103 Pleasant Valley Way (Greenhill) 350 Pleasant Valley Way	3 units 14 units 39 units 59 units
Total Units	115

Rental Units

As a minimum of 25% of a municipality's actual affordable housing units, exclusive of bonus credits, shall be satisfied through rental units, a minimum of 58 rental units (i.e., 25% of 230) must be created. Further, as at least half of that number must be available to families with children, a minimum of 29 rental family units (i.e., 50% of 58) must be created.

Fourth Round Unmet Need: Rental Requirement		
Family Rental Units	<i>Proposed Units:</i> 216-222 Main Street 350 Pleasant Valley Way	3 units 59 units
Total Rental Units		62
• <i>Total Family Rental Units</i>		62

Very-Low Income Requirement

As at least 13% of the housing units made available for occupancy by low-income and moderate-income houses shall be reserved for low-income households earning 30% or less of the median income pursuant to the Fair Share Housing Act, N.J.S.A. 52:27D-301, et seq, a minimum of 30 very-low-income units (i.e., 13% of 230) must be created. Further, as half of the very low-income units must be made available to families with children, a minimum of 15 very-low-income family units (i.e., 50% of 30) must be created.

Fourth Round Unmet Need: Very-Low-Income Requirement		
Very-Low-Income Units	<i>Existing Units:</i> 555 Northfield Avenue 19 Terrace Avenue 97 Edgewood Avenue 23 Oak Avenue 60 Glenview Drive 167 Pleasant Valley Way 177 Marion Drive <i>Proposed Units:</i> 1155 Pleasant Valley Way (Daughters of Israel)	11 units 3 bedrooms 5 bedrooms 3 bedrooms 3 bedrooms 5 bedrooms 2 bedrooms 41 beds
Very-Low-Income Family Units	<i>Proposed Units:</i> 275 Northfield Avenue 103 Pleasant Valley Way (Greenhill) 350 Pleasant Valley Way	2 units 5 units 8 units
Total Very-Low-Income Units		88
• Total Very-Low-Income Family Units		15

CONSISTENCY WITH STATE PLANNING REQUIREMENTS

State Plan

In accordance with the amended Fair Housing Act, Housing Elements and Fair Share Plans shall provide an analysis of consistency with the State Development and Redevelopment Plan (SDRP), including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

New Jersey adopted its last SDPR in 2001. A draft amendment to the SDRP was prepared in 2011 but ultimately never adopted. The Office of Planning Advocacy released a new draft SDRP on December 4, 2024. The State is currently going through the Plan conformance process.

Objectives for Metropolitan Planning Areas (PA1), the primary land designation assigned to the Township of West Orange, from the adopted 2001 State Plan are outlined below:

- Provide for much of the state's future redevelopment
- Revitalize cities and towns
- Promote growth in compact forms
- Stabilize older suburbs
- Redesign areas of sprawl
- Protect the character of existing stable communities

Multigenerational Family Housing

An amendment to the Fair Housing Act requires "an analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c.273 (C.52:27D-329.20)." As of the date of this Housing Plan, there have been no recommendations by the Multigenerational Family Housing Continuity Commission in which to provide an analysis.

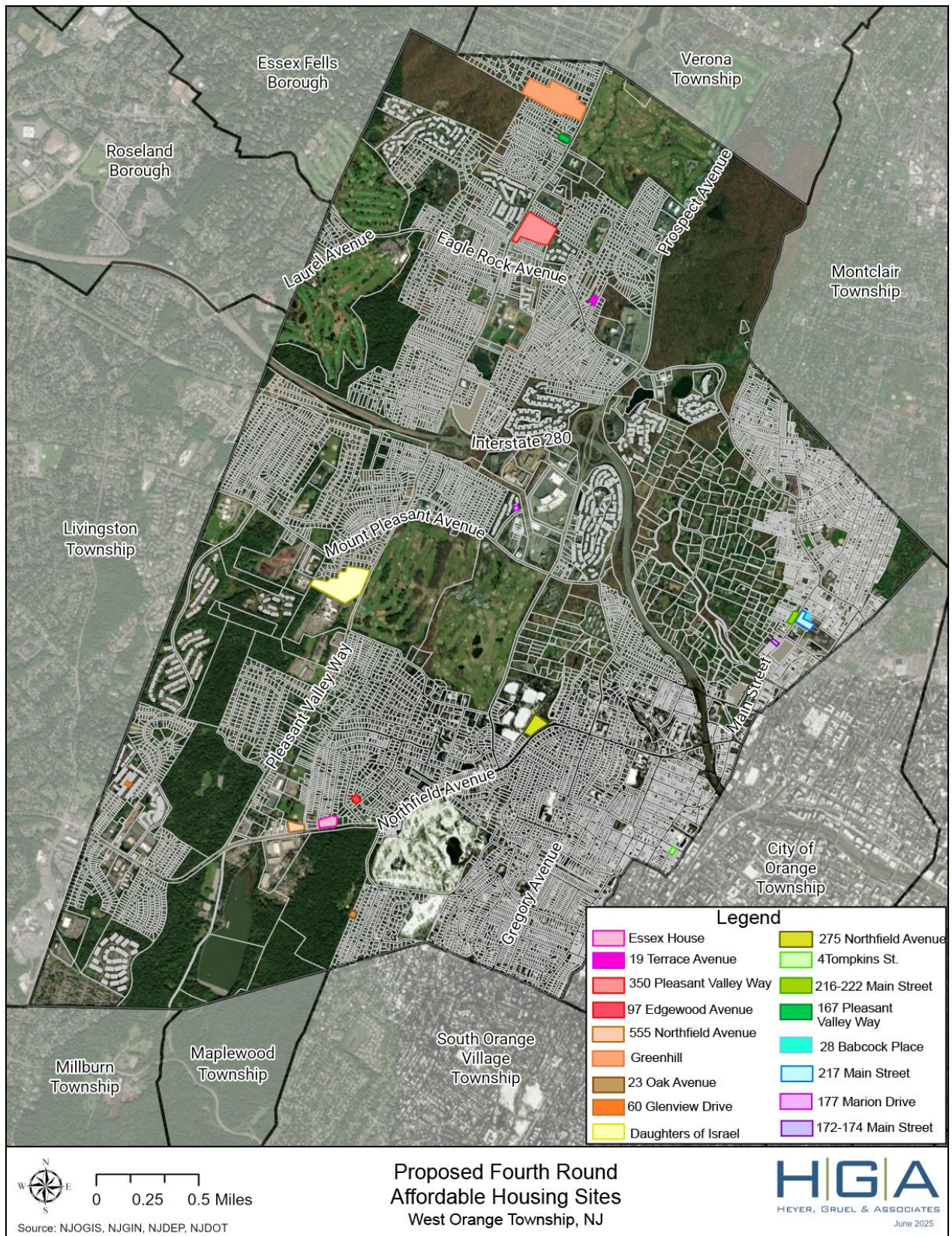
USE OF SURPLUS CREDITS

Any surplus credits generated would be applied to any future obligation that the Township may have.

SUMMARY OF FAIR SHARE COMPLIANCE

West Orange Township Affordable Housing Obligations	
Prior Round Obligation (1987-1999)	226
Degnan House/ Eagle Rock Senior Citizen's Housing	10
Federation Plaza	92
Habitat for Humanity	2
Wedgewood Drive	2
30-32 Kingsley	8
Marmon Terrace	6
Merrywood Drive	5
PRISM Redevelopment	44
Bonus Credits	57
<i>Prior Round Total</i>	<i>226</i>
Third Round Obligation - RDP	421
Federation Plaza	42
Washington Street	3
152 Main Street	3
158 Main Street	3
46 Mount Pleasant Avenue	17
Wedgewood Drive	2
Dogwood Drive	4
525 Pleasant Valley Way	6
St. Cloud/Forest Avenue	8
Valley Road Residential	55
West Essex Highlands	100
Selecto Flash/25 Tompkins Street	17
Stonehill	64
Block 155, Lot 40.03	23
Bonus Credits	74
<i>Total Third Round Obligation – RDP</i>	<i>421</i>

Third Round Obligation – Unmet Need	533
46 Mount Pleasant Avenue	47
Redwood Site	28
Mayfair Farms	36
K-Mart/Whole Foods Shopping Center	104
10 Rooney Circle	17
Rock Spring Golf Club	30
Surplus Credits from Third Round RDP	32
Mandatory Set-Aside Ordinance	-
Fourth Round Obligation - RDP	0
Fourth Round Obligation – Unmet Need	660
555 Northfield Avenue	11
172-174 Main Street	1
216-222 Main Street	3
275 Northfield Avenue	14
525 Northfield Avenue (Essex House)	12
103 Pleasant Valley Way (Greenhill)	39
350 Pleasant Valley Way	59
28 Babcock Place	4
4 Tompkins Street	4
1155 Pleasant Valley Way (Daughters of Israel)	41
19 Terrace Avenue	3
97 Edgewood Avenue	5
23 Oak Avenue	3
60 Glenview Drive	3
167 Pleasant Valley Way	5
177 Marion Drive	2
Mandatory Set-Aside Ordinance	-
Bonus Credits	81



APPENDIX A

Settlement Agreement between the Township of West Orange and Fair Share Housing Center (FSHC), dated April 6, 2020

RESOLUTION

WHEREAS, on July 7, 2015, the Township of West Orange (the "Township") filed a Declaratory Judgment Complaint in Superior Court, Law Division, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. (2015) (Mount Laurel IV), seeking, among other things, a judicial declaration that its Housing Element and Fair Share Plan (hereinafter "Fair Share Plan"), as to be amended as necessary, satisfies its "fair share" of the regional need for low and moderate income housing pursuant to the "Mount Laurel doctrine"; and

WHEREAS, the Township simultaneously sought, and ultimately secured, a protective Order providing the Township with immunity from all exclusionary zoning lawsuits while it pursues approval of its Fair Share Plan; and

WHEREAS, the Trial Judge appointed Elizabeth McManus, PP, AICP, LEED AP, as the Special Court Master (hereinafter the "Court Master"), as is customary in Mount Laurel matters adjudicated in the courts; and

WHEREAS, with the assistance from the Court Master, the Township and Fair Share Housing Center (hereinafter "FSHC") engaged in good faith negotiations which resulted in an amicable accord on the various substantive terms and conditions as set forth in the Settlement Agreement attached hereto as Exhibit A; and

WHEREAS, the Township was represented in these negotiations by the Township's Affordable Housing Planner Shirley Bishop; and

WHEREAS, through the process, the Township and FSHC agreed upon the Township's affordable housing obligations and the compliance techniques necessary for

the Township to satisfy its "fair share" of the regional need for low- and moderate-income housing; and

WHEREAS, the Township and FSHC also agreed to present the Settlement Agreement to the Trial Judge for approval at a duly-noticed Mount Laurel Fairness Hearing; and

WHEREAS, although there is a well-established policy favoring the settlement of all forms of litigation, the settlement of Mount Laurel litigation is particularly favored because (1) it avoids the expenditure of finite public resources; and (2) expedites the construction of safe, decent housing for the region's low- and moderate-income households; and

WHEREAS, in light of the above, the Council finds that it is in the best interest of the Township to execute the attached Settlement Agreement with FSHC and to take the various other actions delineated below, which will ultimately result in approval of the Township's Fair Share Plan which, in turn, will maintain the Township's immunity from all Mount Laurel lawsuits for the ten-year period set forth in the New Jersey Fair Share Housing Act, N.J.S.A. 52:27D-301 to 329.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST ORANGE that the Township Council hereby directs, authorizes and empowers the Mayor to execute the Settlement Agreement attached hereto as Exhibit "**A**;" and be it further

RESOLVED, that the Council hereby directs, authorizes and empowers the Township's Counsel to (a) file the fully-executed Settlement Agreement with the Court

for review and approval at a duly-noticed Fairness Hearing, (b) take all actions reasonable and necessary to secure an Order approving the Settlement Agreement, and (c) work towards ultimately securing judicial approval of the Township's Fair Share Plan, after it is drafted, adopted by the Township Planning Board and endorsed by the Council; and be it further

RESOLVED, that all other appropriate Township officials are hereby directed, authorized and empowered to execute all documents and take all steps necessary and appropriate to effectuate the terms and purposes of this Resolution and the Settlement Agreement; and be it further

RESOLVED, that this Resolution shall be published and made available in the Clerk's office in accordance with applicable law.



Karen J. Carneyale, R.M.C.
Municipal Clerk

Michelle Casalino
Council President

Adopted: April 14, 2020

EXHIBIT "A"



Peter J. O'Connor, Esq.
 Adam M. Gordon, Esq.
 Laura Smith-Denker, Esq.
 David T. Rammler, Esq.
 Joshua D. Bauers, Esq.
 Bassam F. Gergi, Esq.

April 6, 2020

Richard Trenk, Esq.
 McManimom Scotland and Baumann
 75 Livingston Avenue
 Roseland, NJ 07068

Re: In the Matter of the Township of West Orange, County of Essex,
 Docket No. ESX-L-4697-15

Dear Mr. Trenk:

This letter memorializes the terms of an agreement reached between the Township of West Orange (the Township or "West Orange"), the declaratory judgment plaintiff, and Fair Share Housing Center (FSHC), a Supreme Court-designated interested party in this matter in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015) (Mount Laurel IV) and, through this settlement, a defendant in this proceeding.

Background

West Orange Township filed the above-captioned matter on July 21, 2015 seeking a declaration of its compliance with the Mount Laurel doctrine and the Fair Housing Act of 1985, N.J.S.A. 52:27D-301, *et seq.*, in accordance with In re N.J.A.C. 5:96 and 5:97, *supra*. Through the declaratory judgment process, the Township and FSHC have agreed to settle the litigation and to present that settlement to the trial court with jurisdiction over this matter to review, recognizing that the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households.

Settlement terms

The Township and FSHC hereby agree to the following terms:

1. FSHC agrees that the Township, through the adoption of a Housing Element and Fair Share Plan conforming with the terms of this Agreement (hereafter "the Plan") and through the implementation of the Plan and this Agreement, satisfies its obligations under the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301, *et seq.*, for the Prior Round (1987-1999) and Third Round (1999-2025).
2. At this time and at this particular point in the process resulting from the Supreme Court's Mount Laurel IV decision, when Third Round fair share obligations have yet to be definitively determined, it is appropriate for the parties to arrive at a settlement regarding a municipality's Third Round Obligation instead of doing so through plenary adjudication of the Third Round Obligation.
3. FSHC and West Orange hereby agree that West Orange's affordable housing obligations are as follows:

Rehabilitation Share (per Kinsey Report ¹)	305
Prior Round Obligation (pursuant to N.J.A.C. 5:93)	226
Third Round (1999-2025) Obligation (per Kinsey Report, as adjusted through this Agreement)	954

4. For purposes of this Agreement, the Third Round Obligation shall be deemed to include the Gap Period present need for new construction to address the affordable housing needs of households formed from 1999-2015, a need that was recognized by the Supreme Court in In re Declaratory Judgment Actions Filed By Various Municipalities, 227 N.J. 508 (2017), and the Prospective Need, which is a measure of the affordable housing need anticipated to be generated between July 1, 2015 and June 30, 2025.
5. The Township's efforts to meet its Rehabilitation Share include the following: West Orange has contracted with Community Action Services (CAS) to operate a rehabilitation program for both rental and owner occupied units which is entirely funded through West Orange's affordable housing trust fund. West Orange will provide a valid contract with CAS as part of achieving compliance. West Orange also participates in the Essex County rehab program. This is sufficient to satisfy the Township's present need obligation of 305 units.
6. As noted above, the Township has a Prior Round (new construction) Obligation of 226 units, which is met through the following compliance mechanisms:

Name of Development	# of Units	Bonus	Total	Status
Degnan House (age-restricted)	10	0	10	Completed
Federation Plaza (age-restricted)	92	0	92	Completed
Wedgewood Avenue (supportive housing)	2 bedrooms	2	4	Completed
30-32 Kingsley (supportive housing)	8 bedrooms	0	8	Completed
4 Marmon Terrace (supportive housing)	6 bedrooms	6	12	Completed
Merrywood Drive (supportive housing)	5 bedrooms	5	10	Completed
PRISM Redevelopment (family rental)	44	44	88	Phase 1 is completed; Phase 2 is approved w/ developer's agreement in place
Habitat for Humanity (family for-sale)	2	0	2	Completed
TOTAL	169	57	226	--

¹ David N. Kinsey, PhD, PP, FAICP, NEW JERSEY LOW AND MODERATE INCOME HOUSING OBLIGATIONS FOR 1999-2025 CALCULATED USING THE NJ COAH PRIOR ROUND (1987-1999) METHODOLOGY, May 2016.

7. As noted above West Orange has a Third Round obligation of 954 units. The Township is eligible for a vacant land adjustment and has a realistic development potential (RDP) of 421 units, as calculated in Exhibit A. That RDP will be satisfied as follows:

Name of Development	# of units	Bonus	Total	Status
Federation Plaza (age-restricted)	42	0	42	Completed
Wedgewood Avenue (supportive housing)	2	0	2	Completed
Dogwood Drive (supportive housing)	4	0	4	Completed
Pleasant Valley Way (supportive housing)	6	0	6	Completed
Washington Street (family rental)	3	0	3	Completed
Main Street (family rental)	3	0	3	Completed
158 Main Street (family rental)	3	0	3	Completed
St. Cloud – Prism (supportive housing)	4	0	4	Completed
Forest Avenue (supportive housing)	4	0	4	Completed
Valley Road Residential (family rental)	55	55	110	Under Construction
West Essex Highlands (family rental)	100	51	151	Settlement Agreement; still being finalized
Selecto Flash (family rental)	17	0	17	Redevelopment Plan; pending developer's agreement
Executive Drive Block 155 Lot 40.03 (family rental)	23	0	23	Redevelopment Plan; pending developer's agreement
Executive Drive Block 155 Lot 40.02 and 42.02 (family rental)	64	0	64	Redevelopment Plan; pending developer's agreement
Library Site (senior housing)	17 (of 64)	0	17	Redevelopment Plan and awarded tax credits;
	347	106	453	--

8. The Township shall provide a realistic opportunity for the development of affordable housing through the adoption of inclusionary zoning on the following sites:
- West Essex Highlands – The Township of West Orange intends to continue working in good faith to enter into a settlement agreement with West Essex

Highlands, Inc., an intervenor in this declaratory judgment matter. The proposed agreement (not yet drafted and presented to Council) will provide that West Essex shall be permitted to construct up to 496 apartments. West Essex shall provide a letter prior to the fairness hearing in this matter firmly committing to setting aside 100 of the 496 units for affordable housing, a 20% set-aside. The letter shall confirm that West Essex has agreed to provide all of the affordable housing units as family rental units and that it shall follow the UHAC regulations regarding, among other things, income distribution, bedroom distribution, length of deed restrictions, and affirmative marketing and that West Essex agrees that 13% of the affordable housing units provided on this site shall be available to households earning less than 30% of the median income.

- b) Selecto Flash – The Township has adopted a Redevelopment Plan for the area called the Central Valley Corridor Redevelopment Area on December 12, 2016. The Selecto Flash site at Block 9 Lot 35 and Block 7 Lot 22 is located within this Redevelopment Area. The Township has rezoned these properties as part of the Redevelopment Plan to permit up to 111 residential units including a 15% set-aside of 17 affordable housing units.
 - c) Executive Drive Redevelopment – The Township has adopted a Redevelopment Plan for the area called the Essex Green Executive Drive Redevelopment Area. Block 155 Lots 40.02, 40.03, 40.04, 41.02, 41.02, and 42.02 are included in this Redevelopment Area. The Redevelopment Plan is in the process of being amended, which process shall be completed no later than 30 days prior to the final compliance hearing in this matter, to permit the following on each Block/Lot:
 - Block 155 Lot 40.02 and 42.02 – 18.2 total acres – permitting 425 residential units including a 15% set-aside of 64 affordable housing units.
 - Block 155 42.01 – 8.2 total acres – will continue its office use and will not provide affordable housing or generate RDP at this time.
 - Block 155 Lot 40.03 – 4.72 total acres – permitting up to 123 residential units including a 20% set-aside of 23 affordable housing units.
9. Library Site – 46 Mount Pleasant Redevelopment Area – The Alpert Group have secured an award of low-income housing tax credits for this site for the development of 64 age-restricted rental units. The Township may apply 17 of these 64 credits towards its Third Round RDP because of the age-restricted cap. The 47 additional units will be applied toward the Township's unmet need. The Township shall further explain in its Housing Element and Fair Share Plan how this site creates a realistic opportunity for affordable housing in accordance with N.J.A.C. 5:93-5.5.
10. The RDP of 421 subtracted from the agreed upon Third Round Obligation of 954 units, results in an Unmet Need of 533 units. The Unmet Need is further reduced by the 32 surplus credits the Township has provided in addressing its RDP, the existing 57 affordable housing units provided at the Woodland Valley age-restricted site, and the remaining 47 units of credit from the Library site. Thus, the Township's unmet need is 397 units, which shall be addressed through the following mechanisms:
- a) K-Mart / Whole Foods Shopping Center
 - Block 152.01, Lots 1445 and 1445.05
 - Corner of Eagle Rock and Prospect Avenue
 - Current owner: West Orange Plaza
 - Lot Area: 32.32 acres
 - Zone: P-C Planned Commercial

- The Township has agreed to place a mixed-use overlay zone for commercial/retail on the first floor and up to three stories of residential above. The residential density for this site shall permit up to 16 du/a and require a 20% set-aside.
- b) Mayfair Farms Site
 - Block 152.01 Lot 1445.01
 - 481 Eagle Rock Avenue
 - Current Owner: Mayfair Farms Holding Corp.
 - Lot Area: 11.07 acres
 - Zone: B-2 Business
 - The Township has agreed to place a mixed-use overlay zone for commercial/retail on the first floor and up to three stories of residential above. The residential density for this site shall permit up to 16 du/a and require a 20% set-aside.
- c) Redwood
 - Block 151 Lot 33
 - 200 Pleasant Valley Way
 - Current Owner: Redwood LLC, c/o Pagano Real Estate
 - Lot Area: 5.91 acres +/-
 - Zone: R-2 Single-Family Residential
 - The Township has agreed to place overlay zoning on this site permitting non age-restricted residential development up to 24 du/a and requiring a 20% affordable housing set-aside. The parties agree that this zoning yield shall be permitted to be rounded up to 142 total units, which if developed to that maximum would require an affordable housing set-aside of either
 - a) 28 on-site affordable housing units and a payment in lieu of \$59,473.20, or
 - b) 29 on-site affordable housing units.
- d) The Township shall adopt an ordinance requiring a mandatory affordable housing set aside for all new multifamily residential developments of five (5) units or more. The set aside for rental and for sale developments shall be twenty percent (20%). The provisions of the ordinance shall not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwellings of five or more. The form of the Ordinance shall be finalized prior to final judgment being issued in this matter through collaboration between FSHC, the Special Master, and representatives of the Township.

11. In addition to the Unmet Need mechanisms identified in Paragraph 10 the Township has identified the following areas where affordable housing may be produced in the future:

- a) 10 Rooney Circle
 - Block 155 Lot 41.02
 - Address – 10 Rooney Circle
 - Current Owner: West Orange Office Executive Park
 - Lot Area: 5.2 acres
 - Zone: Site is in Essex Green Redevelopment Area
 - The Township is currently in negotiations with the landowner concerning the future use of this site. Within 18 months of the court's approval of this agreement the Township shall inform the special master and FSHC as to the future use. In the event that the future use will be residential the

Township has agreed to place overlay zoning on this site permitting 16 du/a and requiring a 20% set-aside.

12. Rock Spring Golf Course -The Township has recently purchased this 138-acre golf course that it intends to initially continue to utilize as a golf course. The Township has contracted with a golf course consulting company that will operate Rock Spring as a golf course for the next 22 months in order to establish its continuing viability as an 18-hole course which may be extended. In the event that the golf course is found to not be viable as an 18-hole golf course, but is viable as a 9-hole golf course the Township agrees to rezone a portion of the property to provide residential zoning for the 9-hole portion of the course to be redeveloped permitting at least 150 dwelling units including a 20% affordable housing set-aside of at least 30 units. The Township will provide FSHC with notice of its intentions for future use of this site by July 1, 2021 or sooner if a decision is made prior to that date. At this time the golf course will not generate any RDP but will be evaluated for RDP purposes at the time of notice of decision and FSHC is free to take whatever position it wishes at that time as to the appropriate RDP.
13. The Township agrees to require 13% of all affordable units referenced in this Agreement, excepting those units that were constructed or granted preliminary or final site plan approval prior to July 1, 2008, to be very low income units, with half of the very low income units being available to families. The municipality will comply with those requirements as follows:

Affordable Housing Units Created after 7/1/2008	# of Units
Valley Road Residential	55
West Essex Highlands	100
Executive Drive Redevelopment Area (B: 155 L: 40.02, 40.03)	108
PRISM Redevelopment	44
Selecto Flash	17
Forest Ave Group Home	4
St. Cloud Group Home	4
Library site	64
Total	396
Minimum VLI Required (13% of Total)	52
Minimum Family VLI Units (50% of Total VLI)	26
PRISM	6
Valley Road Residential	7
West Essex Highlands	13
Executive Drive Redevelopment Area	14
Selecto Flash	2
St. Cloud – supportive housing	4
Forest Ave – supportive housing	4
Library Site	9
Total VLI	59
Total Family VLI	42

The Township will also require that 13 percent of any affordable units produced from any site resulting from the mechanisms in paragraphs 10 through 12 of this agreement shall be very low income units.

14. The Township shall meet its Third Round Obligation in accordance with the following standards as agreed to by the Parties and reflected in the table in paragraph 7 above:

- a) Third Round bonuses will be applied in accordance with N.J.A.C. 5:93-5.15(d).
- b) At least 50 percent of the units addressing the Third Round Obligation shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households.
- c) At least twenty-five percent of the Third Round Obligation shall be met through rental units, including at least half in rental units available to families.
- d) At least half of the units addressing the Third Round Prospective Need in total must be available to families.
- e) The Township agrees to comply with an age-restricted cap of 25% and to not request a waiver of that requirement. This shall be understood to mean that in no circumstance may the municipality claim credit toward its fair share obligation for age-restricted units that exceed 25% of all units developed or planned to meet its cumulative prior round and third round fair share obligation.

15. The Township shall add to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(f)(5), Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, East Orange NAACP, Newark NAACP, Morris County NAACP, Elizabeth NAACP, Supportive Housing Association, and shall, as part of its regional affirmative marketing strategies during its implementation of the affirmative marketing plan, provide direct notice to those organizations of all available affordable housing units, along with copies of application forms. The Township also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph.

16. All units shall include the required bedroom distribution, be governed by controls on affordability and affirmatively marketed in conformance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, *et seq.*, or any successor regulation, with the exception that in lieu of 10 percent of affordable units in rental projects being required to be at 35 percent of median income, 13 percent of affordable units in rental projects shall be required to be at 30 percent of median income, and in conformance with all other applicable law. The Township, as part of its HEFSP, shall adopt and/or update appropriate implementing ordinances in conformance with standard ordinances and guidelines developed by COAH to ensure that this provision is satisfied. Limits for all units that are part of the Plan required by this Agreement and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1 shall be updated by the Township annually within 30 days of the publication of determinations of median income by HUD as follows:

- a) Regional income limits shall be established for the Housing Region in which the Township is located (in this case, Housing Region 2) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated number of households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total number of households from the most recent decennial Census in the Township's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.
 - b) The income limits attached hereto as Exhibit B are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for FY 2019, and shall be utilized until the Township updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
 - c) The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Township annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.
 - d) The parties agree to request the Court prior to or at the fairness hearing in this matter to enter an order implementing this paragraph of this Agreement, the terms of which shall also be reflected in the Township's Affordable Housing Ordinance.
17. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311a and -311b and all other applicable law.
18. As an essential term of this Agreement, within one hundred twenty (120) days of the Court's approval of this Agreement, the Township shall introduce and adopt an ordinance or ordinances providing for the amendment of the Township's Affordable Housing Ordinance and Zoning Ordinance to implement the terms of this Agreement and the zoning contemplated herein and shall adopt a Housing Element and Fair Share Plan and Spending Plan in conformance with the terms of this Agreement.
19. This Agreement is subject to Township Council approval.
20. The parties agree that if a decision of a court of competent jurisdiction in Essex County, or a determination by an administrative agency responsible for implementing the Fair

Housing Act, or an action by the New Jersey Legislature, would result in a calculation of an obligation for the Township for the period 1999-2025 that would be lower by more than twenty (20%) percent than the total prospective Third Round Obligation established in this Agreement, and if that calculation is memorialized in an unappealable final judgment, the Township may seek to amend the judgment in this matter to reduce its fair share obligation accordingly. Notwithstanding any such reduction, the Township shall be obligated to adopt a Housing Element and Fair Share Plan that conforms to the terms of this Agreement and to implement all compliance mechanisms included in this Agreement, including by adopting or leaving in place any site specific zoning adopted or relied upon in connection with the Plan adopted pursuant to this Agreement; taking all steps necessary to support the development of any 100% affordable developments referenced herein; maintaining all mechanisms set forth herein to address unmet need; and otherwise fulfilling fully the fair share obligations as established in this Agreement. The reduction of the Township's Third Round Obligation below that established in this Agreement does not provide a basis for seeking leave to amend this Agreement or seeking leave to amend an order or judgment pursuant to R. 4:50-1. If the Township prevails in reducing its Third Round Obligation, the Township may carry over any resulting extra credits to future rounds in conformance with the then-applicable law.

21. The Township shall prepare a Spending Plan within the period referenced above, subject to review by FSHC and the approval of the Court, and reserves the right to seek approval from the Court that the expenditures of funds contemplated under the Spending Plan constitute a "commitment" for expenditure pursuant to N.J.S.A. 52:27D-329.2 and -329.3, with the four-year time period for expenditure designated pursuant to those provisions beginning to run with the entry of a final judgment in this matter that includes approval of the Spending Plan in accordance with the provisions of In re Tp. Of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563). On the first anniversary of the Court's approval of the Spending Plan, and on every anniversary of that date thereafter through July 1, 2025, the Township agrees to provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services. The reporting shall include an accounting of all housing trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
22. On the first anniversary of the execution of this Agreement, and every anniversary thereafter through the end of this Agreement, the Township agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website, with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC.
23. The Fair Housing Act includes two provisions regarding action to be taken by the Township during the period of protection provided in this Agreement. The Township agrees to comply with those provisions as follows:
 - a) For the midpoint realistic opportunity review, due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Township will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its

implementation of the Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the court regarding these issues.

- b) For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of this Agreement, and every third year thereafter, the Township will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein. Such posting shall invite any interested party to submit comments to the municipality and Fair Share Housing Center on the issue of whether the municipality has complied with its very low income housing obligation under the terms of this settlement.
24. FSHC is hereby deemed to have party status in this matter and to have intervened in this matter as a defendant without the need to file a motion to intervene or an answer or other pleading. The parties to this Agreement agree to request the Court to enter an order declaring FSHC is an intervenor, but the absence of such an order shall not impact FSHC's rights.
25. This Agreement must be approved by the Court following a fairness hearing as required by Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). The Township shall present its planner as a witness at this hearing. FSHC agrees to support this Agreement at the fairness hearing. In the event the Court approves this proposed settlement, the parties contemplate the municipality will receive "the judicial equivalent of substantive certification and accompanying protection as provided under the FHA," as addressed in the Supreme Court's decision in In re N.J.A.C. 5:96 & 5:97, 221 N.J. 1, 36 (2015). The "accompanying protection" shall remain in effect through July 1, 2025. If this Agreement is rejected by the Court at a fairness hearing it shall be null and void.
26. The Township will ensure that the sum of \$50,000.00 in payment of fees and costs is conveyed to Fair Share Housing Center within 60 days of the approval of this Agreement by court order following a Fairness Hearing. The Township may enter into a separate agreement with the intervenor(s) for the payment of the entire fee of \$50,000.00 to be paid to FSHC, but failure to secure payment from the developer/intervenors shall not remove the requirement that the Township ensure that \$50,000.00 shall be paid to FSHC within 60 days of the approval pursuant to a duly-noticed fairness hearing. The Township agrees to enter into agreements with the intervenors that requires the payment of the funds to their counsel to be held in escrow within 60 days of the execution of the agreements between the Township and intervenors and before the fairness hearing in this matter. To the extent the Township advances these funds, it may seek reimbursement from the intervenors at a later point and FSHC will not be entitled to additional amounts.

27. If an appeal is filed of the Court's approval or rejection of this Agreement, the Parties agree to defend the Agreement on appeal, including in proceedings before the Superior Court, Appellate Division and New Jersey Supreme Court, and to continue to implement the terms of this Agreement if the Agreement is approved before the trial court unless and until an appeal of the trial court's approval is successful or any stay is entered, at which point the Parties reserve their right to rescind any action taken in anticipation of the trial court's approval. All Parties shall have an obligation to fulfill the intent and purpose of this Agreement.
28. This Agreement may be enforced through a motion to enforce litigant's rights or a separate action filed in Superior Court, Essex County. A prevailing movant or plaintiff in such a motion or separate action shall be entitled to reasonable attorney's fees.
29. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.
30. This Agreement shall be governed by and construed by the laws of the State of New Jersey.
31. This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.
32. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same Agreement.
33. The Parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possess the authority to sign the Agreement, that this Agreement contains the entire understanding of the Parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.
34. Each of the Parties hereto acknowledges that this Agreement was not drafted by any one of the Parties, but was drafted, negotiated and reviewed by all Parties and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the Parties expressly represents to the other Parties that: (i) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (ii) it has conferred due authority for execution of this Agreement upon the persons executing it.
35. Any and all Exhibits and Schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or in the future are hereby made or will be made a part of this Agreement with prior written approval of both Parties.
36. This Agreement constitutes the entire Agreement between the Parties hereto and supersedes all prior oral and written agreements between the Parties with respect to the subject matter hereof except as otherwise provided herein.

37. No member, official or employee of the Township shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law, absent the need to invoke the rule of necessity.
38. Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date upon which all of the Parties hereto have executed and delivered this Agreement.
39. All Notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the respective Parties by certified mail, return receipt requested, or by a recognized overnight carrier or by a personal carrier. In addition, where feasible (for example, transmittals of less than fifty pages) Notices shall be served by facsimile or e-mail. All Notices shall be deemed received upon the date of delivery. Delivery shall be effected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days notice as provided herein:

TO FSHC:

Adam M. Gordon, Esquire
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, NJ 08002
Phone: (856) 665-5444
Telecopier: (856) 663-8182
E-mail: adamgordon@fairsharehousing.org

TO THE TOWNSHIP:

Richard D. Trenk, Esq.
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue
Roseland, NJ 07068
Phone: (973) 622-1800
Telecopier: (973) 622-3744
Email: rtrenk@msbnj.com

**WITH A COPY TO THE
MUNICIPAL CLERK:**

Karen Carnevale, Municipal Clerk
Township of West Orange
66 Main Street
West Orange, NJ 07052

Please sign below if these terms are acceptable.

Sincerely,



Adam M. Gordon, Esq.
Counsel for Intervenor/Interested Party
Fair Share Housing Center

On behalf of the Township of West Orange, with the authorization
of the governing body:


ROBERT D. PARISI, MAYOR
Dated: 5/6/20

On behalf of Redwood, L.L.C.:

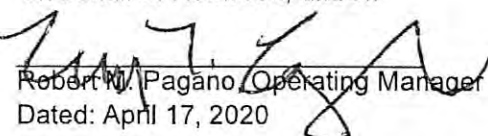

Robert M. Pagano, Operating Manager
Dated: April 17, 2020

EXHIBIT A: WEST ORANGE TOWNSHIP AMENDED Vacant Land Assessment

Site Number	Development Acreage	Density	Total Units	RDP	Zoning
WEH-1	61.0	10 units per acre	610 (new)	122	R-3
Redwood-2	5.3	24 unit per acre	127 (new)	25	R-2
3	5.3	8 units per acre	42.4	8.5	R-5
4	0.7	8 units per acre	5.6	1.1	R-5
5	0.5	10 units per acre	5.0	1.0	R-6
6	12.5	10 units per acre	125.0	25.0	R-2/R-5
7	2.8	8 units per acre	22.4	4.5	R-5
8	4.6	8 units per acre	36.8	7.4	R5
9	2.5	6 units per acre	15.0	3.0	P-C
10	9.4	6 units per acre	56.4	11.3	R-1
11	5.6	6 units per acre	33.6	6.7	R-1
12	1.1	6 units per acre	6.6	1.3	R-2
13	0.6	6 units per acre	3.6	0.7	R-2
14	1.6	6 units per acre	9.6	2	R-6
15	4.1	10 units per acre	41.0	8.2	OB-1
16	0.5	6 units per acre	3.6	0.7	R-1
17	0.8	8 units per acre	6.4	1.3	R-5
Valley Road	1.55	65 units per acre	100 (new)	20	Central Ave.
SelectoFlash	1.5	66.67 units per acre	100 (new)	20	Central Ave.
Executive Drive	4.72	26 units per acre	123(new)	23	Block 155 Lot 40.03
Executive Drive	18	23 units per acre	425 (new)	85	Block 155, Lot 40.02 + 42.02
Lennar	36	6 units per acre	216 (new)	43	Crestmont C.C.

Total 420.07

Please note: The above chart represents only the final list of properties that generate RDP. The densities utilized to calculate this RDP are for settlement purposes only. The final complete vacant land analysis is available in a separate document.

EXHIBIT B: 2019 INCOME LIMITS

		1 Person	*1.5 Person	2 Person	*3 Person	4 Person	*4.5 Person	5 Person	6 Person	7 Person	8+ Person	Rents**	Sales***	Regional Asset Limit****
Region 1	Median	\$66,607	\$71,365	\$76,122	\$85,637	\$95,153	\$98,959	\$102,765	\$110,377	\$117,989	\$125,602			
Bergen, Hudson, Passaic and Sussex	Moderate	\$53,286	\$57,092	\$60,898	\$68,510	\$76,122	\$79,167	\$82,212	\$88,302	\$94,391	\$100,481	2.6%	4.73%	\$183,994
	Low	\$33,303	\$35,682	\$38,061	\$42,819	\$47,576	\$49,479	\$51,382	\$55,189	\$58,995	\$62,801			
	Very Low	\$19,982	\$21,409	\$22,837	\$25,691	\$28,546	\$29,688	\$30,829	\$33,113	\$35,397	\$37,680			
Region 2	Median	\$70,537	\$75,576	\$80,614	\$90,691	\$100,767	\$104,798	\$108,829	\$116,890	\$124,952	\$133,013			
Essex, Morris, Union and Warren	Moderate	\$56,430	\$60,460	\$64,491	\$72,553	\$80,614	\$83,838	\$87,063	\$93,512	\$99,961	\$106,410	2.6%	5.67%	\$193,321
	Low	\$35,269	\$37,788	\$40,307	\$45,345	\$50,384	\$52,399	\$54,414	\$58,445	\$62,476	\$66,506			
	Very Low	\$21,161	\$22,673	\$24,184	\$27,207	\$30,230	\$31,439	\$32,649	\$35,067	\$37,485	\$39,904			
Region 3	Median	\$82,810	\$88,725	\$94,640	\$106,470	\$118,300	\$123,032	\$127,764	\$137,228	\$146,692	\$156,156			
Hunterdon, Middlesex and Somerset	Moderate	\$66,248	\$70,980	\$75,712	\$85,176	\$94,640	\$98,426	\$102,211	\$109,782	\$117,354	\$124,925	2.6%	9.64%	\$215,261
	Low	\$41,405	\$44,363	\$47,320	\$53,335	\$59,150	\$61,516	\$63,882	\$68,614	\$73,346	\$78,078			
	Very Low	\$24,843	\$26,618	\$28,392	\$31,941	\$35,490	\$36,910	\$38,329	\$41,168	\$44,008	\$46,847			
Region 4	Median	\$72,165	\$77,319	\$82,474	\$92,783	\$103,092	\$107,216	\$111,340	\$119,587	\$127,834	\$136,082			
Mercer, Monmouth and Ocean	Moderate	\$57,732	\$61,855	\$65,979	\$74,226	\$82,474	\$85,773	\$89,072	\$95,670	\$102,268	\$108,865	2.6%	3.91%	\$193,319
	Low	\$36,082	\$38,660	\$41,237	\$46,392	\$51,546	\$53,608	\$55,670	\$59,794	\$63,917	\$68,041			
	Very Low	\$21,649	\$23,196	\$24,742	\$27,835	\$30,928	\$32,165	\$33,402	\$35,876	\$38,350	\$40,825			
Region 5	Median	\$63,070	\$67,575	\$72,080	\$81,090	\$90,100	\$93,704	\$97,308	\$104,516	\$111,724	\$118,932			
Burlington, Camden and Gloucester	Moderate	\$50,456	\$54,060	\$57,664	\$64,872	\$72,080	\$74,963	\$77,846	\$83,613	\$89,379	\$95,146	2.6%	3.09%	\$166,981
	Low	\$31,535	\$33,788	\$36,040	\$40,445	\$44,850	\$46,852	\$48,854	\$52,258	\$55,662	\$59,066			
	Very Low	\$18,921	\$20,273	\$21,624	\$24,327	\$27,030	\$28,111	\$29,192	\$31,355	\$33,517	\$35,680			
Region 6	Median	\$53,714	\$57,550	\$61,387	\$69,061	\$76,734	\$79,803	\$82,873	\$89,011	\$95,150	\$101,289			
Atlantic, Cape May, Cumberland and Salem	Moderate	\$42,971	\$46,040	\$49,110	\$55,248	\$61,387	\$63,843	\$66,298	\$71,209	\$76,120	\$81,031	2.6%	5.15%	\$143,713
	Low	\$26,857	\$28,775	\$30,694	\$34,530	\$38,367	\$39,902	\$41,436	\$44,506	\$47,575	\$50,644			
	Very Low	\$16,114	\$17,265	\$18,416	\$20,718	\$23,020	\$23,941	\$24,862	\$26,703	\$28,545	\$30,387			

Moderate income is between 80 and 120 percent of the median income. Low income is 50 percent or less of median income. Very low income is 30 percent or less of median income.

* These columns are for calculating the pricing for one, two and three bedroom sale and rental units as per N.J.A.C. 5:80-26.4(a).

**This column is used for calculating the pricing for rent increases for units (as previously calculated under N.J.A.C. 5:97-9.3). The increase for 2015 was 2.3%, the increase for 2016 was 1.1%, the increase for 2017 was 1.7%, and the increase for 2018 was 2.2%. The increase for 2019 is 2.6% (Consumer Price Index for All Urban Consumers (CPI-U)). Regions by expenditure category and commodity and service group). Landlords who did not increase rents in 2015, 2016, 2017, or 2018 may increase rent by up to the applicable combined percentage including 2019 or 9.0% whichever is less in accordance with N.J.A.C. 5:97-9.3(c). In no case can rent for any particular apartment be increased more than one time per year.

*** This column is used for calculating the pricing for resale increases for units (as previously calculated under N.J.A.C. 5:97-9.3). The price of owner-occupied low and moderate income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.

Low income tax credit developments may increase based on the low income tax credit regulations.

**** The Regional Asset Limit is used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)(3).

APPENDIX B

**Settlement Agreement between the Township of
West Orange and West Essex Highlands, Inc., dated
April 23, 2020**

EXHIBIT WO-2

(West Essex Highlands Settlement Agreement)

SETTLEMENT OF LITIGATION AGREEMENT

This Settlement of Litigation Agreement (the "Agreement") is entered into this ____ day of _____, 2020, by and between **WEST ESSEX HIGHLANDS, INC.**, a corporation of the State of New Jersey having a business address of 820 Morris Turnpike, Short Hills, New Jersey 07078 ("**WEHI**"), the **TOWNSHIP OF WEST ORANGE**, County of Essex, State of New Jersey, a municipal corporation of the State of New Jersey with a business address of 66 Main Street, West Orange, New Jersey 07052 (the "**Township**"), and **WEST ESSEX HIGHLANDS CONDOMINIUM ASSOCIATION, INC.**, having an address of 1 Reger Lane, West Orange, New Jersey 07052 (the "**Association**"). Collectively, WEHI, the Township and the Association shall be referred to as the "**Parties.**"

WITNESSETH:

WHEREAS, this Agreement concerns the development of real property consisting of approximately 120.5 acres generally located in the northwest corner of the Township adjacent to the northern terminus of Warner Road, which property is specifically identified as Block 179, Lot 32 on the Township's Official Tax Map (the "**Subject Property**"); and

WHEREAS, the Subject Property is generally bordered by the Township of Essex Fells ("**Essex Fells**") to the west, the Township of Verona ("**Verona**") to the north, and the West Essex Highlands Condominium development in West Orange (the "**Condominium**") to the south;

WHEREAS, the Association is duly constituted condominium association for the Condominium;

WHEREAS, WEHI is the owner of the Subject Property; and

WHEREAS, the Township instituted certain litigation now pending in the Superior Court of New Jersey, Law Division, Essex County captioned In the Matter of the Application of the

Township of West Orange, Docket No. ESX-L-4697-15 (the “**Declaratory Judgment Litigation**”); and

WHEREAS, the Declaratory Judgment Litigation seeks declaratory relief approving the Township’s plan to satisfy its current affordable housing obligation and immunity from builders’ remedy lawsuits through the year 2025; and

WHEREAS, WEHI intervened as a defendant in the Declaratory Judgment Litigation;

WHEREAS, WEHI and the Township engaged in court-ordered mediation with Elizabeth McManus, P.P., the court-appointed Special Master in the Declaratory Judgment Litigation; and

WHEREAS, the Association is not a party to the Declaratory Judgment Litigation, but WEHI and the Township recognized the Association, an adjacent neighbor to the Subject Property, as an interested party with respect to the development of the Subject Property whose participation and input at mediation was deemed essential;

WHEREAS, the Township wishes to include the Subject Property as part of its affordable housing compliance plan in connection with the Declaratory Judgment Litigation; and

WHEREAS, the Parties, subject to the terms hereof and all other required governmental approvals, have agreed that the Subject Property shall be developed as a multi-family residential development consisting of 396 market rate units and 100 affordable units, for a total of 496 units, and a clubhouse/amenity buildings (the “**Proposed Development**”) consistent with the “West Essex Highlands Concept Plan 16 for West Essex Highlands, Block 179, Lot 32, Township of West Orange, Essex County, New Jersey” dated March 3, 2020 prepared by Anderson Consulting Services, LLC (the “**Concept Plan**”), a true copy of which is attached hereto as **Exhibit A**; and

WHEREAS, the Concept Plan reflects certain requests by the Association, including that (1) the Proposed Development be located a sizeable distance from the Subject Property’s boundary

with the Condominium; (2) Bayowski Drive remain a cul-de-sac and will only serve as an emergency access point to the Proposed Development; (3) the Proposed Development result in a minimal amount of disturbance to the Subject Property; and (4) Warner Road is intended as the primary means of access to the Proposed Development; and

WHEREAS, the Parties, subject to the terms hereof, have agreed that the Proposed Development shall include an affordable housing set aside of 20% of the total units constructed; and

WHEREAS, the Subject Property is not presently zoned as to permit the development of the Proposed Development; and

WHEREAS, Township has agreed to adopt an ordinance rezoning the Subject Property so as to permit the construction of the Proposed Development as of right consistent with the permitted uses and bulk standards as set forth in a proposed amendment to the Zoning Ordinance of the Township in the form attached hereto and made a part hereof as **Exhibit B** (the “**Zoning Amendment**”); and

WHEREAS, the Parties recognize and agree that the Proposed Development shall be accomplished in a manner consistent with the design terms and conditions set forth in **Exhibit C**, attached hereto (the “**Design Terms and Conditions**”); and

WHEREAS, the Parties recognize and agree that the Proposed Development shall be accomplished in a manner consistent with the terms and conditions agreed to by the Association and WEHI, as set forth in **Exhibit D**, attached hereto (the “**Association Terms and Conditions**”); and

WHEREAS, the Planning Board of the Township of West Orange (the “**Planning Board**”) is not a party to this Settlement Agreement. However, the Parties understand and

anticipate that the Planning Board will consider the Proposed Development in accordance with applicable land use laws, municipal ordinances and the Township's approval of this Agreement; and

WHEREAS, in order to amicably resolve all issues in the Declaratory Judgment Litigation, the Township shall adopt the Zoning Amendment in a manner consistent with this Agreement; and

WHEREAS, the Parties have reached an amicable settlement of the Declaratory Judgment Litigation, and desire and intend to memorialize the settlement by the execution of this Agreement.

NOW, THEREFORE, IN CONSIDERATION OF THE PROMISES, TERMS AND CONDITIONS SET FORTH HEREIN, INTENDING TO BE LEGALLY BOUND HEREBY, THE PARTIES AGREE AS FOLLOWS:

1. **RECITALS.** The WHEREAS recital paragraphs hereinabove set forth are incorporated herein by reference.

1.1 **PURPOSE.** The Purpose of this Agreement is to amicably resolve the Declaratory Judgment Litigation consistent with the terms hereof which, in part, are intended to ensure the construction of the Proposed Development generally consistent with the Concept Plan.

2. **OBLIGATIONS OF THE TOWNSHIP.**

2.1. **Adoption of Zoning Amendment.** Within one hundred twenty days (120) days from Court approval of this Agreement at a duly noticed Fairness Hearing, the Township shall move and vote on the adoption of an ordinance similar in all material respects to the Zoning Amendment after a duly noticed public hearing. Within the same time period, the Planning Board shall make recommendation on the Zoning Amendment in accordance with the procedures of the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq. ("MLUL"). Simultaneously, to the extent

necessary, the Council shall submit an amendment to the Master Plan for consideration by the Planning Board consistent with the Zoning Amendment. The Township hereby agrees not to take any action which will modify the Zoning Amendment or which will otherwise require a variance application in connection with the Proposed Development without the consent of WEHI.

2.2. **Obligation to Cooperate.** The Parties acknowledge that in order to construct the Proposed Development on the Subject Property, WEHI will be required to obtain all necessary agreements, approvals and permits from all relevant public entities and utilities; such as, by way of example only, the Planning Board, the County of Essex, the Essex County Planning Board, and the State of New Jersey, Department of Environmental Protection (“NJDEP”) -- including all ordinance requirements as to site plan and/or subdivision approvals (collectively, the “**Required Approvals**”). The Parties agree to cooperate in all undertakings to obtain the Required Approvals, including but not limited to those approvals required for the installation of a traffic signal at the intersection of Eagle Rock Avenue and Oval Road, including the Township exercising its eminent domain/condemnation powers. All expenses to obtain approvals and acquisition of property shall be at WEHI’s sole cost and expense. If any public takings are necessary for intersection improvements, WEHI shall have the sole authority to settle any condemnation proceedings and WEHI shall fund all expenses of any condemnation process, including but not limited to legal fees, appraisals and any other experts and any just compensation required by any settlement or formal decision awarding such compensation. Within five (5) days of the Township Council’s approval of this Agreement, the Township shall provide a copy of this Agreement to the Planning Board. Although the Association and WEHI may desire for the Township to accept a dedication of Oval Road as a public road, the Township does not presently have a desire to accept Oval Road as a public road and is under no obligation to do so in the future.

2.3. **Obligation to Cooperate Regarding Utilities, Including Public Sewer and Water Service.** The Township and WEHI shall reasonably cooperate with respect to WEHI's providing utility service, including but not limited to sewer, water, electric and/or natural gas through appropriate means, including but not limited to the Township's endorsing all reasonable NJDEP LURP forms, Sewer Extension and Water Extension forms, Water Quality Management Plan and Wastewater Management Plan Amendments and other governmental applications which are reasonably required to facilitate the Proposed Development on the Subject Property; and WEHI's efforts to obtain water and sewer and other utility services for the Subject Property; and the application, if necessary, to amend appropriate Water Quality Management Plans, Wastewater Management Plans and the like to include the Subject Property; and WEHI's obtaining any and all local, county, or regional Sewer Authority approvals, County Planning Board approvals, Stormwater Drainage approvals, and generally cooperate in the obtaining of all land development approvals. Absent a denial by a governmental entity with appropriate jurisdiction, the Proposed Development will be sewerred in the Township at WEHI's sole cost and expense.

2.4. **Concept Plan.** The Parties have reviewed the Concept Plan (**Exhibit A**) and find the design of the Proposed Development as represented on the Concept Plan to be feasible and acceptable as well as consistent with the Zoning Amendment (**Exhibit B**), subject to the addition of amenities buildings and structures within the general area of disturbance depicted on the Concept Plan (i.e., clubhouse, dog park, maintenance shed and other aesthetic considerations). The Parties have agreed to implement the Design Terms and Conditions set forth on **Exhibit C** annexed hereto.

2.5. Planning Board Process:

2.5.1. Completeness. WEHI will complete and submit site plan and/or subdivision applications for the Subject Property, consistent with this Agreement, which applications shall be reviewed by the Township Planner and Township Engineer for purposes of determining completeness, as defined by the MLUL, and compliance with the Zoning Amendment and applicable Design Terms and Conditions. WEHI shall contemporaneously submit a copy of all application materials to the Association. In accordance with the MLUL, completeness determination by the Board must occur within forty five (45) days of submission. In addition, WEHI shall submit all plans to DeFeo & Associates, the Township's environmental consultant, for review and comment. WEHI shall meet with DeFeo & Associates in good faith regarding the location and implementation of fencing and other items designed to regenerate the undergrowth of the Subject Property. Unless otherwise modified by the terms of this Agreement, the MLUL applies to the Township's review and adjudication of WEHI's applications.

2.5.2. Decision By the Planning Board. After the Planning Board determines that WEHI's applications are complete, the Board shall schedule the public hearing on the applications. Action on the subdivision and site plan applications shall be taken in accordance with the MLUL. If necessary, the Township shall ask the Planning Board to provide WEHI with a special meeting(s) for the review of the development application at WEHI's sole cost and expense.

2.5.3. Fees. The Township recognizes that any approvals and this Agreement all contemplate the development of an "inclusionary development" within the meaning of the Mount Laurel doctrine, and WEHI shall be entitled to any benefits, protections and obligations afforded to developers of inclusionary developments, including but not limited to protections from the

imposition of cost-generative requirements, pursuant to N.J.A.C. 5:93-10 and N.J.A.C. 5:97-10. WEHI agrees to pay all typical application fees and escrows and permit fees in connection with its application to the Planning Board and subsequent construction of the Proposed Development. The Parties recognize that the Proposed Development is not yet fully engineered. Upon the full engineering, WEHI may apply for waivers or bulk variances from any standard imposed by the Township's Land Use and Development Ordinance or any other Township ordinance, as applicable, and WEHI may seek waivers or de minimis exceptions to any standard or requirement of New Jersey's Residential Site Improvement Standards ("RSIS") in accordance with the applicable regulations. To the extent a full engineering of the Proposed Development requires WEHI to seek reasonable relief from a Township ordinance not specifically contemplated by this Agreement, the Township will consider same in good faith. The Township recognizes that a full engineering of the Proposed Development may require WEHI to make alterations to the Concept Plan in order to accommodate the location/installation of utilities, amenities and other related development concerns. The Township and WEHI agree that the Concept Plan, which includes Kuzik Drive as a means of ingress/egress for the Subject Property, complies with RSIS regarding traffic circulation. However, pursuant to the Association Terms and Conditions, WEHI will first seek approval to eliminate Kuzik Drive as an access point, which will require WEHI to obtain a de minimis exception from RSIS. The Township and Association support the granting of such a de minimis exception. However, if the Planning Board does not grant such an exception, then WEHI will pursue its application with Kuzik Drive as a means of ingress/egress, which would be acceptable to the Association pursuant to the Association Terms and Conditions. Finally, the Township and WEHI recognize that the Proposed Development will require the installation of a traffic signal at the intersection of Oval Road and Eagle Rock Avenue, an Essex County Road.

Aside the improvements associated with the installation of that traffic signal and those improvements agreed to between WEHI and the Association as set forth in the Association Terms and Conditions, the Township will not require WEHI to make any other off-tract or off-site improvements.

2.5.4. **Trees.** The Township and WEHI recognize the Subject Property is heavily wooded. In that regard, the Township commissioned a tree study, the results of which are reflected in the tree study report of DeFeo Associates dated February 3, 2020 (the “Tree Study”). As set forth in the Tree Study, the overall health of the forest on the Subject Property is weak and the ability of the forest to regenerate itself is poor. The Township and WEHI recognize the importance of preserving and/or optimizing the regeneration of the forest in connection with the development of the Subject Property, but also recognize that the Township’s Tree Protection and Removal Ordinance (Ordinance § 25-7) (the “Tree Ordinance”), if applied to the Proposed Development, would constitute a cost-generative requirement contrary to Section 2.5.3 of this Agreement. In light of the foregoing, the parties agree that tree removal and replacement for the Proposed Development shall be governed by the Design Terms and Conditions attached hereto as Exhibit C, specifically Section 2 (Site & Landscaping).

2.5.5. **Steep Slopes.** The Concept Plan reflects the Township’s requirement that the Proposed Development be located west of a certain point near the ridgeline located on the eastern portion of the Subject Property. The Proposed Development, as set forth on the Concept Plan, must strictly abide by the Township’s request that all structures for the Proposed Development are located west of the ridgeline. To the extent that any portion of the Proposed Development as contemplated in this Agreement would be restricted and/or prohibited by the Township’s Steep Slope and Natural Features Ordinance, Township Code § 25-28.1 through 28.10

(the “**Steep Slope Ordinance**”), including the Adequate Contiguous Area Ordinance (§ 25-28.9), the Steep Slope Ordinance shall not apply to the Proposed Development, which shall be reflected in the Zoning Amendment.

2.5.6. The Parties’ engineering representatives shall consult with one another and other professional staff as they deem appropriate to discuss the status of the application once the application is submitted. Such communications are intended to allow for informal review, comments and discussion in order to facilitate consideration of the Proposed Development, with the understanding that the Township professional staff has no authority to approve or reject an application and that these technical review meetings and other communications are not intended to usurp or limit the Planning Board’s statutory authority. Said discussions shall continue until the Parties deem further meetings unnecessary. The same process shall be followed for final approval applications, if separate from the preliminary approval application, and for subsequent applications. WEHI shall have the right to file simultaneous applications for preliminary and final site plan and subdivision approvals. Insofar as this application qualifies as a major site plan, it shall also be subject to review by the Site Plan Review Advisory Board (“SPRAB”) prior to a public hearing by the Planning Board.

2.5.7. The Township agrees that WEHI may elect, to the extent permitted by law, to pursue approval of development phases, provided that every phase must provide the mandated affordable units in each phase pursuant to N.J.A.C. 5:97-6.3(d) and cannot be backended.

2.6. Because the Proposed Development provides a substantial set aside of affordable housing units, any affordable housing residential development fees required by Township ordinance for non-inclusionary developments shall not apply to the Proposed Development.

WEHI shall pay to Fair Share Housing Center the amount of \$50,000, which sum represents all legal fees/expenses of Fair Share Housing Center ("FSHC"), as agreed to by FSHC.

2.7. The Township hereby acknowledges that this Agreement was the result of numerous mediation sessions conducted by the Special Master in the Declaratory Judgment Litigation. Although the Association was not a party to the Declaratory Judgment Litigation, the Township and WEHI recognized that the Association was an interested party with regard to the development of the Subject Property. Accordingly, a representative of the Board of Directors of the Association and the Board's attorney were invited to attend mediation sessions and otherwise be a part of the mediation process. Through its participation in the mediation process, the Association offered a great amount of input regarding the development of the Subject Property, which input, in part, is reflected in the Concept Plan.

3. OBLIGATIONS OF WEHI.

3.1 **Obligation To Submit Development Applications Substantially Consistent With the Concept Plan.** WEHI shall file and seek Planning Board approval of a site plan and/or subdivision application substantially consistent with the design for the Proposed Development of the Subject Property as represented in the Concept Plan, subject to the addition of amenities buildings and structures within the general area of disturbance depicted on the Concept Plan (i.e., clubhouse, dog park, maintenance shed and other aesthetic considerations). In light of the Zoning Amendment, the parties do not contemplate that any substantial waivers and/or variances will be necessary to develop the Subject Property in accordance with the Concept Plan. However, the parties acknowledge that WEHI has not yet engineered the Proposed Development and that upon engineering the Proposed Development and the submission of land development applications, it may become necessary to seek waivers, variances (except use variances) and/or other relief. In

such event, the parties acknowledge that WEHI shall be entitled to such minor relief as may be necessary to develop the Subject Property in accordance with the Concept Plan. The bedroom distribution for all affordable units in the Concept Plan shall comply with New Jersey's Uniform Housing Affordability Controls, applicable Council on Affordable Housing Regulations and the Fair Housing Act, including those provisions regarding the phasing of affordable units. No more than twenty percent (20%) may be one bedroom units; at least thirty percent (30%) will be two bedroom units; and at least twenty percent (20%) will be three bedroom units. Thirteen percent (13%) of the affordable units shall be affordable to very low-income households; thirty-seven percent (37%) of the affordable units shall be affordable to low income households; and the remaining fifty percent (50%) of the affordable units shall be affordable to moderate income households. In addition, WEHI shall execute an Agreement with an Administrative Agent designated by the Township to administer the affirmative marketing of the affordable units including but not limited to advertising, income qualifying, setting rents/re-rents and affordability controls and related responsibilities. All costs shall be the sole responsibility of WEHI. All affordable units shall comply with the requirements set forth in N.J.A.C. 5:80-26.11, which requires all affordable units to be deed restricted for a period of at least thirty (30) years commencing on the date of initial occupancy.

3.2 Obligation to Support the Township's Affordable Housing Compliance Plan.

WEHI agrees to not object to the Township's compliance plan in connection with the Township's satisfaction of its Third-Round affordable housing obligation.

3.3 Obligation During the Construction of the Proposed Development. WEHI agrees to the Design Terms and Conditions and guidelines set forth in the attached **Exhibit C** in connection with the construction of the Proposed Development;

3.4 **Obligation to The Association.** As consideration for the Association's promise to support, and not object to, the Proposed Development, as fully set forth in paragraph 4 below, WEHI agrees to the Terms and Conditions set forth in the attached **Exhibit D** regarding the development of the Subject Property and the construction of the Proposed Development.

3.5 **Deed Restriction of Subject Property.** After all building permits for the Proposed Development have been issued by the Township, WEHI agrees to record a deed restriction for the Subject Property, which deed restriction will run solely in favor of the Township and solely for the benefit of the Township. Substantively, the deed restriction shall restrict the Subject Property from all further development, except for the need to install and/or modify utilities and the construction of non-commercial amenities and accessory buildings which would serve the residents of the Proposed Development and/or the Association, including but not limited to a clubhouse, fitness center and other facilities beneficial to the residents. WEHI recognizes that approval from an appropriate land use board would nonetheless be required to construct any such additional amenity/accessory buildings.

3.6 **Obligation to Pay for the Services of DeFeo & Associates.** WEHI agrees to pay for the services of DeFeo & Associates in connection with the Proposed Development. In that regard, the Township shall promptly provide WEHI with copies of all invoices received from DeFeo & Associates.

3.7 **Obligation to Keep the Township and the Association Informed.** WEHI shall keep the Township and Association fully and contemporaneously informed regarding construction activities on the Subject Property and shall utilize a website and/or social media available to the Township and the Association and its members for construction updates and communications.

4. **OBLIGATIONS OF THE ASSOCIATION.**

4.1 **Obligation to Support, and Not Object to, the Proposed Development.** The Association hereby recognizes that the Concept Plan, Proposed Development and this Agreement are the product of several Court-ordered mediation sessions in the Declaratory Judgment Action, and that members of the Association's Board of Directors participated in those mediation sessions. The Association acknowledges that the Concept Plan, Proposed Development and this Agreement reflect the Association's input and are acceptable to the Association. The Association hereby agrees to support and endorse, and not object to, any application made by WEHI to the Planning Board or any other agency that is consistent with the Concept Plan and this Agreement.

5. **MUTUAL OBLIGATIONS.**

5.1 **Mutual Good Faith, Cooperation and Assistance.** The Parties shall exercise good faith, cooperate and assist each other in fulfilling the intent and purpose of this Agreement, including, but not limited to, the approval of this Agreement by the Superior Court, the site plan and/or subdivision approval for the Subject Property and the defense of any challenge with regard to any of the foregoing by any party or entity, including but not limited to Essex Fells, Verona, and individuals having an ownership interest in the Condominium.

5.2 **Need for Concept Plan Revisions.** It is WEHI's full intention to develop the Subject Property in accordance with the Concept Plan so that 496 total units are constructed pursuant to the general building layout on the Concept Plan. However, if, for any reason, the Proposed Development as contemplated by the Concept Plan cannot be built because WEHI is unable to obtain one or more governmental approvals from the NJDEP, County of Essex, the Planning Board or any other third-party, or that any such approvals would necessitate the development of less than 496 total units or the significant relocation of one or more structures as

set forth on the Concept Plan, the Parties recognize that the Subject Property shall remain in the Township's Mount Laurel compliance plan and that the Parties agree to cooperate in good faith to amend the Concept Plan so that the Parties agree upon an alternative concept for the Proposed Development to yield 496 units, 100 of which would be affordable units. If necessary, the Parties will utilize the Special Master in the Declaratory Judgment Litigation to mediate such negotiations regarding Concept Plan revisions. If any such revisions are necessary, the Parties shall in good faith work to address the spirit and intent of the Association's concerns as set forth in this Agreement, to the extent possible.

5.3. **Fairness Hearing.** The Parties acknowledge that the Superior Court will need to conduct a fairness hearing as to the fairness and reasonableness of this Agreement before approving same and the Court will presumably seek the input of the Special Master before making a decision.

5.4. **Pending Tax Appeals.** WEHI shall dismiss all pending tax appeals regarding the Subject Property without prejudice upon approval of this Agreement by the Court at a duly noticed fairness hearing. The without prejudice dismissal contemplated herein shall be accomplished by WEHI and the Township filing a Stipulation of Dismissal Without Prejudice, which stipulation shall include an agreement tolling the statute of limitations for any and all tax appeals regarding the Subject Property and providing that if any of the tax appeals need to be refiled by WEHI, the refiling of such appeals shall be deemed to have been filed in a timely manner. WEHI will dismiss any and all tax appeals regarding the Subject Property with prejudice after all building permits for the Proposed Development have been issued by the Township.

6.0 **MISCELLANEOUS PROVISIONS.**

6.1. **Effective Date of Agreement.** The terms set forth in this Agreement shall become effective upon approval thereof by the Court at a Fairness Hearing duly noticed in accordance with law.

6.2. **Severability.** Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any section, clause or provision of this Agreement shall not affect the validity of the remaining sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a Court to be invalid, illegal or unenforceable in any respect, such determination shall not affect the remaining sections.

6.3. **Successors Bound.** The provisions of this Agreement and the obligations and benefits hereunder shall be binding upon and inure to the benefit of the parties, their successors and assigns, including any person, corporation, partnership, or other legal entity which at any particular time may have an interest in any of the provisions which are the subject of this Agreement. The Parties acknowledge that the individual members of the Association are not bound by this Agreement.

6.4. **Governing Law.** This Agreement shall be governed by and construed by the laws of the State of New Jersey. Venue shall be exclusively in the Superior Court of New Jersey, Essex County, Law Division.

6.5. **No Modification.** This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the parties hereto.

6.6. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same Agreement.

6.7. **Voluntary Agreement.** The parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possesses the authority to sign the Agreement, that this Agreement contains the entire understanding of the parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein. Township approval is subject to formal approval by the Township Council.

6.8. **Preparation.** Each of the parties hereto acknowledges that this Agreement was not drafted by anyone of the parties, but was drafted, negotiated and reviewed by all parties and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the parties expressly represents to the other that: (i) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (ii) it has conferred due authority for execution of this Agreement upon the persons executing it.

6.9. **Exhibits.** Any and all exhibits annexed to this Agreement are hereby made a part of this Agreement.

6.10. **Entire Agreement.** This Agreement constitutes the entire Agreement between the parties hereto and supersedes all prior oral and written agreements between the parties with respect to the subject matter hereof, except as otherwise provided herein.

6.11. **Notices.** All notices required under this Agreement ("Notice(s)") shall be written and shall be served upon the respective parties by Certified Mail, Return Receipt Requested or by a recognized overnight or by a personal carrier. In addition, where feasible (for example, transmittals of less than 50 pages) Notices shall be served by email. All Notices shall be deemed received upon the date of delivery. Delivery shall be affected as follows:

To WEHI:
West Essex Highlands, Inc.
820 Morris Turnpike
Short Hills, NJ 07078
Attn.: Mark Hoffman
Email: markh@gardenhomes.com

With a copy to counsel for WEHI:
Bryan D. Plocker, Esq.
Hutt & Shimanowitz, P.C.
459 Amboy Avenue
Woodbridge, NJ 07095
Email: bplocker@huttshim.com

To the Township:
Township of West Orange
66 Main Street
West Orange, NJ 07052
Attn.: Township Administrator

With a copy to counsel for the Township:
Richard D. Trenk, Esq.
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue
Roseland, NJ 07068
Email: rtrenk@msbnj.com

To the Association:
West Essex Highlands Condominium Association, Inc.
1 Reger Lane
West Orange, NJ 07052
Attn: President, Board of Directors

With a copy to counsel for the Association:
Kenneth R. Sauter, Esq.
Hill Wallack LLP
240 Cedar Knolls Road, Suite 209
Cedar Knolls, NJ 07927
Email: ksauter@hillwallack.com

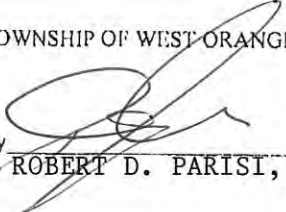
IN WITNESS WHEREOF, WEHII, the Township and the Association have caused this Agreement to be properly executed, witnessed and/or attested this ____ day of _____, 2020.

WEST ESSEX HIGHLANDS, INC.

Witness: _____ By _____

Dated: _____

TOWNSHIP OF WEST ORANGE

Witness:  By 
Karen J. Carnevale ROBERT D. PARISI, MAYOR

Dated: _____

WEST ESSEX HIGHLANDS
CONDOMINIUM ASSOCIATION, INC.

Witness:  By 
Paul Susan Bell

Dated: April 17, 2020

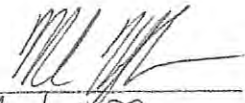
President

IN WITNESS WHEREOF, WEHL, the Township and the Association have caused this Agreement to be properly executed, witnessed and/or attested this 23rd day of APRIL, 2020.

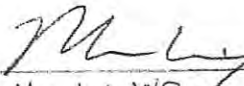
WEST ESSEX HIGHLANDS, INC.

Witness: _____

Dated: _____


Mark Hoffman
April 23, 2020

By _____


Mark Wilf

TOWNSHIP OF WEST ORANGE

Witness: _____

Dated: _____

By _____

WEST ESSEX HIGHLANDS
CONDOMINIUM ASSOCIATION, INC.

Witness: _____

Dated: _____

By _____

EXHIBIT A
(Concept Plan)

EXHIBIT B
(Zoning Amendment)

**Township of West Orange
Draft Proposed Zoning Amendments
West Essex Highlands Property**

April 2020

ADD THE FOLLOWING NEW SECTION TO CHAPTER XXV LAND USE REGULATIONS:

25-19 IH-1 (INCLUSIONARY HOUSING) DISTRICT

a. Purpose

The purpose of the IH-1 District is to provide for inclusionary development that contributes to the region's fair share of affordable housing, in accordance with a court settlement agreement which outlines provisions for same.

b. Description of Zone Boundary

The zone boundary of the IH-1 District shall encompass the entirety of the property identified as Block 179 Lot 32, which shall hereafter be referred to as the "Tract." The zone boundary shall be coincident with the lot lines of Block 179, Lot 32. The municipal zone map is hereby amended to reflect same.

c. General Provisions

1. The development regulations set forth herein shall apply to the Tract as a whole, not to individual lots which may be created within the Tract.
2. The Tract shall be permitted to be subdivided into one or more lots, and one or more buildings or uses shall be permitted on a single lot.
3. The Tract shall be permitted to be constructed in one or more phases consistent with N.J.A.C 5:97-6.4 (d).
4. Any street within the Tract shall be permitted to be public or private.
5. Development of the Tract shall be exempt from all bulk, design, and environmental regulations of the West Orange Land Use Regulations Ordinance, unless otherwise indicated herein, and further provided that nothing herein shall circumvent or contravene the procedural requirements of the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) nor the regulatory requirements of outside agencies including but not limited to New Jersey Department of Environmental Protection and Hudson-Essex-Passaic Soil Conservation District.

d. Use Regulations

1. Permitted Principal Uses.

- (a) Multifamily residential
- (b) Open space

2. Permitted Accessory Uses

- (a) Residential amenities including but not limited to the following, by way of example: clubhouse buildings, swimming pools, fitness centers, lounges, common or private terraces and balconies, courts or open lawn areas for multipurpose use such as lawn games i.e. corn hole, bocce, badminton, croquet, and the like; work space or meeting space for tenants, tenant storage, dog parks and/or dog playgrounds. Rooftop amenities shall be permitted including observation areas or

rooms, multipurpose or recreation rooms, vestibules, outdoor terraces, pergolas, shade structures, or the like.

- (b) Pet-friendly amenities. As part of the amenity package, in addition to dog parks and/or playgrounds above, a development shall be permitted to include an onsite pet service that shall be permitted to offer walking services, pet-sitting services, a pet spa or grooming service, overnight boarding, or related services, which shall be permitted to operate indoors as part of a building and/or as a stand-alone building.
- (c) Residential accessory uses such as leasing and management offices, maintenance buildings, dwelling units for onsite building superintendents, and model units
- (d) Parking, which shall be permitted to be structured or surface, and further provided that tandem parking shall be permitted where such spaces are assigned to the same unit
- (e) Fences and walls
- (f) Signs
- (g) Any use that is customarily incidental to a permitted principal use

e. Bulk Regulations

1. The total number of dwelling units shall be 496, and the total number of units shall be permitted to be lowered without variance at the sole discretion of the developer and/or based on outside agency requirements. Model apartments and onsite housing for the building superintendent and maintenance/management staff shall not be included as part of the unit count.
2. The affordable housing set-aside shall be twenty percent (20%) of the total units actually constructed in the development (excluding model apartments and onsite housing for the building superintendent and maintenance/management staff).
3. There shall be no minimum lot size requirement.
4. The maximum area of disturbance for the entire Tract shall be 30 acres. Trails, deer fencing, and buffer planting shall not be counted as part of the area of disturbance.
5. Unrestricted site access (ingress and egress) shall be permitted from Warner Drive and Kuzik Drive.
6. Emergency access (ingress and egress) shall be permitted to Block 179.17, Lots 8 and 9 to the north and Bayowski Road to the south.
7. The affordable units shall consist of moderate-income, low-income, and very low-income units in accordance with the requirements of the settlement agreement. The minimum unit sizes for the affordable units shall be as follows:
 - (a) One-bedroom 650 square feet
 - (b) Two-bedroom 875 square feet
 - (c) Three-bedroom 1,150 square feet
8. The maximum building height shall be 75 feet, and further subject to the standards set forth below, which shall supersede any regulation to the contrary in the West Orange Land Use Regulations Ordinance:
 - (a) The building height shall be a vertical dimension measured in a straight line from first story finished floor elevation to the roof line elevation of a flat roof, or the midpoint elevation of a pitched roof.

- (b) The first story shall mean the lowest story that has its finished floor entirely above grade. Cellars and basements shall not be considered a first story.
 - (c) The building height shall not be measured based on the grading around the building.
- 9. The maximum number of stories per building shall be 4 stories, and further subject to the standards set forth below which shall supersede any regulation to the contrary in the West Orange Land Use Regulations:
 - (a) Story shall mean the space of a building between the surface of a floor and any floor next above it, or if there be no floor above it, then the space between the floor and the ceiling above it, and as further refined below.
 - (b) Any level with a finished floor entirely below grade or partially below grade shall not be considered a story, such as cellars and basements, including walk-out basements and "garage-under" levels.
 - (c) Any level that contains 10 or more parking spaces shall not be considered a story.
 - (d) Mezzanines shall not be considered a story, provided the floor area of the mezzanine is no greater than 33 percent of the floor area below it.
 - (e) Lofts serving individual dwelling units as permitted by building code shall not be considered a story.
 - (f) Rooftop amenities and rooftop features shall not be considered a story or fractional portion thereof.
 - (g) Architectural roof design features such as attics, mansards, parapets, cupolas, and other similar architectural design features and/or appurtenances shall not be considered a story or fractional portion thereof.
- 10. The grading around buildings shall be subject to the following:
 - (a) The maximum exposure of perimeter walls for basements, cellars, or building foundations shall not exceed 50% of the total surface area of such walls, which shall be based on the aggregate area of all perimeter walls, not each wall individually.
 - (b) Walkout basements and "garage under designs shall be permitted and shall be permitted to have one or more perimeter walls entirely exposed, and further provided that the 50% exposure threshold set forth above for all perimeter walls shall still apply.
- 11. The minimum buffer width around the entire Tract boundary shall be 100 feet. The buffer shall remain undisturbed except for roads and accessways, utilities and stormwater management improvements, signs, fences, walls, and associated grading.
- 12. The east face of the Watchung Mountain shall remain undisturbed from the peak of the ridgeline, except that utility construction shall be permitted east of the ridgeline
- 13. Any deviation from the above requirements shall be considered a "c" variance.
- f. Parking Regulations
 - 1. Principal uses. The quantity and dimensions of off-street parking spaces shall be in accordance with the Residential Site Improvement Standards (RSIS). Any deviation shall be considered a de minimis exception from RSIS, not a variance. Tandem parking arrangements shall be permitted in accordance with the use regulations of this Chapter as set forth above. Automated or mechanical parking shall be permitted to meet the RSIS parking count requirement, and shall be exempt from RSIS parking stall size requirements, subject to review and approval of manufacturer's specifications.

2. Accessory uses. Accessory uses such as clubhouses or recreation areas shall be exempt from parking requirements.

g. Tree Removal and Replacement

The removal of trees shall be permitted, and the replacement of trees shall be in accordance with formula below. Any other regulation pertaining to tree removal and replacement in the Township of West Orange Code shall not apply to the Tract, and shall be superseded by the regulations set forth below, except where otherwise indicated herein.

1. Tree Baseline. The existing tree count on the Tract shall be established at 212 trees per acre.
2. Tree Baseline Loss.
 - (a) Tree Baseline Loss shall be established by multiplying the proposed number of acres disturbed by the existing 212 trees per acre on the Tract; by way of example, a proposed disturbance area of 25 acres shall calculated to a Tree Baseline Loss of 5,300 trees, which figure would increase or decrease based upon the final acreage disturbed).
 - (b) Tree Baseline Loss shall be reduced for each healthy major tree (greater than 6 inches) within the proposed area of disturbance that is not removed in connection with a proposed development
 - (c) Tree Baseline Loss shall be reduced for each non-invasive major tree or minor tree (as defined in the Township of West Orange Code) proposed as part of a landscape plan. The tree replacement calculation shall apply one credit for each such tree which is a native species and $\frac{1}{4}$ credit for each such tree which is not a native species.
 - (d) The Tree Baseline Loss shall be reduced by 212 trees for each acre of forest outside the area of disturbance enclosed by a controlled, gated access deer fence that is eight (8) feet in height, the purpose of which is to regenerate the growth of the native forest, and which deer fencing shall be maintained in perpetuity;
3. Adjusted Tree Baseline Loss.
 - (a) Adjusted Tree Baseline Loss shall be calculated as the Tree Baseline Loss after crediting.
 - (b) If the Adjusted Tree Baseline Loss calculates to zero (0), or less than zero, the developer shall have no further obligation regarding tree removal or replacement in connection with a proposed development.
 - (c) If the Adjusted Tree Baseline Loss calculates to a number greater than zero, then the development shall satisfy the requirements of the West Orange Tree Ordinance only with respect to the Adjusted Tree Baseline Loss.

h. Landscape Regulations

1. Street Trees. Street trees shall be provided in accordance with the West Orange Land Development Code.
2. Additional Trees. The developer shall plant new trees and landscaping along or near the southern border of the Tract for the purpose of supplementing the buffering of the nearest residential units to the south.
3. Any deviation from the regulations of this section shall be considered design exceptions, not variances, subject to the statutory criteria of N.J.S.A. 40:55D- 51 for relief.

i. Signage Regulations

1. Development Entrance Sign. One freestanding sign shall be permitted at the entrance to the development. The sign dimensions shall have a maximum width of 10 feet and a maximum height of 8 feet. The sign may be incorporated as part of a decorative element such as a wall or fence feature, and further provided that the decorative element shall not be included in the calculation of the sign area. The top of the sign, including any decorative element framing it, shall not exceed 10 feet above grade.
2. Identification Signage. Freestanding identification signs shall be permitted to demarcate individual buildings or sections within the development, not to exceed one such sign per building or section. The sign dimensions shall have a maximum width of 8 feet and a maximum height of 6 height, and the top of any such sign shall not exceed 8 feet above grade. This shall apply to accessory recreation or amenity uses as well, such as a clubhouse or pet service, which shall be permitted to have identification signage in accordance with the above.
3. Building Signage. One building sign shall be permitted at each building lobby and/or building entrance. The sign dimensions for each building sign shall have a maximum width of 8 feet and a maximum height of 6 feet.

**Township of West Orange
Draft Proposed Zoning Amendments
West Essex Highlands Property**

April 2020

ADD THE FOLLOWING NEW SECTION TO CHAPTER XXV LAND USE REGULATIONS:

25-19 IH-1 (INCLUSIONARY HOUSING) DISTRICT

a. Purpose

The purpose of the IH-1 District is to provide for inclusionary development that contributes to the region's fair share of affordable housing, in accordance with a court settlement agreement which outlines provisions for same.

b. Description of Zone Boundary

The zone boundary of the IH-1 District shall encompass the entirety of the property identified as Block 179 Lot 32, which shall hereafter be referred to as the "Tract." The zone boundary shall be coincident with the lot lines of Block 179, Lot 32. The municipal zone map is hereby amended to reflect same.

c. General Provisions

1. The development regulations set forth herein shall apply to the Tract as a whole, not to individual lots which may be created within the Tract.
2. The Tract shall be permitted to be subdivided into one or more lots, and one or more buildings or uses shall be permitted on a single lot.
3. The Tract shall be permitted to be constructed in one or more phases consistent with N.J.A.C 5:97-6.4 (d).
4. Any street within the Tract shall be permitted to be public or private.
5. Development of the Tract shall be exempt from all bulk, design, and environmental regulations of the West Orange Land Use Regulations Ordinance, unless otherwise indicated herein, and further provided that nothing herein shall circumvent or contravene the procedural requirements of the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) nor the regulatory requirements of outside agencies including but not limited to New Jersey Department of Environmental Protection and Hudson-Essex-Passaic Soil Conservation District.

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1. Permitted Principal Uses.

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2. Permitted Accessory Uses

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rooms, multipurpose or recreation rooms, vestibules, outdoor terraces, pergolas, shade structures, or the like.

- (b) Pet-friendly amenities. As part of the amenity package, in addition to dog parks and/or playgrounds above, a development shall be permitted to include an onsite pet service that shall be permitted to offer walking services, pet-sitting services, a pet spa or grooming service, overnight boarding, or related services, which shall be permitted to operate indoors as part of a building and/or as a stand-alone building.
- (c) Residential accessory uses such as leasing and management offices, maintenance buildings, dwelling units for onsite building superintendents, and model units
- (d) Parking, which shall be permitted to be structured or surface, and further provided that tandem parking shall be permitted where such spaces are assigned to the same unit
- (e) Fences and walls
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2. The affordable housing set-aside shall be twenty percent (20%) of the total units actually constructed in the development (excluding model apartments and onsite housing for the building superintendent and maintenance/management staff).
3. There shall be no minimum lot size requirement.
4. The maximum area of disturbance for the entire Tract shall be 30 acres. Trails, deer fencing, and buffer planting shall not be counted as part of the area of disturbance.
5. Unrestricted site access (ingress and egress) shall be permitted from Warner Drive and Kuzik Drive.
6. Emergency access (ingress and egress) shall be permitted to Block 179.17, Lots 8 and 9 to the north and Bayowski Road to the south.
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 - (c) Three-bedroom 1,150 square feet
8. The maximum building height shall be 75 feet, and further subject to the standards set forth below, which shall supersede any regulation to the contrary in the West Orange Land Use Regulations Ordinance:
 - (a) The building height shall be a vertical dimension measured in a straight line from first story finished floor elevation to the roof line elevation of a flat roof, or the midpoint elevation of a pitched roof.

- (b) The first story shall mean the lowest story that has its finished floor entirely above grade. Cellars and basements shall not be considered a first story.
 - (c) The building height shall not be measured based on the grading around the building.
- 9. The maximum number of stories per building shall be 4 stories, and further subject to the standards set forth below which shall supersede any regulation to the contrary in the West Orange Land Use Regulations:
 - (a) Story shall mean the space of a building between the surface of a floor and any floor next above it, or if there be no floor above it, then the space between the floor and the ceiling above it, and as further refined below.
 - (b) Any level with a finished floor entirely below grade or partially below grade shall not be considered a story, such as cellars and basements, including walk-out basements and "garage-under" levels.
 - (c) Any level that contains 10 or more parking spaces shall not be considered a story.
 - (d) Mezzanines shall not be considered a story, provided the floor area of the mezzanine is no greater than 33 percent of the floor area below it.
 - (e) Lofts serving individual dwelling units as permitted by building code shall not be considered a story.
 - (f) Rooftop amenities and rooftop features shall not be considered a story or fractional portion thereof.
 - (g) Architectural roof design features such as attics, mansards, parapets, cupolas, and other similar architectural design features and/or appurtenances shall not be considered a story or fractional portion thereof.
- 10. The grading around buildings shall be subject to the following:
 - (a) The maximum exposure of perimeter walls for basements, cellars, or building foundations shall not exceed 50% of the total surface area of such walls, which shall be based on the aggregate area of all perimeter walls, not each wall individually.
 - (b) Walkout basements and "garage under designs shall be permitted and shall be permitted to have one or more perimeter walls entirely exposed, and further provided that the 50% exposure threshold set forth above for all perimeter walls shall still apply.
- 11. The minimum buffer width around the entire Tract boundary shall be 100 feet. The buffer shall remain undisturbed except for roads and accessways, utilities and stormwater management improvements, signs, fences, walls, and associated grading.
- 12. The east face of the Watchung Mountain shall remain undisturbed from the peak of the ridgeline, except that utility construction shall be permitted east of the ridgeline
- 13. Any deviation from the above requirements shall be considered a "c" variance.
- f. **Parking Regulations**
 - 1. Principal uses. The quantity and dimensions of off-street parking spaces shall be in accordance with the Residential Site Improvement Standards (RSIS). Any deviation shall be considered a de minimis exception from RSIS, not a variance. Tandem parking arrangements shall be permitted in accordance with the use regulations of this Chapter as set forth above. Automated or mechanical parking shall be permitted to meet the RSIS parking count requirement, and shall be exempt from RSIS parking stall size requirements, subject to review and approval of manufacturer's specifications.

2. Accessory uses. Accessory uses such as clubhouses or recreation areas shall be exempt from parking requirements.

g. Tree Removal and Replacement

The removal of trees shall be permitted, and the replacement of trees shall be in accordance with formula below. Any other regulation pertaining to tree removal and replacement in the Township of West Orange Code shall not apply to the Tract, and shall be superseded by the regulations set forth below, except where otherwise indicated herein.

1. Tree Baseline. The existing tree count on the Tract shall be established at 212 trees per acre.
2. Tree Baseline Loss.
 - (a) Tree Baseline Loss shall be established by multiplying the proposed number of acres disturbed by the existing 212 trees per acre on the Tract; by way of example, a proposed disturbance area of 25 acres shall calculated to a Tree Baseline Loss of 5,300 trees, which figure would increase or decrease based upon the final acreage disturbed).
 - (b) Tree Baseline Loss shall be reduced for each healthy major tree (greater than 6 inches) within the proposed area of disturbance that is not removed in connection with a proposed development
 - (c) Tree Baseline Loss shall be reduced for each non-invasive major tree or minor tree (as defined in the Township of West Orange Code) proposed as part of a landscape plan. The tree replacement calculation shall apply one credit for each such tree which is a native species and $\frac{1}{4}$ credit for each such tree which is not a native species.
 - (d) The Tree Baseline Loss shall be reduced by 212 trees for each acre of forest outside the area of disturbance enclosed by a controlled, gated access deer fence that is eight (8) feet in height, the purpose of which is to regenerate the growth of the native forest, and which deer fencing shall be maintained in perpetuity;
3. Adjusted Tree Baseline Loss.
 - (a) Adjusted Tree Baseline Loss shall be calculated as the Tree Baseline Loss after crediting.
 - (b) If the Adjusted Tree Baseline Loss calculates to zero (0), or less than zero, the developer shall have no further obligation regarding tree removal or replacement in connection with a proposed development.
 - (c) If the Adjusted Tree Baseline Loss calculates to a number greater than zero, then the development shall satisfy the requirements of the West Orange Tree Ordinance only with respect to the Adjusted Tree Baseline Loss.

h. Landscape Regulations

1. Street Trees. Street trees shall be provided in accordance with the West Orange Land Development Code.
2. Additional Trees. The developer shall plant new trees and landscaping along or near the southern border of the Tract for the purpose of supplementing the buffering of the nearest residential units to the south.
3. Any deviation from the regulations of this section shall be considered design exceptions, not variances, subject to the statutory criteria of N.J.S.A. 40:55D- 51 for relief.

i. Signage Regulations

1. Development Entrance Sign. One freestanding sign shall be permitted at the entrance to the development. The sign dimensions shall have a maximum width of 10 feet and a maximum height of 8 feet. The sign may be incorporated as part of a decorative element such as a wall or fence feature, and further provided that the decorative element shall not be included in the calculation of the sign area. The top of the sign, including any decorative element framing it, shall not exceed 10 feet above grade.
2. Identification Signage. Freestanding identification signs shall be permitted to demarcate individual buildings or sections within the development, not to exceed one such sign per building or section. The sign dimensions shall have a maximum width of 8 feet and a maximum height of 6 height, and the top of any such sign shall not exceed 8 feet above grade. This shall apply to accessory recreation or amenity uses as well, such as a clubhouse or pet service, which shall be permitted to have identification signage in accordance with the above.
3. Building Signage. One building sign shall be permitted at each building lobby and/or building entrance. The sign dimensions for each building sign shall have a maximum width of 8 feet and a maximum height of 6 feet.

EXHIBIT C

(Design Terms and Conditions)

EXHIBIT C

DESIGN TERMS AND CONDITIONS

WEHI shall implement the following design standards in constructing the Proposed Development:

1. General

- a. Reduce construction waste generation through separation of construction debris on site into separate containers for disposal or recycling. At a minimum, the following items will be separated for recycling:
 - i. Corrugated Cardboard
 - ii. Clean, untreated wood
 - iii. Scrap Metals
 - iv. Trees removed within the Limit of Disturbance ("LOD").
 - v. Soils if removed from site.
- b. Recycling: Design to accommodate recycling for tenants and to allow for the separation of solid waste from recyclable materials in accordance with the Township's recycling ordinance. Implement a continuous education program for recycling with new tenants, existing tenants, and guests.
 - i. Program to include:
 1. Posting of signage outlining the requirements of solid waste disposal.
 2. Posting of signage outlining the requirements of the West Orange Recycling Ordinance and program.
 - a. Signage subject to approval of the Township prior to installation.
- c. Cigarette Smoking Policy: Prohibition of smoking within 25 feet of all entries and prohibition of smoking within residential occupancies and all common areas.

2. Site & Landscaping:

- a. Implement a Tree Preservation and Replacement Plan in accordance with the following parameters:
 - i. The tree density equals 212 trees per acre, as per the Tree Study.
 - ii. The maximum LOD shall not exceed thirty (30) acres, as per the Zoning Amendment ("Maximum LOD"). No LOD beyond the Maximum LOD shall be permitted under any circumstances.
 - iii. If the Maximum LOD is achieved, the maximum tree loss will be 6,360 trees (212 trees multiplied by 30 acres) ("Maximum Permitted Tree Loss").
 - iv. If less than the Maximum LOD is achieved ("Actual LOD"), then the actual tree loss ("Actual Tree Loss") will be calculated by multiplying 212 trees by the Actual LOD (for example, if only 25.5 acres are disturbed, then the Actual Tree Loss will be 5,406 trees).
 - v. WEHI will engage in tree planting and forest regeneration in accordance with the following activities, which are designed to provide credits against the Actual Tree Loss resulting in a net gain of trees planted and forest area

protected for regeneration so that the Actual Tree Loss is reduced to less than zero:

1. Credit for each healthy major tree (Greater than 6" diameter) within the LOD that is protected in accordance with standard tree protection procedures during development and not removed as determined by the Township Forester.
2. Credit for each tree planted as the result of an approved landscape plan in accordance with the definition of Major (Greater than 6" Diameter Breast Height) and Minor (Less than 6" Diameter Breast Height) trees. Require that trees be native species for full credit. Prohibit invasive species as defined by the New Jersey Department of Environmental Protection, or another approved source. Provide ¼ credit for each tree planted that is a non-native species and is non-invasive.
3. WEHI shall install thirty (30) acres of gated access deer fencing that is eight (8) feet in height in areas of the Subject Property outside of the LOD. Fenced area will be prioritized for location between the LOD and the West Essex Highlands Condominium Association (the "Association") to maximize regrowth and to maximize native understory growth to intercept runoff. WEHI shall receive a credit against the Actual Tree Loss in an amount of 212 trees for each acre of deer fencing installed. If WEHI fulfills its obligation and installs the thirty (30) acres of deer fencing contemplated herein, then WEHI shall receive a credit against the Actual Tree Loss in the amount of 6,360 trees.
 - a. Deer fencing will be maintained in perpetuity.
4. It is the parties' intent that the installation of thirty (30) acres of deer fencing alone will reduce the Actual Tree Loss to zero or less than zero. However, should the above items, including the deer fencing, fail to reduce the Actual Tree Loss to zero or less than zero, tree planting can be offered for other locations within the Township with priority to locations within the Association where trees are needed as designated by the Township Forester.
5. If WEHI complies with the procedure set forth in this Site & Landscaping section, then WEHI shall have no further obligation regarding the removal or replacement of trees in connection with the construction of the Proposed Development, including but not limited to any replacement of trees or payment of fees which may otherwise be required by the Township's Tree Protection and Removal Ordinance (Ordinance § 25-7) (the "Tree Ordinance"). The procedure set forth herein, if followed, shall serve as a substitute for the Tree Ordinance with respect to the Subject Property.
6. Nothing herein shall supplement: (1) the need for a landscape plan in connection with the Proposed Development to be considered and approved by the Planning Board in accordance with MLUL;

and (2) WEHI's obligation to install landscaping and/or buffering on or near the property owned by the Association, pursuant to WEHI's agreement with the Association and in cooperation with the Association.

3. Building & Site Utilities:

- a. Implement underground utilities where site conditions allow.
- b. Conceal and/or screen exposed utility structures such as transformers.
- c. Install individual metering or submeters as appropriate for water, gas and electric utilities.
- d. Prewire all units for hi-speed internet.

4. Building: Energy Efficiency and Green Initiatives:

- a. Implement education of tenants in the reduction of energy, water consumption, and environmental beneficial operations.
- b. Appliances: Utilize only Energy Star appliances in all apartments.
 - i. Do not install any unvented combustion appliances (ovens and ranges excluded).
- c. HVAC Equipment shall meet the following minimum efficiency standards:
 - i. Furnaces shall be Energy Star Rated or have an AFUE of 95% or better.
 - ii. Air conditioning systems shall be Energy Star Rated or have a minimum SEER of 15 and a 12.5 EER for split systems.
 - 1. Package systems shall have a minimum SEER of 15 and an EER of 12.
 - iii. Domestic Hot Water heaters shall be Energy Star Rated or meet the following minimum energy efficiency standard:
 - 1. ≤ 55 gallon shall have an energy factor of 0.67 or better.
 - iv. WEHI may apply to the Environmental Compliance Officer for a hardship waiver on the installation of HVAC equipment meeting the standards outlined herein. Approval of such an application shall not be unreasonably withheld. The minimum requirements for such an application shall include the following information:
 - 1. Proof that WEHI has applied to the New Jersey Office of Clean Energy for an energy rebate package on both HVAC and Hot Water systems. A complete copy of the application shall be submitted for review.
 - a. The full value of any rebates shall be clearly marked.
 - 2. Evidence that the inclusion of the systems substantially interferes with the structural design of the building.
 - 3. Financial documentation that the cost of the systems exceeds the cost of any potential rebates offered by any government agency requiring that WEHI expend a sum greater than two (2) times the cost of a system of lower energy standard.

- v. The Environmental Compliance Officer shall review the application and respond within ten (10) days of receipt of all required information.
- vi. WEHI may appeal a negative decision to the Township Council for reconsideration.
- d. Utilize energy efficient double pane, low-e glazing on windows and patio doors throughout the development with the following minimum performance standards:
 - i. Windows will have a minimum National Fenestration Rating Council (NFRC) performance standard of:
 - 1. U Factor $\leq .30$
 - 2. SHGC $\geq .40$
 - a. Window selection may be modified based on the orientation of the residential units. Windows facing East/South and West must meet both criteria. Windows facing North may waive the SHGC standard but must meet the U factor standard.
 - ii. Patio or glass doors of any type leading from residential units to balconies or patios will have minimum National Fenestration Rating Council (NFRC) performance standard of:
 - 1. U Factor $\leq .30$
 - 2. SHGC $\geq .40$
 - a. Door selection may be modified based on the orientation of the residential units. Windows facing East/South and West must meet both criteria. Windows facing North may waive the SHGC standard but must meet the U factor standard.
- e. Utilize Energy Star or DLC approved LED lighting throughout interior and exterior. For common area exterior site lighting, provide Dark Sky Qualified lighting and incorporate one or more of the following:
 - i. Motion sensor controls
 - ii. Integrative photovoltaic cells.
 - iii. Photosensors
 - iv. Astronomic time-clock operation
- f. Renewable energy: Design structures to allow for future incorporation of solar panels.
- g. Each lavatory faucet will have a maximum flow rate of 1.5 gallons per minute.
- h. Each toilet shall utilize no more than 1.28 gallons per flush.
- i. Each showerhead will have a maximum flow rate of 2.0 gallons per minute.
- j. Covered Parking Areas: Reduce tenant exposure to indoor pollutants from covered parking through the use of tightly sealed building envelope and natural or mechanical ventilation of enclosed parking areas per the building code standards.
 - i. At a minimum, all conditioned spaces above the garage shall have all penetrations and all connecting floor and ceiling joist bays sealed.
 - ii. Electric Vehicle Charging Stations: Install electric vehicle charging stations at each building (within underground parking area) and make provisions for additional future charging stations through installation of conduit.

k. Bathrooms and Kitchens to be individually ventilated to minimize excess moisture and odors in each dwelling unit.

l. Duct work to be protected during construction to avoid contamination.

m. Install permanent walk-off mats designed to allow for cleaning at each common exterior entryway.

n. In the interior of the units, use as many building components as possible based on availability, timing and cost ("cost" is defined as cost neutral for the specific product) that meet one or more of the following criteria subject to Paragraph (o) below:

i. Green Seal

ii. Cradle to Cradle

iii. California Department of Public Health Standard Method V1.1-2010 or equivalent

iv. UL Greenguard or UL Ecologo.

v. Green Squared

vi. SCS Global Services

vii. Declare Living Future Institute

viii. Forest Stewardship Council (FSC)

ix. Product contains at least 25% post-consumer and 50% pre-consumer material.

x. Product preference will be given to manufacturers who participate in an Extended Producer Responsibility Program.

o. The use of one or more of the standards outlined in Paragraph (n) above must apply to all interior paints and coatings, adhesives, and sealants.

5. Building: Safety and Appearance

a. Building will be equipped with fire sprinklers throughout.

b. Exterior façade materials and claddings will be selected to be low-maintenance or maintenance-free to provide a lasting quality and appearance.

c. Install carbon monoxide detectors in each unit.

d. Covered parking to be provided for at least 40% of required stalls. Handicap parking stalls to be distributed in both covered parking lots and open surface lots.

e. All common areas and dwelling units to be designed to meet or exceed accessibility standards prescribed by N.J.A.C. 5:97-3.14 and the Fair Housing Act.

f. Tenant amenities to be provided for both active and passive recreation. Among tenant amenity spaces will be interior mail room(s) and parcel package locker(s).

6. Records will be provided to verify each item outlined in this exhibit as requested by the Township of West Orange. Acceptable records will include:

a. Receipts for products and materials.(Must be provided for all products. Pricing may be redacted).

b. Product Labels.

c. Product Extended Producer Responsibility Reports.

d. Third Party standard descriptions for the specific Product.

EXHIBIT D

(Association Terms and Conditions)

EXHIBIT D

(Items Agreed to By WEHI With Respect to the Association in Connection With the Proposed Development)

1. 496 residential upscale/luxury apartment units, 20% of which shall be low and moderate income housing units;
2. Building layout as set forth in the Concept Plan, subject to paragraph 5.2 of the Settlement Agreement;
3. Buildings of Proposed Development to have a minimum 100-foot setback from Association property;
4. To the extent possible, WEHI to minimize disturbance of 100-foot buffer for installation of utilities;
5. Berms with nondeciduous trees to be constructed and installed, similar to the Vizcaya project berms; to be determined by a joint, site specific inspections. The Association has the right to review landscape plans and installations WEHI's landscape architect, upon request. Temporary irrigation shall be provided on berms for initial tree growth. [Notwithstanding], based on the increased building setbacks and woodlands preservation, the parties recognize that such berms may not be necessary and/or desirable as adequate year-round buffer/screening may be provided. Therefore, the parties agree to consider omission of berms based on the extent of, for instance, preserved woodlands, undisturbed areas, setbacks, and elevations and agree to review these issues following the balloon test described in No. 31 below.]
6. Proposed Development to have amenities such as a pool/clubhouse, open space, features related to open space, i.e. walking trails, playground, etc., and other amenities related to the operation of an apartment complex. The amenities within the Development, excluding the dog/cat daycare and boarding facility identified in paragraph 33 below, shall not be open to the general public. Residents of the Association shall have the right to utilize any walking trails. Points of access to any such trails shall be provided at areas mutually agreeable to the parties, but shall not promote the parking of vehicles at such access points. (For instance, parking areas shall not be constructed without Association approval.);
7. The main public access to the Subject Property shall be via Warner Road and Kuzik Drive, as set forth in the Concept Plan, because same is likely required by New Jersey's Residential Site Improvement Standards ("RSIS"). However, if RSIS permits the closure of Kuzik Drive, then Kuzik Drive shall be designated for emergency access only. If RSIS requires Kuzik Drive to remain open, WEHI shall seek a waiver from RSIS requirements before the Planning Board in connection with WEHI's application for the Proposed Development. If the request for a waiver is denied, then Kuzik Drive shall serve as a secondary access point along with Warner Road. If Kuzik Drive remains open, WEHI shall employ traffic calming measures (i.e., speed bumps, humps and/or tables) intended

to route as much traffic as possible onto Warner Road, to the extent permitted by RSIS (to be discussed and designed as the construction of the Proposed Development progresses);

8. Bayowski Drive shall remain a cul-de-sac, but may provide emergency access to the Subject Property;
9. Emergency access to the Subject Property shall be via Howell Drive and Bayowski Drive, to the extent required by the Township and/or Planning Board. If permitted by RSIS or if WEHI obtains a waiver (see No. 6, above), then Kuzik Drive shall also serve as emergency access to the Subject Property. All emergency access points shall include physical barriers to deter and prevent non-emergency access;
10. WEHI to install speed bumps/traffic calming devices and/or signage on Association lands where necessary (to be discussed and designed as the construction of the Proposed Development progresses);
11. WEHI to install landscaping, buffering and speed calming measures/devices along Warner Road and Kuzik Drive within Association lands in connection with transforming Warner Road into a "boulevard" (to be discussed and designed as the construction of the Proposed Development progresses);
12. The construction of the Proposed Development will not result in any loss of parking on Association lands;
13. Before the commencement of construction of the Proposed Development, and within thirty (30) days following nonappealable site plan and related municipal land use approvals for the Proposed Development, WEHI will pave the portion of Oval Road from Oval Road's intersection with Eagle Rock Avenue to Oval Road's intersection with Warner Road;
14. Contemporaneously with the commencement of the paving of the first portion of the final course of roadway paving within the Proposed Development, WEHI shall restore and repave the following Association roads (the "Shared Roads"): Oval Road from Eagle Rock Avenue to Warner Road; Warner Road; Kuzik Drive; Reger Lane; a portion of Lapis Circle (southeast quadrant connecting Reger Lane to the northeast segment of Lapis Circle and continuing to its intersection with Kuzik Drive) and Bayowski Drive;
15. Warner Road shall be the only road utilized by WEHI in connection with the construction of the Proposed Development. WEHI shall in good faith limit construction traffic and employ dust control/street cleaning measures, as necessary. WEHI shall not permit construction deliveries on Saturday, Sunday or holidays. No construction parking/idling shall take place within or near Association property;
16. WEHI shall provide the Association with at least 2-weeks' notice of any road closures or utility interruption;

17. During construction of the Proposed Development, WEHI shall ensure access to and passage along Warner Road and Oval Road, and Warner Road and Oval Road shall be kept in good repair, i.e. fixing of potholes, etc.;
18. At the commencement of construction of the Proposed Development, WEHI and the Association shall divide the cost for the maintenance of Warner Road and the portion of Oval Road from Eagle Rock Avenue to its intersection with Warner Road, and any other common costs incurred by the Association in accordance with the ratio of 496 (WEHI): 300 (Association). As used in this Agreement, maintenance with respect to the Shared Roads shall mean and include, by way of example and not limitation, services, maintenance, repair, improvement and replacement with respect to the following: snow, ice, leaf and debris removal; catch basin and stormwater cleanout and repair; curb repair; paving; crack filling; traffic calming devices; sealcoating; line striping; and lawn, irrigation and landscaping services of the boulevards and island areas. The Association shall not be responsible for any roads or other improvements within or installed in connection with the Proposed Development, unless otherwise expressly agreed by the parties;
19. At the commencement of Construction, WEHI and the Association shall divide the cost of snow removal for Bayowski Drive and Kuzik Drive;
20. WEHI will support any effort by the Association to have Oval Road dedicated to the Township of West Orange;
21. WEHI will obtain approval for and install a traffic signal at the intersection of Oval Road and Eagle Rock Avenue;
22. WEHI will agree to install a bus shelter on the eastbound side of Eagle Rock Avenue at the entrance to Oval Road, to the extent WEHI is permitted to do so by the Township of West Orange and/or the County of Essex under conditions reasonable to WEHI;
23. WEHI does not intend to utilize the Association's sewerage pump station in connection with the Proposed Development. However, if engineering concerns and/or the Township require the use of the Association's pump station, WEHI shall, at its own cost, upgrade the pump station so that sewer services to the Association will not be adversely affected by the Proposed Development. In that event, WEHI shall enter into an agreement pursuant to which WEHI will split the cost/maintenance for the pump station on a 300:496 ratio. If WEHI needs to utilize the pump station, no upgrades to the pump station may be performed until WEHI and Association enter into a separate agreement regarding the use of and upgrades to the pump station, which the parties will negotiate in good faith;
24. WEHI will install a guardhouse with a gate, subject to approval by the Planning Board of the Township of West Orange, to be utilized by the Association and the Proposed Development.

WEHI recognizes that the Association's preference is to have the guardhouse located on Oval Road southeast of Oval Road's intersection with Bongart Drive. However, WEHI and the Association recognize the existence of a Declaration of Easement and Right of Way Agreement dated January 19, 1988 (the "Easement") recorded with the Essex County Clerk in Deed Book 5012, Page 571 between WEHI (predecessor in interest to the lands owned by the Association), Essex Fells Country Club, and Allied Signal, Inc., which Easement is binding upon the Association. Notification of the Easement was contained in the Public Offering Statement for the Association's condominium. Although it is not clear from the Easement as to which party or parties hold a fee simple ownership interest in Oval Road, or any portion thereof, the Easement generally provides that each party to the Easement grants to the other parties to the Easement "a permanent easement for reasonable ingress and egress on and across" all of Oval Road from Oval Road's intersection with Eagle Rock Avenue to the border of the Township of Essex Fells. The parties recognize that it is possible that all of Oval Road is not owned by the Association. The parties further recognize that Essex Fells and West Orange also have emergency access rights over a portion of Oval Road.

Notwithstanding the Easement, WEHI will attempt to obtain all necessary land use approvals for the installation of the guardhouse on Oval Road southeast of Oval Road's intersection with Bongart Drive, the Association's preferred location. However, if after reasonable due diligence, WEHI determines in good faith that the Easement or any other legal impediment will prevent the installation of the guardhouse on Oval Road, WEHI will notify the Association of any such impediment and meet with the Association in good faith to decide upon an alternate, mutually-agreeable location for the guardhouse, including but not limited to Warner Road (which could necessitate the installation of a gate on Bongart Drive at its intersection with Oval Road or the conversion of Bongart Drive into a cul-de-sac so as to prevent access from Oval Road via Bongart Drive).

The installation of the guardhouse, no matter where the ultimate location, shall be subject to a site plan application to the Planning Board filed by WEHI with the consent of the Association. At WEHI's sole discretion, WEHI may choose to have the guardhouse included on its site plan application for the Proposed Development or in a separate, contemporaneously-filed application only concerning the guardhouse.

25. WEHI shall have the Association and the Association's management company named as additional insureds on WEHI's Comprehensive General Liability insurance policy and on the CGL policies of any subcontractors;
26. WEHI will indemnify the Association and the Association's management company for any damage to Association property resulting from construction related activities;
27. The construction of the Proposed Development will have no negative impact on the Association's utilities, including electricity and water pressure;

28. WEHI and the Association will enter into an agreement for the monthly payment by WEHI of its portion (496/796) of shared costs for maintenance of all Shared Roads and the guardhouse as of the date set forth in No. 18, above;
29. WEHI will consult the Association, and any professionals retained by the Association, during the engineering phase of the Proposed Development, as necessary, and WEHI will simultaneously submit a complete copy of any Planning Board and any other development application and related submissions (including traffic reports and drainage reports) to the Association;
30. WEHI will abide by any regulations or ordinance regarding blasting activities on the Subject Property. WEHI agrees to provide not less than three-days' notice for any blasting activities, which shall only take place between the hours of 10 a.m. and 2 p.m.;
31. WEHI will perform a balloon test on the Subject Property to demonstrate the height of the buildings of the Proposed Development. (NOTE: This test may have been performed prior to the execution of this Agreement.);
32. WEHI shall keep the Association fully and contemporaneously informed regarding construction activities on the Subject Property and shall utilize a website and/or social media available to the Association and its members for construction updates and communications; and
33. The Association agrees that WEHI may create and maintain an area on the Subject Property for a well-supervised dog/cat daycare and boarding facility, which amenity will be available to members of the Association, residents of the Proposed Development and members of the general public. There will be no cost to the Association for the construction of this facility. If individual members of the Association want to utilize the facility, they will do so at their own cost.

RESOLUTION

WHEREAS, on July 7, 2015, the Township of West Orange (the "Township") filed a Declaratory Judgment Complaint in Superior Court, Law Division, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. (2015) (Mount Laurel IV), seeking, among other things, a judicial declaration that its Housing Element and Fair Share Plan (hereinafter "Fair Share Plan"), as to be amended as necessary, satisfies its "fair share" of the regional need for low and moderate income housing pursuant to the "Mount Laurel doctrine"; and

WHEREAS, the Township instituted certain litigation now pending in the Superior Court of New Jersey, Law Division, Essex County, captioned In the Matter of the Application of the Township of West Orange, Docket No. ESX-L-4697-15 (the "Declaratory Judgment Litigation"); and

WHEREAS, the Declaratory Judgment Litigation seeks declaratory relief approving the Township's plan to satisfy its current affordable housing obligation and immunity from builders' remedy lawsuits through the year 2025; and

WHEREAS, West Essex Highlands, Inc. ("WEHI") owns certain real property consisting of approximately 120.5 acres generally located in the northwest corner of the Township adjacent to Warner Road, which property is specifically identified as Block 179, Lot 32 on the Township's Official Tax Map (the "Property"); and

WHEREAS, the Property is bordered by the Township of Essex Fells ("Essex Fells") to the west, the Township of Verona ("Verona") to the north, and the West Essex Highlands Condominium development in West Orange (the "Condominium") to the south; and

WHEREAS, the Association is the duly constituted condominium association for the Condominium; and

WHEREAS, WEHI intervened as a defendant in the Declaratory Judgment Litigation; and

WHEREAS, the Trial Judge appointed Elizabeth McManus, PP, AICP, LEED AP, as the Special Court Master (hereinafter the "Court Master"), as is customary in Mount Laurel matters adjudicated in the courts; and

WHEREAS, WEHI and the Township engaged in court-ordered mediation with the Court Master; and

WHEREAS, the Township was represented in these negotiations by the Township's Affordable Housing Planner Shirley Bishop; and

WHEREAS, the Association is not a party to the Declaratory Judgment Litigation, but WEHI and the Township recognized the Association, an adjacent neighbor of the Property, as an interested party with respect to the development of the Property whose participation and input at mediation was deemed essential; and

WHEREAS, the Township wishes to include the Property as part of its affordable housing compliance plan in connection with the Declaratory Judgment Litigation; and

WHEREAS, the Parties, subject to the terms hereof and all other required governmental approvals, have agreed that the Property shall be developed as a multi-family residential development consisting of 396 market rate units and 100 affordable units, for a total of 496 units, and a clubhouse/amenity building (the "Proposed Development") consistent with the "West Essex Highlands Concept Plan 16 for West

Essex Highlands, Block 179, Lot 32, Township of West Orange, Essex County, New Jersey" dated March 3, 2020; and

WHEREAS, the settlement of Mount Laurel litigation is particularly favored because (1) it avoids the expenditure of finite public resources; and (2) expedites the construction of safe, decent housing for the region's low- and moderate-income households; and

WHEREAS, in light of the above, the Council finds that it is in the best interest of the Township to execute the attached Settlement of Litigation Agreement with WEHI which has been approved by the Condominium Association and to take the various other actions delineated below, which will ultimately result in approval of the Township's Fair Share Plan which, in turn, will maintain the Township's immunity from all Mount Laurel lawsuits for the ten-year period set forth in the New Jersey Fair Share Housing Act, N.J.S.A. 52:27D-301 to 329.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST ORANGE that the Township Council hereby directs, authorizes and empowers the Mayor to execute the Settlement of Litigation Agreement ("Agreement") attached hereto as Exhibit "**A;**" and be it further

RESOLVED, that the Council hereby directs, authorizes and empowers the Mayor to take all actions reasonable and necessary to consummate the Agreement; and be it further

RESOLVED, that all other appropriate Township officials are hereby directed, authorized and empowered to execute all documents and take all steps necessary and

appropriate to effectuate the terms and purposes of this Resolution and the Agreement;
and be it further

RESOLVED, that this Resolution shall be published and made available in the
Clerk's office in accordance with applicable law.



Karen J. Carnevale, R.M.C.
Municipal Clerk



Michelle Casalino
Council President

Adopted: April 14, 2020

APPENDIX C

**Court Order Approving Fair Share Housing Center
Settlement Agreement, filed on August 3, 2020**

April 20, 2022

ATTORNEY CLIENT PRIVILEGED COMMUNICATION

VIA E-MAIL

Council President Susan McCartney
And All Council Members
c/o Karen J. Carnevale, R.M.C., Municipal Clerk
Township of West Orange
66 Main Street
West Orange, NJ 07052

Re: Affordable Housing Requirements/Settlement

Dear Council President McCartney and All Council Members:

Enclosed herein are copies of the Affordable Housing Settlement which was fully approved by the Township Council and the Superior Court of New Jersey, Law Division: Essex County, Honorable Robert S. Gardner, J.S.C.

I provide the following documents at the request of Councilman Rutherford whom I spoke with on April 20, 2022:

1. Order of Fairness and Preliminary Roud 3 Mount Laurel Compliance entered August 3, 2020;
2. Fair Share Housing Settlement Agreement between the Township of West Orange and Fair Share Housing Center dated April 6, 2020 with Exhibits "A" and "B;"
3. Special Master's Report dated February 15, 2021; and
4. Order of Judgment of Compliance and Repose entered March 17, 2021.

These documents are public (**not** this cover letter). This communication is provided in conjunction with the Resolution approving the sale of the existing library site pursuant to the exemption under the New Jersey Buildings and Lands Act, N.J.S.A. 40A:12-21(1).

Council President Susan McCartney
All Township Council Members
April 21, 2022
Page 2

If you have any questions whatsoever, please contact me. Thank you for the Council's consideration.

Respectfully yours,

Richard D. Trenk

RDJ:jms
Enclosures

cc: Robert D. Parisi, Mayor (via e-mail)
John O. Gross, Business Administrator (via e-mail)
Leonard Lepore, Township Engineer (via e-mail)
Chief James P. Abbott, Director of Operations (via e-mail)
Kenneth W. Kayser, Esq. (via e-mail)

ESSEX COUNTY SUPERIOR COURT

McMANIMON, SCOTLAND & BAUMANN, LLC

75 Livingston Avenue

Roseland, New Jersey 07068

(973) 622-1800

Richard D. Trenk, Esq. (016951982)

Attorneys for Plaintiff/Petitioner Township of West Orange

AUG 03 2020

FILED

IN THE MATTER OF THE APPLICATION
OF THE TOWNSHIP OF WEST ORANGE, a
municipal corporation of the State of New
Jersey,

Plaintiff/Petitioner.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ESSEX COUNTY

Civil Action
(Mount Laurel)

DOCKET NO.: ESX-L-4697-15

**ORDER OF FAIRNESS
AND PRELIMINARY ROUND 3
MOUNT LAUREL COMPLIANCE**

Hearing Date: July 10, 2020

THIS MATTER having been opened to the Court by McManimon, Scotland and Baumann, LLC (Richard D. Trenk, Esq. appearing), attorneys for Plaintiff, the Township of West Orange ("Township"), and a Declaratory Judgment Complaint having been filed on July 7, 2015 to approve the Township's Housing Element and Fair Share Plan (hereinafter "Fair Share Plan"), as may be amended, in response to In Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015) ("Mount Laurel IV"); and the Court having granted the Township immunity from Mount Laurel lawsuits from the time of the filing of the Township's Declaratory Judgment action (hereinafter "DJ Action"); and the Court having appointed Elizabeth K. McManus, P.P., A.I.C.P., LEED AP as the Special Mount Laurel Court Master (hereinafter the "Special Master"); and Fair Share Housing Center ("FSHC") having participated in the Township's DJ Action as an Intervenor, and Redwood, LLC ("Redwood") and West Essex Highlands, Inc. ("WEHI") having also appeared

as Intervenors; and West Essex Highlands Condominium Association, Inc. (“Condominium Association”) having participated in certain mediation; and the Township, FSHC and Redwood having agreed upon a form of Settlement Agreement (attached hereto as Exhibit WO-1 and referred to hereinafter as the “FSHC Settlement Agreement”), which was executed by Adam M. Gordon, Esq. on behalf of FSHC on April 6, 2020 and the Township Council having adopted a resolution on April 14, 2020 (attached hereto as Exhibit WO-3) authorizing the Mayor of West Orange to execute the FSHC Settlement Agreement, which he did on May 6, 2020; and the Township, WEHI and the Condominium Association having entered into a Settlement Agreement on April 23, 2020 (attached hereto as Exhibit WO-2 and referred to hereinafter as the “WEHI Settlement Agreement”), after a resolution authorizing the Mayor to sign the WEHI Settlement Agreement was adopted on April 14, 2020 (attached hereto as Exhibit WO-4); and the Court having scheduled a Fairness Hearing to determine whether or not the settlement agreements are fair and reasonable to low and moderate income households; and the Township having provided proper public and actual notice of the Fairness Hearing; and the Township having filed a Certification of Service, (attached hereto as Exhibit WO-5), to document that proper notice of the Fairness Hearing had been given; and the Special Master having submitted a report to the Court on July 6, 2020 (attached hereto as Exhibit WO-6), in which she recommended that the Court approve the FSHC and WEHI Settlement Agreements; and the Fairness Hearing having been held on July 10, 2020, during which Exhibits WO-1 to WO-04, which are attached hereto, were marked into evidence; and the Court having considered the testimony of Shirley Bishop and Wayne DeFeo taken during the Fairness Hearing, as well as the statements of counsel; and the Court having reviewed all of the documents submitted into

evidence during the Fairness Hearing; and the Court being satisfied that the parties are entitled to the relief sought; and good cause having been shown;

IT IS on this 3RD ^{AUGUST} day of ~~July~~, 2020;

ORDERED as follows;

1. The Court finds and determines, pursuant to the judicial standards prescribed by the Appellate Division in East/West Venture v. Boro. of Fort Lee, 281 N.J. Super. 311 (App. Div. 1996); and through analysis of the FSHC Settlement Agreement (Exhibit WO-1), the WEHI Settlement Agreement (Exhibit WO-2) and the Special Master's report (Exhibit WO-6); and on the basis of the statements of counsel and the testimony taken during a Fairness Hearing conducted on July 10, 2020; and based on the Court's ruling on the record that same day, which is incorporated herein by reference; that the settlement between FSHC, the Township and Redwood and the settlement between the Township, WEHI and the Condominium Association are fair, reasonable and adequately protect the interest of low and moderate income households; and the Court hereby approves the FSHC Settlement Agreement (Exhibit WO-1) and the WEHI Settlement Agreement (Exhibit WO-2).

2. Within 120 days of the date of the Fairness Hearing, the Township and its Planning Board shall (a) prepare, adopt and endorse a Housing Element and Fair Share Plan, which shall include a Spending Plan, and shall reflect all of the terms and conditions of the FSHC and WEHI Settlement Agreements (Exhibits WO-1 and WO-2), and will also satisfy the conditions listed in the Special Master's July 6, 2020 report (Exhibit WO-6); and shall (b) submit the adopted and endorsed Housing Element and Fair Share Plan, with all required supplementary documentation and adopted ordinances and resolutions needed to implement the plan, to the Court, the Special Master, and FSHC and counsel for WEHI and the Condominium Association

for final review and recommendation by the Special Master and for approval by the Court.¹ A Compliance Hearing to consider approval of the Township's Housing Element and Fair Share Plan and the issuance of a Judgment of Compliance and Repose, which will provide the Township and its Planning Board immunity from all Mount Laurel lawsuits other than those brought to enforce the terms of the Settlement Agreements or the Court's orders through July 2, 2025, is scheduled for **December 4th, 2020 at 1:30 P. .m.**

3. The temporary immunity from Mount Laurel lawsuits that is currently in place for the Township and its Planning Board will remain in place until one month after a final Compliance Hearing is held.

4. As a result of the Settlement between the Township, FSHC and WEHI, and as approved by the Court at the Fairness Hearing held on July 10, 2020, the Township's Rehabilitation Obligation is 305, the Township's Prior Round Obligation (1987-1999) is 226 and the Township's Gap (1999-2015) + Prospective Need (2015-2025) or Round 3 Obligation is 954.

5. The Township's proposed plans to address the obligations as set forth in the preceding paragraph, as set forth in the FSHC and WEHI Settlement Agreements (Exhibits WO-1 and WO-2) are preliminarily approved because they comply facially with the relevant Mount Laurel laws, principles and policies.

6. The Township will address its Prior Round Obligation of 226 as follows:

- a. Ten (10) age restricted units (completed) at Degnan House.
- b. Ninety-two (92) age restricted units (completed) at Federation Plaza.
- c. Two (2) supportive housing bedrooms (completed) at Wedgewood Avenue.

¹ The Special Master has agreed that the Township shall have ninety (90) days to provide the crediting documentation and a draft affordable housing ordinance referenced in the Special Master's Report dated July 6, 2020 at page 6.

- d. Eight (8) supportive housing bedrooms (completed) at 30-32 Kingsley Avenue.
- e. Six (6) supportive housing bedrooms (completed) at 4 Marmon Terrace.
- f. Five (5) supportive housing bedrooms (completed) at Merrywood Drive.
- g. Forty-four (44) family rental units from the PRISM Redevelopment project. Phase I is completed; Phase 2 is approved with developer's agreement in place.
- h. Two (2) family for sale units for Habitat for Humanity (completed).
- i. Fifty-seven (57) bonus credits.

7. The Township will address its Round 3 obligation of 954 as follows. The Township is eligible for a vacant land adjustment and has a realistic development potential (RDP) of 421 units which will be satisfied as follows:

- a. Forty-two (42) age restricted units (completed) at Federation Plaza.
- b. Two (2) supportive housing units (completed) at Wedgewood Avenue.
- c. Four (4) supportive housing units (completed) at Dogwood Drive.
- d. Six (6) supportive housing units (completed) at Pleasant Valley Way.
- e. Three (3) family rental units (completed) at Washington Street.
- f. Three (3) family rental units (completed) at Main Street.
- g. Three (3) family rental units (completed) at 158 Main Street.
- h. Four (4) supportive housing units (completed) at St. Cloud – Prism.
- i. Four (4) supportive housing units (completed) at Forest Avenue.
- j. Fifty-Five (55) family rental units at Valley Road Residential – under construction.
- k. One hundred (100) family rental units at West Essex Highlands. See WEHI Settlement Agreement (Exhibit WO-2).

- l. Seventeen (17) family rental units at Selecto Flash. Redevelopment Plan; pending developer's agreement.
- m. Twenty-three (23) family rental units at Executive Drive, Block 155, Lot 40.03. Redevelopment Plan; pending developer's agreement.
- n. Sixty-four (64) family rental units at Executive Drive, Block 155, Lots 40.02 and 42.02. Redevelopment Plan; pending developer's agreement.
- o. Seventeen (17) senior housing units at Library Site; Redevelopment Plan and awarded tax credits.
- p. One hundred six (106) bonus credits.

The RDP of 421 subtracted from the agreed upon Third Round Obligation of 954 units results in an Unmet Need of 533 units. The Unmet Need is further reduced by the 32 surplus credits the Township has provided in addressing its RDP, the existing 57 affordable units provided at the Woodland Valley age-restricted site, and the remaining 47 units of credit from the Library Site. Thus, the Township's Unmet Need is 397 units, which shall be addressed as through the following mechanisms:

- a. K Mart/Whole Foods Shopping Center located at corner of Eagle Rock and Prospect Avenues (Block 152.01, Lots 1445 and 1445.05). The Township has agreed to place a mixed-use overlay zone for commercial/retail on the first floor and up to three stories of residential above. The residential density for this site shall permit up to 16 du/a and require a 20% set-aside.
- b. Mayfair Farms Site located at 481 Eagle Rock Avenue (Block 152.01, Lot 1445.01). The Township has agreed to place a mixed-use overlay zone for commercial/retail on the first floor and up to three stories of residential above. The residential density for this site shall permit up to 16 du/a and require a 20% set-aside.
- c. Redwood located at 200 Pleasant Valley Way (Block 151, Lot 33). The Township has agreed to place overlay zoning on this site permitting non age-restricted residential development up to 24 du/a and requiring a 20% affordable housing set-aside. This parties agree that this zoning yield shall be permitted to be rounded up to 142 total units, which if developed to that maximum would require an affordable housing set-aside of either (i) 28 on-site affordable housing units and a payment in lieu of \$59,473.20 or (ii) 29 on-site affordable housing units.

In addition to the Unmet Need mechanisms identified above, the Township has identified the following areas where affordable housing may be produced in the future:

- a. 10 Rooney Circle, Bock 155, Lot 41.02. The Township is currently in negotiations with the landowner concerning the future use of this site. Within 18 months of the Court's approval, the Township shall inform the Special Master and FSHC as to the future use. In the event that the future use will be residential, the Township has agreed to place overlay zoning on this site permitting 16 du/a and requiring a 20% set-aside.
- b. Rock Spring Golf Course – The Township has recently purchased this 138-acre golf course that it intends to initially continue to utilize as a golf course. The Township has contracted with a golf course consulting company that will operate Rock Spring as a golf course for the next 22 months in order to establish its continuing viability as an 18-hole course which may be extended. In the event that the golf course is found to not be viable as an 18-hole golf course, but is viable as a 9-hole golf course, the Township agrees to rezone a portion of the property to provide residential zoning for the 9-hole portion of the course to be redeveloped permitting at least 150 dwelling units including a 20% affordable housing set-aside of at least 30 units. The Township will provide FSHC with notice of its intentions for future use of this site by July 1, 2021 or sooner if a decision is made prior to that date. At this time the golf course will not generate any RDP but will be evaluated for RDP purposes at the time of notice of decision and FSHC is free to take whatever position it wishes at that time as to the appropriate RDP.

8. The Township will implement the following additional compliance mechanisms:

- a. The Township shall introduce and adopt an ordinance or ordinances providing for the amendment of the Township's Affordable Housing Ordinance and Zoning Ordinance to implement the terms of the FSHC Settlement Agreement and the zoning contemplated therein and shall adopt a Housing Element and Fair Share Plan and Spending Plan in conformance with the terms of the FSHC Settlement Agreement.

9. All other terms and conditions in the FSHC and WEHI Settlement Agreements (Exhibits WO-1 and WO-2) shall be adhered to, and all such terms and conditions are hereby incorporated by reference.

10. Counsel for the Township shall provide copies of this Order to all counsel of record, and to the Special Master, within seven (7) days of the date hereof per the Rules of Court.

/s/ Robert H. Gardner, JSC

HONORABLE ROBERT H. GARDNER
JUDGE OF THE SUPERIOR COURT

X Unopposed



POLICY
PLANNING
DESIGN

P.O. Box 236
Hopewell, NJ 08525
609-257-6705 (v)
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The Honorable Robert H. Gardner, J.S.C.
Essex County Superior Court
Historic Courthouse
470 Martin Luther King Jr., Blvd., 4th Floor
Newark, New Jersey 07102

February 15, 2021

Re: IMO the Application of the Township of West Orange
Docket No: ESX-L-4697-15

Dear Judge Gardner,

Enclosed please find the Special Master's Report for the Township of West Orange's Compliance Hearing in the above referenced matter. I am available for any questions you may have and will attend the hearing.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth McManus". The signature is fluid and cursive, with the first name "Elizabeth" and last name "McManus" clearly distinguishable.

Elizabeth McManus, PP, AICP, LEED AP

c. Richard Trenk, Esq.
Richard Hoff, Esq.
Bryan Plocker, Esq.
Joshua Bauers, Esq.



SPECIAL MASTER'S REPORT
FOR A *MOUNT LAUREL* AMENDED FAIRNESS & COMPLIANCE HEARING
TOWNSHIP OF WEST ORANGE | HUNTERDON COUNTY, NEW JERSEY

IMO Application of the Township of West Orange
Docket No. ESX-L-4697-15

February 15, 2021

Prepared for:

The Honorable Robert H. Gardner, J.S.C.
Superior Court of New Jersey
Historic Courthouse, Room 404
470 Martin Luther King Jr. Blvd.
Newark, NJ 07102

Prepared By:

Elizabeth K. McManus, PP, AICP, LEED AP
New Jersey Professional Planning License No. S915



TABLE OF CONTENTS

1.0	INTRODUCTION	1
2.0	BACKGROUND	1
3.0	CONTEXT FOR REVIEW	2
4.0	WEST ORANGE TOWNSHIP'S HOUSING PLAN	3
5.0	CONCLUSION	11



1.0 INTRODUCTION

This report has been prepared and submitted in my capacity as Special Master to assist the Court in the upcoming Compliance Hearing before the Honorable Robert H. Gardner, J.S.C. on February 18, 2021 In the Matter of the Application of the Township of West Orange, Docket No. ESX-L-4697.15. The following Report reviews and recommends whether the Township's adopted 2020 Housing Element and Fair Share Plan (hereinafter the "Housing Plan") is consistent with the Township's 2020 Settlement Agreement with Fair Share Housing Center (hereinafter the "2020 Settlement Agreement"), the and the accompanying *Order on Fairness and Preliminary Round 3 Mount Laurel Compliance* issued by the Honorable Robert H. Gardner, J.S.C. dated August 3, 2020 (hereinafter the "Order on Fairness"), as well as the applicable rules of the Council on Affordable Housing (hereinafter "COAH") (N.J.A.C. 5:93), the Fair Housing Act (N.J.S.A. 52:27D-301 et seq), and relevant case law.

The hearing notice adequately describes the hearing and directs comments to be distributed not later than January 11, 2021. I am not aware of any objections.

2.0 BACKGROUND

The Township of West Orange has a history of affordable housing compliance. The Township received second round substantive certification from COAH on October 11, 1995, with an extension through December 20, 2005 granted on February 9, 2005. The Township received third round substantive certification on December 9, 2009.

The Township filed for Declaratory Judgment on July 21, 2015. There are two intervenors in this case – WEHI was granted intervention on December 4, 2015 and Redwood, LLC (hereinafter "Redwood") was granted intervention on December 1, 2017.

The Township executed a Settlement Agreement with Fair Share Housing Center (hereinafter "FSHC") on April 17, 2020; Redwood is a signatory to this agreement as well. The also Township executed a Settlement Agreement with West Essex Highlands, Inc. (hereinafter "WEHI") on April 17, 2020. Both Settlement Agreements were approved by the Honorable Robert H. Gardner, J.S.C. via an *Order on Fairness and Preliminary Round 3 Mount Laurel Compliance* dated August 3, 2020.



3.0 CONTEXT FOR REVIEW

This report reviews West Orange's adopted 2020 Housing Element and Fair Share Plan against the Township's April 17, 2020 Settlement Agreement with FSHC, the accompanying Order on Fairness dated August 3, 2020, as well as the applicable rules of the Council on Affordable Housing (hereinafter "COAH") (N.J.A.C. 5:93), the Fair Housing Act (N.J.S.A. 52:27D-301 et seq), and relevant case law. In doing so, this report relies upon the second round regulations of COAH (N.J.A.C. 5:93) to the greatest extent practicable, the Uniform Housing Affordability Control Rules, N.J.A.C. 5:80-26.1 et seq., the Fair Housing Act (N.J.S.A. 52:27D-301 et seq), and relevant case law.

This approach encourages uniformity in the interpretation of the Mount Laurel doctrine and is consistent with both legislative and judicial directives. The Fair Housing Act (P.L. 1985, c. 222) states,

"The interest of all citizens, including low and moderate income families in need of affordable housing, would be best served by a comprehensive planning and implementation response to this constitutional obligation." (N.J.S.A. 52:27D-302(c))

Furthermore, the New Jersey Supreme Court, in its decision in The Hills Development Co. v. Town of Bernards, 103 NJ 1 (1986) (commonly known as Mount Laurel III) upheld the constitutionality of the Fair Housing Act, and stated,

"Instead of varying and potentially inconsistent definitions of total need, regions, regional need, and fair share that can result from the case-by-case determinations of courts involved in isolated litigation, an overall plan for the entire state is envisioned, with definitions and standards that will have the kind of consistency that can result only when full responsibility and power are given to a single entity [COAH]." (103 N.J. at 25)

Lastly, in the decision, the Supreme Court also stated that to the extent that Mount Laurel cases remained before the courts,

"...any such proceedings before a court should conform wherever possible to the decisions, criteria and guidelines of the Council." (103 N.J. at 63)

On March 10, 2015, the N.J. Supreme Court delivered In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (hereinafter "Mount Laurel IV"). This decision acknowledged COAH's inability or unwillingness to adopt constitutional rules for the so-called "Third Round" of municipal affordable housing compliance. In the absence of regulatory guidance from COAH or Legislative action, the decision instructs the Trial Courts to once again evaluate the constitutionality of municipal Fair Share Plans.

While the Court has invalidated COAH's attempts to promulgate Third Round rules, the Second Round rules (N.J.A.C. 5:93) are still largely intact. In fact, these rules have been relied upon by the Trial Courts in numerous compliance and fairness hearings during the "gaps" in COAH's rule-making since the Second Round ended in 1999. Furthermore, in the Mount Laurel IV decision the NJ Supreme Court directed the



Trial Courts to continue to rely on the Second Round rules, with certain specific exceptions. The parties in this case have been guided by these instructions and this Report relies on COAH's Second Round rules and established Court precedent to evaluate the Settlement Agreements before the Court. This will promote the uniformity of approach which is clearly indicated in the Supreme Court's decisions.

4.0 WEST ORANGE TOWNSHIP'S HOUSING PLAN

West Orange's Planning Board adopted the Housing Plan on December 2, 2020 and the Township Council subsequently endorsed it on January 26, 2021. The obligations and compliance mechanisms are consistent with the Settlement Agreement reached with FSHC unless otherwise noted.

The Obligation and Compliance Mechanisms

The Housing Plan set forth the following affordable housing obligation for the Township of West Orange

- | | |
|---|-----------|
| ▪ Rehabilitation Obligation: | 305 units |
| ▪ Prior Round (1987 – 1999) Obligation: | 226 units |
| ▪ Third Round (1999 – 2025) Obligation: | 954 units |

Rehabilitation Obligation

The Township will continue a municipally operated rehabilitation program for both renter and owner-occupied units that is operated by Community Action Services (CAS). Additionally, the Township will participate in the Essex County Home Improvement Program, which is limited to owner-occupied units. The municipal program is necessary for the Township to be compliant with *N.J.A.C. 5:93-5.2(f)*, which states rental units may not be excluded from the rehabilitation program. Acceptable operating manuals were submitted to ensure the programs meet the requirements of *N.J.A.C. 5:93-5.2*.

The Township completed rehabilitations for 53 units since 2010 through the municipal program administered by CAS. The information submitted confirms the Township expended appropriate funds and brought the units up to code, as well as confirmation of other requirements. The Township should submit a sample affordability control for the municipal program.



Prior Round Obligation

The Township satisfies the 226 unit prior round obligation with a variety of family, special needs, and senior units, with the majority already constructed and currently providing affordable housing. The following table provides a summary of these strategies.

Satisfaction of the 226-unit Prior Round Obligation							
Project	Rental	Senior	Family	Units	Bonus Credits	Total Credits	Status
Degnan House		x		10	0	10	Complete
Federation Plaza		x		92	0	92	Complete
ARC of Essex Wedgewood Avenue	x			2	2	4	Complete
Easter Seal Society 30-32 Kinsley	x			8	0	8	Complete
ARC of Essex 4 Marmon Terrace	x			6	6	12	Complete
Merrywood Drive	x			5	5	10	Complete
PRISM	x		X	44	44	88	Phase 1: Complete; Phase 2: Approved
Habitat for Humanity 112 Whittlesey Ave., Units A and B			X	2	0	2	Complete
Total				169	57	226	



The Township provided adequate evidence of compliance for most prior round strategies, including but not limited adopted zoning and affordability controls. However, no, or inadequate information has been submitted for the following strategies. The Township should submit the missing information to confirm eligibility for credit.

- Degnan House. The information submitted does not identify the units which are eligible for credit or confirm affordability controls. The Township should submit the project's affordability controls and identify the units which are eligible for credit (as stated in the Housing Plan, 10 of 62 units are were occupied after April 1, 1980 and are therefore eligible for credit).
- Easter Seal Society at 20-32 Kinsley St. No information has been submitted. The Township should submit the project's affordability controls as well as the special needs survey, and supporting documentation, available from COAH.
- Merrywood Dr. Group Home. The Township submitted a deed for the property; however, it does not reference affordability controls or other information about the group home's operation. The Township should submit the project's affordability controls as well as the special needs survey, and supporting documentation, available from COAH.
- Habitat for Humanity, Unit 1. Affordability controls were not submitted for Unit 1. The Township should submit the affordability control for this unit.

Notwithstanding the above items, the Township's satisfaction of the prior round obligation meets the applicable requirements for minimum rental units, maximum senior units, and the proper mix of income and bedroom distribution.

Third Round Obligation

The Township conducted a vacant land adjustment, pursuant to *N.J.A.C. 5:93-4.2*, and it was subject to the Fairness Hearing and approved via the Court's August 3, 2020 Order on Fairness. Municipalities, such as West Orange, that do not have adequate capacity of developable land to fulfil the entirety of the affordable housing obligation are eligible for an adjustment of the obligation that reflects a realistic development potential (hereinafter "RDP") and the unmet need. The RDP represents the portion of the new construction affordable housing obligation that can realistically be addressed with inclusionary development on lots identified as being developable in the vacant land adjustment. The unmet need is calculated as the difference between the total obligation and the RDP.

The Township's calculated RDP is 421 units. The vacant land adjustment was completed in accordance with *N.J.A.C. 5:93-4.2*. More specifically, the Township evaluated vacant (property class 1) lands, public lands (property class 15c) and additional properties which were under-developed or otherwise may offer an opportunity for inclusionary affordable housing. Environmental constraints, such as but not limited to wetlands, and municipally owned recreation lands were excluded from generating an RDP. The Township utilized densities between 6 and 67 du/ac and a 20% affordable housing set-aside to calculate the RDP.



The Township satisfies the RDP with a mix of family, special needs and senior housing. The following table provides a summary of the RDP strategies.

Satisfaction of the 421-unit Third Round RDP							
Project	Rental	Senior	Family	Units	Bonus Credits	Total Credits	Status & Comments
Federation Plaza		x		42	0	42	Complete
ARC of Essex Wedgewood Avenue	x			2	0	2	Complete
Dogwood Drive	x			4	0	4	Complete
Pleasant Valley Way	x			6	0	6	Complete
39 Washington Street	x		x	3	0	3	Complete
152 Main Street	x		x	3	0	3	Complete
158 Main Street	X		X	3	0	3	Complete
St. Cloud – Prism	X			4	0	4	Complete
Forest Avenue	X			4	0	4	Complete
Valley Road Residential	x		x	55	55	110	Complete
West Essex Highlands	x		x	100	51	151	Settlement Agreement; Zoned
Selecto Flash	x		x	17	0	17	Redevelopment Plan in place; Agreement underway
Executive Drive: Block 155, Lot 40.03	x		x	23	0	23	Redevelopment Plan in place
Executive Drive: Block 155, Lots 40.02, 42.02	x		x	64	0	64	Approved



Satisfaction of the 421-unit Third Round RDP							
Project	Rental	Senior	Family	Units	Bonus Credits	Total Credits	Status & Comments
Library Site (17 of 64)	x	x		17	0	17	Approved
<i>Total</i>				<i>347</i>	<i>106</i>	<i>453</i>	
				<i>Surplus</i>	<i>32</i>		

The Township provided adequate evidence of compliance for the majority of third round RDP strategies, including but not limited adopted zoning and affordability controls. However, inadequate information has been submitted for the following strategies. The Township should submit the missing information to confirm eligibility for credit.

- Selecto Flash. Seventeen affordable units will be created by the developer on a property (Block 6, Lot 36.01) owned by the Township. The Township will convey the property for development of the affordable housing. The agreement outlining the roles and responsibility of each party is not yet executed. The Township should submit the executed contract to confirm eligibility for credit.
- Executive Drive: Block 155, Lot 40.03. Information was not submitted on this strategy. The Township should submit the adopted Redevelopment Plan and Agreement between the developer and Township.

The Township's satisfaction of the third round RDP meets the applicable requirements for minimum rental units, maximum senior units, and the proper mix of income and bedroom distribution.

The Settlement Agreement sets forth how the Township will satisfy the unmet need with proposed strategies. The third round unmet need is quantified as 533 units (954-421). The following provides an overview of the Township's unmet need strategies.

Satisfaction of the Third Round Unmet Need					
Project	Rental	Senior	Family	Units	Status & Comments
Surplus Credits				32	Various



Satisfaction of the Third Round Unmet Need					
Project	Rental	Senior	Family	Units	Status & Comments
Woodland Valley		x		54	Complete
Library Site (47 of 64)	x	x		47	Approved
K-Mart / Whole Foods Center (Block 152.01, Lots 1445, 1445.05)	x			Not quantified	Zoned
Mayfair Farms Site (Block 152.01, Lot 1445.01)	x			Not quantified	Zoned
Redwood (Block 151, Lot 33)	x		x	Not quantified	Settlement Agreement; Zoned
Mandatory Set-aside Ordinance (Township-wide)	x		x	Not quantified	Zoned
Total				133+	

In addition to the above unmet need mechanisms, the Township has identified additional potential opportunities for affordable housing. The following summarizes those mechanisms.

- 10 Rooney Circle (Block 144, Lot 41.02). The Township is negotiating with the landowner concerning the future use of this site and shall, within 18 months of the court's approval of the Settlement Agreement, inform the special master and FSHC as to the site's future use. If the future use will be residential, the Township has agreed to place overlay zoning on this site permitting 16 du/ac and requiring a 20% set-aside. The Township's Housing Plan states negotiations for this site are ongoing and that Township will inform FSHC and the Special Master as to the status within 18 months of the Court's Order on Fairness (February 3, 2022)
- Rock Springs Golf Course. The Township recently purchased the golf course; however, the site's continued viability as a golf course is uncertain. The Township has contracted with a golf course consulting company that will operate Rock Spring as a golf course for 22 months (this appears to begin in April 2020) to establish its continuing viability as an 18-hole course. In the event that the golf course is found to not be viable as an 18-hole golf course, but is viable as a 9-hole golf course the Township agrees to rezone a portion of the property to provide residential zoning for the 9-hole portion of the course permitting at least 150 dwelling units with a 20% affordable housing



set-aside. The Township will provide FSHC with notice of its intentions for future use of this site by July 1, 2021 or sooner if a decision is made prior to that date. At this time, the golf course will not generate any RDP but will be evaluated for RDP purposes at the time of notice of decision.

Administration

The Township submitted an adopted affordable housing regulating ordinance. This ordinance provides standards for item such as, but not limited to, bedroom distribution, sales and rental prices, affordability average, administration, monitoring and enforcement. It is consistent with the applicable standards in COAH's substantive rules (N.J.A.C. 5:93), the Uniform Housing Affordability Control Rules (N.J.A.C. 5:80-26.1 et seq.) and the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.), as well as the Township's Settlement Agreement with FSHC. The Township submitted rental and sale affordable unit operating manuals prepared by the Affordable Housing Administrative Agent. Also submitted was a compliant affirmative marketing plan.

Additionally, the Township submitted a draft resolution designating the municipal housing liaison (hereinafter the "MHL"), as well as an adopted resolution appointing Community, Grants, Planning and Housing as the administrative agent. The Township should submit the adopted resolution appointing the municipal housing liaison.

Affordable Housing Trust Fund

The Township submitted the adopted development fee ordinance. This ordinance meets the applicable requirements in COAH's substantive rules (N.J.A.C. 5:93) and the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.), as well as the Township's Settlement Agreement with FSHC. I recommend the Court approve the development fee ordinance. The Township should submit a Spending Plan and adopted resolution of intent to fund (a draft resolution was submitted).

The Township's Spending Plan provides for collection and expenditure of money in the affordable housing trust fund in manners consistent with the applicable regulations. The proposed expenditures include a large affordability assistance program and administration. The Township's Spending Plan states affordability assistance funds will be used for emergency repairs and subsidizing future special assessments of existing low and moderate income homeowners. The Township indicates the affordable housing administrator will operate the affordability assistance program.



Other Requirements

The Township's Settlement Agreement with FSHC also contained several other terms intended to advance the goal of meeting the needs of the Township's low- and moderate-income households. The key terms and the Township's compliance are addressed below.

1. The Township agrees to prepare and adopt within 120 days an amended Housing Element and Fair Share Plan, including a Spending Plan. The Township also agrees to introduce within 120 days of Court approval an ordinance amending the Township's Affordable Housing Ordinance and Zoning Ordinance to implement the terms of this agreement and the zoning contemplated therein.

Satisfied, except for the recommended conditions herein.

2. At least half of all housing units addressing the Third Round Prospective Need shall be affordable to low-income households, with 13% of the affordable housing units being reserved for very-low income households. The remainder of the affordable units shall be affordable to moderate-income households.

Satisfied.

3. At least 25% of the Township's Third Round Prospective Need shall be met through rental units, at least half of which will be rental units available to families.

Satisfied.

4. At least half of the units addressing the Third Round Prospective Need in total must be available to families.

Satisfied.

5. No more than 25% of the affordable units addressing the Township's Prior Round and Third Round obligation shall be age-restricted.

Satisfied.

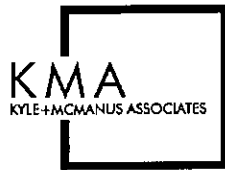
6. Rental bonuses shall be calculated in accordance with COAH's Second Round rules N.J.A.C. 5:93 – 5.15 (d).

Satisfied.

7. All affordable housing units created pursuant to the Settlement Agreement shall comply with UHAC rules, with the exception of #2 above in which case those rules have been superseded by an amendment to the Fair Housing Act.

Satisfied.

8. The Township shall update its affirmative marketing plan to include FSHC and other named organizations in its list of community and regional organizations, and both the Township and any



other developers or administrative agencies conducting affirmative marketing shall provide notice to those organizations of any available units.

Satisfied.

9. On the first anniversary of the execution of the Settlement Agreement, and every anniversary thereafter through the end of the Agreement, the Township agrees to provide a status report of all affordable housing trust fund activity.

Compliance with this item will be determined at the appropriate time.

10. The Township shall submit its midpoint realistic opportunity review on or before July 2, 2020, as required pursuant to N.J.S.A. 52:27D-313. This midpoint review permits any interested party, such as FSHC, to request by motion a Court hearing regarding whether any sites in the Township's compliance plan no longer present a realistic opportunity for affordable housing development and should be replaced. While this review is statutorily sanctioned and certainly reasonable, in the event the Court finds that an affordable housing site or other compliance mechanism should be replaced I recommend that the Township be given the opportunity to supplement its Fair Share Plan to correct any deficiency while being protected by immunity from builder remedy litigation. This municipal opportunity to remedy a defect is certainly warranted since the plan which is being amended was approved by the Court.

The Township should indicate if this was completed.

11. Within 30 days of every third anniversary of the Agreement the Township will publish on its website and submit to FSHC a status report regarding its satisfaction of the very-low income requirement pursuant to N.J.S.A. 52:27D – 329.1.

Compliance with this item will be determined at the appropriate time.

5.0 CONCLUSION

As directed by the Court, I have reviewed the 2020 Housing Element and Fair Share Plan of the Township of West Orange and its supporting ordinances and exhibits for compliance with the Township's Settlement Agreement with FSHC. The Housing Plan is consistent with the Court-approved Settlement Agreement, the Fair Housing Act, and COAH's Second Round rules; however, there are a few deficiencies that must be addressed. The following provides a summary of the recommendations contained herein:

1. The Township should submit a sample affordability control for the municipal rehabilitation program.
2. The Township should submit the Degnan's House affordability controls and identify the units which are eligible for credit



3. The Township should submit the Easter Seal Society's affordability controls as well as the special needs survey and supporting documentation.
 4. The Township should submit the Merrywood Drive group home's affordability controls as well as the special needs survey and supporting documentation.
 5. The Township should adopt the affordability control for Unit 1 of the Habitat for Humanity.
 6. The Township should submit the executed contract for the Selecto Flash site.
 7. The Township should submit the adopted Redevelopment Plan and Agreement between the developer and Township for the Executive Drive, Block 155, Lot 40.03 site.
 8. The Township should submit the adopted resolution appointing the municipal housing liaison.
 9. The Township should submit a Spending Plan.
 10. The Township should submit an adopted resolution of intent to fund.
 11. I recommend the Court approve the development fee ordinance.
- I further recommend the above issues be addressed by the Township within 90 days.

McMANIMON, SCOTLAND & BAUMANN, LLC

75 Livingston Avenue

West Orange, New Jersey 07068

(973) 622-1800

Richard D. Trenk, Esq. (016951982)

Attorneys for Plaintiff/Petitioner Township of West Orange

FILED

2:00 pm, Mar 17, 2021

IN THE MATTER OF THE APPLICATION
OF THE TOWNSHIP OF WEST ORANGE, a
municipal corporation of the State of New
Jersey,

Plaintiff/Petitioner,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ESSEX COUNTY

Civil Action
(Mount Laurel)

DOCKET NO.: ESX-L-4697-15

**ORDER OF JUDGMENT OF
COMPLIANCE AND REPOSE**

IN ALL DECLARATORY JUDGMENT
ACTIONS FILED BY VARIOUS
MUNICIPALITIES, COUNTY OF ESSEX,
PURSUANT TO THE SUPREME COURT
DECISION IN, In re Adoption of N.J.A.C.
5:96, 221 N.J. 1 (2015),

Plaintiff/Petitioner,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ESSEX COUNTY

Civil Action
(Mount Laurel)

DOCKET NO.: ESX-L-4173-15

**Hearing Date: February 18, 2021
at 1:30 p.m.**

THIS MATTER having been opened to the Court by McManimon, Scotland and Baumann, LLC (Richard D. Trenk, Esq. appearing), attorneys for Plaintiff, the Township of West Orange ("Township"), via a Declaratory Judgment Complaint filed on July 7, 2015 to approve to approve the Township's Housing Element and Fair Share Plan (hereinafter "Fair Share Plan"), as may be amended, in response to In Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015) ("Mount Laurel IV"); and the Court having granted the Township immunity from Mount

Laurel lawsuits from the time of the filing of the Township's Declaratory Judgment action (hereinafter "DJ Action"); and the Court having appointed Elizabeth K. McManus, P.P., A.I.C.P., LEED AP as the Special Mount Laurel Court Master (hereinafter the "Special Master"); and Fair Share Housing Center ("FSHC") having participated in the Township's DJ Action as an Intervenor, and Redwood, LLC ("Redwood") and West Essex Highlands, Inc. ("WEHI") having also appeared as Intervenors; and West Essex Highlands Condominium Association, Inc. ("Condominium Association") having participated in certain mediation; and the Township, FSHC and Redwood having agreed upon a form of Settlement Agreement (attached hereto as Exhibit WO-1 and referred to hereinafter as the "FSHC Settlement Agreement"), which was executed by Adam M. Gordon, Esq. on behalf of FSHC on April 6, 2020 and the Township Council having adopted a resolution on April 14, 2020 (Exhibit WO-3) authorizing the Mayor of West Orange to execute the FSHC Settlement Agreement, which he did on May 6, 2020; and the Township, WEHI and the Condominium Association having entered into a Settlement Agreement on April 23, 2020 (Exhibit WO-2 and referred to hereinafter as the "WEHI Settlement Agreement"), after a resolution authorizing the Mayor to sign the WEHI Settlement Agreement was adopted on April 14, 2020 (Exhibit WO-4); and the Court having scheduled a Fairness Hearing to determine whether or not the settlement agreements are fair and reasonable to low and moderate income households; and the Township having provided proper public and actual notice of the Fairness Hearing; and the Township having filed a Certification of Service, (Exhibit WO-5), to document that proper notice of the Fairness Hearing had been given; and the Special Master having submitted a report to the Court on July 6, 2020 (Exhibit WO-6), in which she recommended that the Court approve the FSHC and WEHI Settlement Agreements; and the Fairness Hearing having been held on July 10, 2020, during which Exhibits WO-1 to WO-04,

which are attached hereto, were marked into evidence; and the Court having considered the testimony of Shirley Bishop and Paul Grygiel taken during the Fairness Hearing, as well as the statements of counsel; and the Court having conducted a further hearing on February 18, 2021 concerning compliance with the approved settlements evidence during the Fairness Hearing; and the Court having considered the report dated February 15, 2021 of the Special Master (the "Special Master Report"), the testimony taken during the Compliance Hearing, as well as the comments of counsel; and good cause having been shown;

IT IS on this 17th day of **March 2021**;

ORDERED as follows:

1. Subject to the satisfaction of the open issues referenced during the Compliance Hearing, the Township of West Orange's Fair Share Plan creates a realistic opportunity for the production of affordable housing and is hereby approved and the Township is granted a Judgment of Compliance and Repose as to its Rehabilitation Share, its Prior Round Obligation (1987-1999), and its Third Round Obligation (the last comprised of both the Gap (1999-2015) and the Prospective (2015-2025) Needs), pursuant to the Court approved Settlement Agreement entered into between the Township and FSHC on May 6, 2020, the Fair Housing Act (N.J.S.A. 52:27D-301, et. seq.)("FHA"), the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1, et seq.) ("UHAC"), applicable Council on Affordable Housing (hereinafter "COAH") substantive rules, and Mount Laurel case law, including the New Jersey Supreme Court's Mount Laurel IV decision.

2. The Township's Judgment of Compliance and Repose shall remain in effect for ten (10) years beginning on July 6, 2015 and ending on July 6, 2025, and during this ten (10) year period the Township shall have immunity from all Mount Laurel lawsuits, including, but not

limited to, Builder's Remedy lawsuits, other than actions brought to enforce the terms of the Settlement Agreement or the Court's orders.

3. As per the Settlement Agreement between the Township and FSHC, which was approved by the Court during a Fairness Hearing held on July 10, 2020 and was memorialized by the Court in an Order entered on August 3, 2020, the Township's Rehabilitation Share is 305, the Township's Prior Round Obligation (1987-1999) is 226, and the Township's Third Round Obligation (1999-2025) is 954, reduced to 421 as a result of a vacant land adjustment.

4. The Township is addressing its Prior Round Obligation of 226 as set forth in the Special Master Report.

5. The Township is addressing its Round 3 obligation of 421 as set forth in the Special Master Report.

6. The Township has also implemented the additional compliance mechanisms as set forth in the Special Master Report.

7. Based on testimony given during the February 18, 2021 Compliance Hearing, Conditions 1, 8 and 10 on Pages 11-12 of the Special Master Report are hereby deemed fully satisfied.

8. Short-term conditions 2, 3, 4, 5, 6¹, 7² and 9 on Pages 11-12 in the Special Master Report shall be addressed and resolved by the Township within ninety (90) days of February 18, 2021, by which date the Township shall submit a status update report to the Court, the Special Master and FSHC. Said deadline can only be extended if the Township, the Special Master, FSHC, and the Court agree to such an extension.

¹ With regard to the Selecto Flash site, the agreement contemplated will be a redevelopment agreement.

² With regard to Condition No. 7, the Township shall adopt a zoning amendment because this site is not part of any redevelopment area due to the Appellate Division Decision dated September 11, 2020.

9. The Township shall continue to address the long-term conditions on Page 11 in the Special Master Report, which can only be modified if the Township, the Special Master, and FSHC agree to such a modification, for the remainder of the Third Round.

10. Subject to the deadlines established above, upon the Special Master receiving, reviewing, and approving the additional documents and revisions required by the short-term conditions contained herein, the Special Master shall advise the Court that said short-term conditions have been satisfied. Upon such notification, the Township will provide the Court with a form of Order that will indicate that all of the short-term conditions have been satisfied, and that the Township's conditional Judgment of Compliance and Repose has become a Final Judgment of Compliance and Repose, with only the long-term conditions remaining.

11. The Township's updated and adopted Development Fee Ordinance is hereby approved by the Court.

12. Counsel for the Township shall provide copies of this Order to the Township's Service List within seven (7) days of the date hereof per the Rules of Court.

13. The parties shall within ten (10) days pay any outstanding invoices owed to Special Master McManus and shall so advise this Court with an appropriate certification stating same has been complied with.

☒ Unopposed

/s/ Robert H. Gardner, JSC
HONORABLE ROBERT H. GARDNER
JUDGE OF THE SUPERIOR COURT

Case Details | Case Number: ESX-L-004697-15

Case Caption: IN RE TOWNSHIP OF WEST ORANGE

Court Type: Civil Part

Venue: ESSEX

Case Initiation Date : 07/07/2015

Case Type: MT. LAUREL

Case Status: ACTIVE

Jury Demand: NONE

Case Track: 4

Judge: GARDNER, ROBERT, H

Team: 1

of Discovery Days: 1015

Age of Case: 05 YR 08 MO

Consolidated Case: Y

Original Discovery End Date: 03/12/2017

Current Discovery End Date: 09/28/2018

of DED Extensions: 2

Original Arbitration Date:

Current Arbitration End Date:

of Arb Adjournments: 0

Original Trial Date:

Current Trial Date:

of Trial Date Adjournments: 0

Case Disposition: OPEN

Disposition Date:

Statewide Lien: N

Transaction Information

Transaction ID: LCV2021573664

Received by Ecourts On: 03/16/2021

Total Payment Amount: \$0.00

Documents Received:

GENERAL CORRESPONDENCE



McMANIMON • SCOTLAND • BAUMANN

25 Alexander Avenue, Roseland, NJ 07068 (973) 622-1800

Writer's Direct Dial: (973) 721-5039**rtrenk@msbnj.com**

Client No. 500027-0349

July 28, 2020

Via eCourts

Honorable Robert H. Gardner
Superior Court of New Jersey
Historic Courthouse, Room 404
470 Martin Luther King, Jr. Blvd.
Newark, NJ 07102

**Re: In the Matter of the Application of the Township of West Orange
Docket No. ESX-L-4697-15**

Fairness and Preliminary Compliance Hearing – July 10, 2020

Dear Judge Gardner:

Pursuant to the Court's evidentiary findings and rulings, please find enclosed a proposed form of Order. Prior to submitting this to the Court, I circulated it to all counsel and parties-in-interest for their input. I have incorporated all comments received.

If this meets with the Court's approval, kindly enter the original and upload same on eCourts.

Thank you for the Court's consideration.

Respectfully submitted,

/s/ Richard D. Trenk

Richard D. Trenk

RDT/cd

Enclosure

cc: Elizabeth McManus, PP, AICP, LEED AP (via e-mail)
Bryan D. Plocker, Esq. (via e-mail)
Richard J. Hoff, Jr., Esq. (via e-mail)
Joshua D. Bauers, Esq. (via e-mail)
Adam M. Gordon, Esq. (via e-mail)
Kenneth R. Sauter, Esq. (via e-mail)
Shirley Bishop, P.P. (via e-mail)
Paul Grygiel, ACIP, PP (via e-mail)
Wayne DeFeo (via e-mail)



MC MANIMON • SCOTLAND • BAUMANN

75 Livingston Avenue, Roseland, NJ 07068 (973) 632-1990

Richard D. Trenk, Esq.
Writer's Direct Dial: (973) 721-5039
rtrenk@msbnj.com

Client No. 500027-0349

March 16, 2021

Via eCourts

Honorable Robert H. Gardner
Superior Court of New Jersey
Historic Courthouse, Room 404
470 Martin Luther King, Jr. Blvd.
Newark, NJ 07102

Re: In the Matter of the Application of the Township of West Orange
Docket No. ESX-L-4697-15

Compliance Hearing – February 18, 2021

Dear Judge Gardner:

Pursuant to the Court's evidentiary findings and rulings, please find enclosed a proposed form of Order of Judgment of Compliance and Repose. Prior to submitting this to the Court, I circulated it to Ms. McManus and Mr. Bauers. I have incorporated all comments received.

If this meets with the Court's approval, kindly enter the original and upload same on eCourts.

Thank you for the Court's consideration.

Respectfully submitted,

/s/ Richard D. Trenk

Richard D. Trenk

RDT/cd

Enclosure

cc: Elizabeth McManus, PP, AICP, LEED AP (via e-mail)
Bryan D. Plocker, Esq. (via e-mail)
Richard J. Hoff, Jr., Esq. (via e-mail)
Joshua D. Bauers, Esq. (via e-mail)
Adam M. Gordon, Esq. (via e-mail)
Kenneth R. Sauter, Esq. (via e-mail)
Shirley Bishop, P.P. (via e-mail)
Paul Grygiel, ACIP, PP (via e-mail)
Wayne DeFeo (via e-mail)

EXHIBIT WO-1

(Fair Share Housing Settlement Agreement)



Peter J. O'Connor, Esq.
Adam M. Gordon, Esq.
Laura Smith-Denker, Esq.
David T. Rammner, Esq.
Joshua D. Bauers, Esq.
Bassam F. Gergi, Esq.

April 6, 2020

Richard Trenk, Esq.
McManimom Scotland and Baumann
75 Livingston Avenue
Roseland, NJ 07068

**Re: In the Matter of the Township of West Orange, County of Essex,
Docket No. ESX-L-4697-15**

Dear Mr. Trenk:

This letter memorializes the terms of an agreement reached between the Township of West Orange (the Township or "West Orange"), the declaratory judgment plaintiff, and Fair Share Housing Center (FSHC), a Supreme Court-designated interested party in this matter in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015) (Mount Laurel IV) and, through this settlement, a defendant in this proceeding.

Background

West Orange Township filed the above-captioned matter on July 21, 2015 seeking a declaration of its compliance with the Mount Laurel doctrine and the Fair Housing Act of 1985, N.J.S.A. 52:27D-301, *et seq.*, in accordance with In re N.J.A.C. 5:96 and 5:97, *supra*. Through the declaratory judgment process, the Township and FSHC have agreed to settle the litigation and to present that settlement to the trial court with jurisdiction over this matter to review, recognizing that the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households.

Settlement terms

The Township and FSHC hereby agree to the following terms:

1. FSHC agrees that the Township, through the adoption of a Housing Element and Fair Share Plan conforming with the terms of this Agreement (hereafter "the Plan") and through the implementation of the Plan and this Agreement, satisfies its obligations under the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301, *et seq.*, for the Prior Round (1987-1999) and Third Round (1999-2025).
2. At this time and at this particular point in the process resulting from the Supreme Court's Mount Laurel IV decision, when Third Round fair share obligations have yet to be definitively determined, it is appropriate for the parties to arrive at a settlement regarding a municipality's Third Round Obligation instead of doing so through plenary adjudication of the Third Round Obligation.
3. FSHC and West Orange hereby agree that West Orange's affordable housing obligations are as follows:

Rehabilitation Share (per Kinsey Report ¹)	305
Prior Round Obligation (pursuant to N.J.A.C. 5:93)	226
Third Round (1999-2025) Obligation (per Kinsey Report, as adjusted through this Agreement)	954

4. For purposes of this Agreement, the Third Round Obligation shall be deemed to include the Gap Period present need for new construction to address the affordable housing needs of households formed from 1999-2015, a need that was recognized by the Supreme Court in In re Declaratory Judgment Actions Filed By Various Municipalities, 227 N.J. 508 (2017), and the Prospective Need, which is a measure of the affordable housing need anticipated to be generated between July 1, 2015 and June 30, 2025.
5. The Township's efforts to meet its Rehabilitation Share include the following: West Orange has contracted with Community Action Services (CAS) to operate a rehabilitation program for both rental and owner occupied units which is entirely funded through West Orange's affordable housing trust fund. West Orange will provide a valid contract with CAS as part of achieving compliance. West Orange also participates in the Essex County rehab program. This is sufficient to satisfy the Township's present need obligation of 305 units.
6. As noted above, the Township has a Prior Round (new construction) Obligation of 226 units, which is met through the following compliance mechanisms:

Name of Development	# of Units	Bonus	Total	Status
Degnan House (age-restricted)	10	0	10	Completed
Federation Plaza (age-restricted)	92	0	92	Completed
Wedgewood Avenue (supportive housing)	2 bedrooms	2	4	Completed
30-32 Kingsley (supportive housing)	8 bedrooms	0	8	Completed
4 Marmon Terrace (supportive housing)	6 bedrooms	6	12	Completed
Merrywood Drive (supportive housing)	5 bedrooms	5	10	Completed
PRISM Redevelopment (family rental)	44	44	88	Phase 1 is completed; Phase 2 is approved w/ developer's agreement in place
Habitat for Humanity (family for-sale)	2	0	2	Completed
TOTAL	169	57	226	--

¹ David N. Kinsey, PhD, PP, FAICP, NEW JERSEY LOW AND MODERATE INCOME HOUSING OBLIGATIONS FOR 1999-2025 CALCULATED USING THE NJ COAH PRIOR ROUND (1987-1999) METHODOLOGY, May 2016.

7. As noted above West Orange has a Third Round obligation of 954 units. The Township is eligible for a vacant land adjustment and has a realistic development potential (RDP) of 421 units, as calculated in Exhibit A. That RDP will be satisfied as follows:

Name of Development	# of units	Bonus	Total	Status
Federation Plaza (age-restricted)	42	0	42	Completed
Wedgewood Avenue (supportive housing)	2	0	2	Completed
Dogwood Drive (supportive housing)	4	0	4	Completed
Pleasant Valley Way (supportive housing)	6	0	6	Completed
Washington Street (family rental)	3	0	3	Completed
Main Street (family rental)	3	0	3	Completed
158 Main Street (family rental)	3	0	3	Completed
St. Cloud – Prism (supportive housing)	4	0	4	Completed
Forest Avenue (supportive housing)	4	0	4	Completed
Valley Road Residential (family rental)	55	55	110	Under Construction
West Essex Highlands (family rental)	100	51	151	Settlement Agreement; still being finalized
Selecto Flash (family rental)	17	0	17	Redevelopment Plan; pending developer's agreement
Executive Drive Block 155 Lot 40.03 (family rental)	23	0	23	Redevelopment Plan; pending developer's agreement
Executive Drive Block 155 Lot 40.02 and 42.02 (family rental)	64	0	64	Redevelopment Plan; pending developer's agreement
Library Site (senior housing)	17 (of 64)	0	17	Redevelopment Plan and awarded tax credits;
	347	106	453	--

8. The Township shall provide a realistic opportunity for the development of affordable housing through the adoption of inclusionary zoning on the following sites:
- West Essex Highlands – The Township of West Orange intends to continue working in good faith to enter into a settlement agreement with West Essex

Highlands, Inc., an intervenor in this declaratory judgment matter. The proposed agreement (not yet drafted and presented to Council) will provide that West Essex shall be permitted to construct up to 496 apartments. West Essex shall provide a letter prior to the fairness hearing in this matter firmly committing to setting aside 100 of the 496 units for affordable housing, a 20% set-aside. The letter shall confirm that West Essex has agreed to provide all of the affordable housing units as family rental units and that it shall follow the UHAC regulations regarding, among other things, income distribution, bedroom distribution, length of deed restrictions, and affirmative marketing and that West Essex agrees that 13% of the affordable housing units provided on this site shall be available to households earning less than 30% of the median income.

- b) Selecto Flash – The Township has adopted a Redevelopment Plan for the area called the Central Valley Corridor Redevelopment Area on December 12, 2016. The Selecto Flash site at Block 9 Lot 35 and Block 7 Lot 22 is located within this Redevelopment Area. The Township has rezoned these properties as part of the Redevelopment Plan to permit up to 111 residential units including a 15% set-aside of 17 affordable housing units.
 - c) Executive Drive Redevelopment – The Township has adopted a Redevelopment Plan for the area called the Essex Green Executive Drive Redevelopment Area. Block 155 Lots 40.02, 40.03, 40.04, 41.02, 41.02, and 42.02 are included in this Redevelopment Area. The Redevelopment Plan is in the process of being amended, which process shall be completed no later than 30 days prior to the final compliance hearing in this matter, to permit the following on each Block/Lot:
 - Block 155 Lot 40.02 and 42.02 – 18.2 total acres – permitting 425 residential units including a 15% set-aside of 64 affordable housing units.
 - Block 155 42.01 – 8.2 total acres – will continue its office use and will not provide affordable housing or generate RDP at this time.
 - Block 155 Lot 40.03 – 4.72 total acres – permitting up to 123 residential units including a 20% set-aside of 23 affordable housing units.
9. Library Site – 46 Mount Pleasant Redevelopment Area – The Alpert Group have secured an award of low-income housing tax credits for this site for the development of 64 age-restricted rental units. The Township may apply 17 of these 64 credits towards its Third Round RDP because of the age-restricted cap. The 47 additional units will be applied toward the Township's unmet need. The Township shall further explain in its Housing Element and Fair Share Plan how this site creates a realistic opportunity for affordable housing in accordance with N.J.A.C. 5:93-5.5.
10. The RDP of 421 subtracted from the agreed upon Third Round Obligation of 954 units, results in an Unmet Need of 533 units. The Unmet Need is further reduced by the 32 surplus credits the Township has provided in addressing its RDP, the existing 57 affordable housing units provided at the Woodland Valley age-restricted site, and the remaining 47 units of credit from the Library site. Thus, the Township's unmet need is 397 units, which shall be addressed through the following mechanisms:
- a) K-Mart / Whole Foods Shopping Center
 - Block 152.01, Lots 1445 and 1445.05
 - Corner of Eagle Rock and Prospect Avenue
 - Current owner: West Orange Plaza
 - Lot Area: 32.32 acres
 - Zone: P-C Planned Commercial

- The Township has agreed to place a mixed-use overlay zone for commercial/retail on the first floor and up to three stories of residential above. The residential density for this site shall permit up to 16 du/a and require a 20% set-aside.
- b) Mayfair Farms Site
 - Block 152.01 Lot 1445.01
 - 481 Eagle Rock Avenue
 - Current Owner: Mayfair Farms Holding Corp.
 - Lot Area: 11.07 acres
 - Zone: B-2 Business
 - The Township has agreed to place a mixed-use overlay zone for commercial/retail on the first floor and up to three stories of residential above. The residential density for this site shall permit up to 16 du/a and require a 20% set-aside.
- c) Redwood
 - Block 151 Lot 33
 - 200 Pleasant Valley Way
 - Current Owner: Redwood LLC, c/o Pagano Real Estate
 - Lot Area: 5.91 acres +/-
 - Zone: R-2 Single-Family Residential
 - The Township has agreed to place overlay zoning on this site permitting non age-restricted residential development up to 24 du/a and requiring a 20% affordable housing set-aside. The parties agree that this zoning yield shall be permitted to be rounded up to 142 total units, which if developed to that maximum would require an affordable housing set-aside of either a) 28 on-site affordable housing units and a payment in lieu of \$59,473.20, or b) 29 on-site affordable housing units.
- d) The Township shall adopt an ordinance requiring a mandatory affordable housing set aside for all new multifamily residential developments of five (5) units or more. The set aside for rental and for sale developments shall be twenty percent (20%). The provisions of the ordinance shall not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwellings of five or more. The form of the Ordinance shall be finalized prior to final judgment being issued in this matter through collaboration between FSHC, the Special Master, and representatives of the Township.

11. In addition to the Unmet Need mechanisms identified in Paragraph 10 the Township has identified the following areas where affordable housing may be produced in the future:

- a) 10 Rooney Circle
 - Block 155 Lot 41.02
 - Address – 10 Rooney Circle
 - Current Owner: West Orange Office Executive Park
 - Lot Area: 5.2 acres
 - Zone: Site is in Essex Green Redevelopment Area
 - The Township is currently in negotiations with the landowner concerning the future use of this site. Within 18 months of the court's approval of this agreement the Township shall inform the special master and FSHC as to the future use. In the event that the future use will be residential the

Township has agreed to place overlay zoning on this site permitting 16 du/a and requiring a 20% set-aside.

12. Rock Spring Golf Course -The Township has recently purchased this 138-acre golf course that it intends to initially continue to utilize as a golf course. The Township has contracted with a golf course consulting company that will operate Rock Spring as a golf course for the next 22 months in order to establish its continuing viability as an 18-hole course which may be extended. In the event that the golf course is found to not be viable as an 18-hole golf course, but is viable as a 9-hole golf course the Township agrees to rezone a portion of the property to provide residential zoning for the 9-hole portion of the course to be redeveloped permitting at least 150 dwelling units including a 20% affordable housing set-aside of at least 30 units. The Township will provide FSHC with notice of its intentions for future use of this site by July 1, 2021 or sooner if a decision is made prior to that date. At this time the golf course will not generate any RDP but will be evaluated for RDP purposes at the time of notice of decision and FSHC is free to take whatever position it wishes at that time as to the appropriate RDP.
13. The Township agrees to require 13% of all affordable units referenced in this Agreement, excepting those units that were constructed or granted preliminary or final site plan approval prior to July 1, 2008, to be very low income units, with half of the very low income units being available to families. The municipality will comply with those requirements as follows:

Affordable Housing Units Created after 7/1/2008	# of Units
Valley Road Residential	55
West Essex Highlands	100
Executive Drive Redevelopment Area (B: 155 L: 40.02, 40.03)	108
PRISM Redevelopment	44
Selecto Flash	17
Forest Ave Group Home	4
St. Cloud Group Home	4
Library site	64
Total	396
Minimum VLI Required (13% of Total)	52
Minimum Family VLI Units (50% of Total VLI)	26
PRISM	6
Valley Road Residential	7
West Essex Highlands	13
Executive Drive Redevelopment Area	14
Selecto Flash	2
St. Cloud – supportive housing	4
Forest Ave – supportive housing	4
Library Site	9
Total VLI	59
Total Family VLI	42

The Township will also require that 13 percent of any affordable units produced from any site resulting from the mechanisms in paragraphs 10 through 12 of this agreement shall be very low income units.

14. The Township shall meet its Third Round Obligation in accordance with the following standards as agreed to by the Parties and reflected in the table in paragraph 7 above:

- a) Third Round bonuses will be applied in accordance with N.J.A.C. 5:93-5.15(d).
- b) At least 50 percent of the units addressing the Third Round Obligation shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households.
- c) At least twenty-five percent of the Third Round Obligation shall be met through rental units, including at least half in rental units available to families.
- d) At least half of the units addressing the Third Round Prospective Need in total must be available to families.
- e) The Township agrees to comply with an age-restricted cap of 25% and to not request a waiver of that requirement. This shall be understood to mean that in no circumstance may the municipality claim credit toward its fair share obligation for age-restricted units that exceed 25% of all units developed or planned to meet its cumulative prior round and third round fair share obligation.

15. The Township shall add to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(f)(5), Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, East Orange NAACP, Newark NAACP, Morris County NAACP, Elizabeth NAACP, Supportive Housing Association, and shall, as part of its regional affirmative marketing strategies during its implementation of the affirmative marketing plan, provide direct notice to those organizations of all available affordable housing units, along with copies of application forms. The Township also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph.

16. All units shall include the required bedroom distribution, be governed by controls on affordability and affirmatively marketed in conformance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, *et seq.*, or any successor regulation, with the exception that in lieu of 10 percent of affordable units in rental projects being required to be at 35 percent of median income, 13 percent of affordable units in rental projects shall be required to be at 30 percent of median income, and in conformance with all other applicable law. The Township, as part of its HEFSP, shall adopt and/or update appropriate implementing ordinances in conformance with standard ordinances and guidelines developed by COAH to ensure that this provision is satisfied. Limits for all units that are part of the Plan required by this Agreement and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1 shall be updated by the Township annually within 30 days of the publication of determinations of median income by HUD as follows:

- a) Regional income limits shall be established for the Housing Region in which the Township is located (in this case, Housing Region 2) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated number of households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total number of households from the most recent decennial Census in the Township's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.
 - b) The income limits attached hereto as Exhibit B are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for FY 2019, and shall be utilized until the Township updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
 - c) The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Township annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.
 - d) The parties agree to request the Court prior to or at the fairness hearing in this matter to enter an order implementing this paragraph of this Agreement, the terms of which shall also be reflected in the Township's Affordable Housing Ordinance.
17. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311a and -311b and all other applicable law.
 18. As an essential term of this Agreement, within one hundred twenty (120) days of the Court's approval of this Agreement, the Township shall introduce and adopt an ordinance or ordinances providing for the amendment of the Township's Affordable Housing Ordinance and Zoning Ordinance to implement the terms of this Agreement and the zoning contemplated herein and shall adopt a Housing Element and Fair Share Plan and Spending Plan in conformance with the terms of this Agreement.
 19. This Agreement is subject to Township Council approval.
 20. The parties agree that if a decision of a court of competent jurisdiction in Essex County, or a determination by an administrative agency responsible for implementing the Fair

Housing Act, or an action by the New Jersey Legislature, would result in a calculation of an obligation for the Township for the period 1999-2025 that would be lower by more than twenty (20%) percent than the total prospective Third Round Obligation established in this Agreement, and if that calculation is memorialized in an unappealable final judgment, the Township may seek to amend the judgment in this matter to reduce its fair share obligation accordingly. Notwithstanding any such reduction, the Township shall be obligated to adopt a Housing Element and Fair Share Plan that conforms to the terms of this Agreement and to implement all compliance mechanisms included in this Agreement, including by adopting or leaving in place any site specific zoning adopted or relied upon in connection with the Plan adopted pursuant to this Agreement; taking all steps necessary to support the development of any 100% affordable developments referenced herein; maintaining all mechanisms set forth herein to address unmet need; and otherwise fulfilling fully the fair share obligations as established in this Agreement. The reduction of the Township's Third Round Obligation below that established in this Agreement does not provide a basis for seeking leave to amend this Agreement or seeking leave to amend an order or judgment pursuant to R. 4:50-1. If the Township prevails in reducing its Third Round Obligation, the Township may carry over any resulting extra credits to future rounds in conformance with the then-applicable law.

21. The Township shall prepare a Spending Plan within the period referenced above, subject to review by FSHC and the approval of the Court, and reserves the right to seek approval from the Court that the expenditures of funds contemplated under the Spending Plan constitute a "commitment" for expenditure pursuant to N.J.S.A. 52:27D-329.2 and -329.3, with the four-year time period for expenditure designated pursuant to those provisions beginning to run with the entry of a final judgment in this matter that includes approval of the Spending Plan in accordance with the provisions of In re Tp. Of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563). On the first anniversary of the Court's approval of the Spending Plan, and on every anniversary of that date thereafter through July 1, 2025, the Township agrees to provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services. The reporting shall include an accounting of all housing trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
22. On the first anniversary of the execution of this Agreement, and every anniversary thereafter through the end of this Agreement, the Township agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website, with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC.
23. The Fair Housing Act includes two provisions regarding action to be taken by the Township during the period of protection provided in this Agreement. The Township agrees to comply with those provisions as follows:
 - a) For the midpoint realistic opportunity review, due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Township will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its

implementation of the Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the court regarding these issues.

- b) For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of this Agreement, and every third year thereafter, the Township will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein. Such posting shall invite any interested party to submit comments to the municipality and Fair Share Housing Center on the issue of whether the municipality has complied with its very low income housing obligation under the terms of this settlement.
24. FSHC is hereby deemed to have party status in this matter and to have intervened in this matter as a defendant without the need to file a motion to intervene or an answer or other pleading. The parties to this Agreement agree to request the Court to enter an order declaring FSHC is an intervenor, but the absence of such an order shall not impact FSHC's rights.
25. This Agreement must be approved by the Court following a fairness hearing as required by Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). The Township shall present its planner as a witness at this hearing. FSHC agrees to support this Agreement at the fairness hearing. In the event the Court approves this proposed settlement, the parties contemplate the municipality will receive "the judicial equivalent of substantive certification and accompanying protection as provided under the FHA," as addressed in the Supreme Court's decision in In re N.J.A.C. 5:96 & 5:97, 221 N.J. 1, 36 (2015). The "accompanying protection" shall remain in effect through July 1, 2025. If this Agreement is rejected by the Court at a fairness hearing it shall be null and void.
26. The Township will ensure that the sum of \$50,000.00 in payment of fees and costs is conveyed to Fair Share Housing Center within 60 days of the approval of this Agreement by court order following a Fairness Hearing. The Township may enter into a separate agreement with the intervenor(s) for the payment of the entire fee of \$50,000.00 to be paid to FSHC, but failure to secure payment from the developer/intervenors shall not remove the requirement that the Township ensure that \$50,000.00 shall be paid to FSHC within 60 days of the approval pursuant to a duly-noticed fairness hearing. The Township agrees to enter into agreements with the intervenors that requires the payment of the funds to their counsel to be held in escrow within 60 days of the execution of the agreements between the Township and intervenors and before the fairness hearing in this matter. To the extent the Township advances these funds, it may seek reimbursement from the intervenors at a later point and FSHC will not be entitled to additional amounts.

27. If an appeal is filed of the Court's approval or rejection of this Agreement, the Parties agree to defend the Agreement on appeal, including in proceedings before the Superior Court, Appellate Division and New Jersey Supreme Court, and to continue to implement the terms of this Agreement if the Agreement is approved before the trial court unless and until an appeal of the trial court's approval is successful or any stay is entered, at which point the Parties reserve their right to rescind any action taken in anticipation of the trial court's approval. All Parties shall have an obligation to fulfill the intent and purpose of this Agreement.
28. This Agreement may be enforced through a motion to enforce litigant's rights or a separate action filed in Superior Court, Essex County. A prevailing movant or plaintiff in such a motion or separate action shall be entitled to reasonable attorney's fees.
29. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.
30. This Agreement shall be governed by and construed by the laws of the State of New Jersey.
31. This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.
32. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same Agreement.
33. The Parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possess the authority to sign the Agreement, that this Agreement contains the entire understanding of the Parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.
34. Each of the Parties hereto acknowledges that this Agreement was not drafted by any one of the Parties, but was drafted, negotiated and reviewed by all Parties and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the Parties expressly represents to the other Parties that: (i) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (ii) it has conferred due authority for execution of this Agreement upon the persons executing it.
35. Any and all Exhibits and Schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or in the future are hereby made or will be made a part of this Agreement with prior written approval of both Parties.
36. This Agreement constitutes the entire Agreement between the Parties hereto and supersedes all prior oral and written agreements between the Parties with respect to the subject matter hereof except as otherwise provided herein.

37. No member, official or employee of the Township shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law, absent the need to invoke the rule of necessity.
38. Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date upon which all of the Parties hereto have executed and delivered this Agreement.
39. All Notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the respective Parties by certified mail, return receipt requested, or by a recognized overnight carrier or by a personal carrier. In addition, where feasible (for example, transmittals of less than fifty pages) Notices shall be served by facsimile or e-mail. All Notices shall be deemed received upon the date of delivery. Delivery shall be effected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days notice as provided herein:

TO FSHC:

Adam M. Gordon, Esquire
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, NJ 08002
Phone: (856) 665-5444
Telecopier: (856) 663-8182
E-mail: adamgordon@fairsharehousing.org

TO THE TOWNSHIP:

Richard D. Trenk, Esq.
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue
Roseland, NJ 07068
Phone: (973) 622-1800
Telecopier: (973) 622-3744
Email: rtrenk@msbnj.com

**WITH A COPY TO THE
MUNICIPAL CLERK:**

Karen Carnevale, Municipal Clerk
Township of West Orange
66 Main Street
West Orange, NJ 07052

Please sign below if these terms are acceptable.

Sincerely,

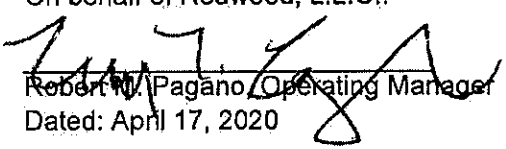


Adam M. Gordon, Esq.
Counsel for Intervenor/Interested Party
Fair Share Housing Center

On behalf of the Township of West Orange, with the authorization
of the governing body:

Dated: _____

On behalf of Redwood, L.L.C.:


Robert M. Pagano, Operating Manager
Dated: April 17, 2020

On behalf of the Township of West Orange, with the authorization
of the governing body:


ROBERT D. PARTSI, MAYOR
Dated: 5/6/20

On behalf of Redwood, L.L.C.:

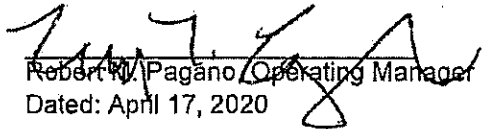

Robert M. Pagano, Operating Manager
Dated: April 17, 2020

EXHIBIT A: WEST ORANGE TOWNSHIP AMENDED Vacant Land Assessment

Site Number	Development Acreage	Density	Total Units	RDP	Zoning
WEH-1	61.0	10 units per acre	610 (new)	122	R-3
Redwood-2	5.3	24 unit per acre	127 (new)	25	R-2
3	5.3	8 units per acre	42.4	8.5	R-5
4	0.7	8 units per acre	5.6	1.1	R-5
5	0.5	10 units per acre	5.0	1.0	R-6
6	12.5	10 units per acre	125.0	25.0	R-2/R-5
7	2.8	8 units per acre	22.4	4.5	R-5
8	4.6	8 units per acre	36.8	7.4	R5
9	2.5	6 units per acre	15.0	3.0	P-C
10	9.4	6 units per acre	56.4	11.3	R-1
11	5.6	6 units per acre	33.6	6.7	R-1
12	1.1	6 units per acre	6.6	1.3	R-2
13	0.6	6 units per acre	3.6	0.7	R-2
14	1.6	6 units per acre	9.6	2	R-6
15	4.1	10 units per acre	41.0	8.2	OB-1
16	0.5	6 units per acre	3.6	0.7	R-1
17	0.8	8 units per acre	6.4	1.3	R-5
Valley Road	1.55	65 units per acre	100 (new)	20	Central Ave.
SelectoFlash	1.5	66.67 units per acre	100 (new)	20	Central Ave.
Executive Drive	4.72	26 units per acre	123(new)	23	Block 155 Lot 40.03
Executive Drive	18	23 units per acre	425 (new)	85	Block 155, Lot 40.02 + 42.02
Lennar	36	6 units per acre	216 (new)	43	Crestmont C.C.

Total 420.07

Please note: The above chart represents only the final list of properties that generate RDP. The densities utilized to calculate this RDP are for settlement purposes only. The final complete vacant land analysis is available in a separate document.

EXHIBIT B: 2019 INCOME LIMITS

		1 Person	*1.5 Person	2 Person	*3 Person	4 Person	*4.5 Person	5 Person	6 Person	7 Person	8+ Person	Rent*** Sole***	Regional Asset Limit***
Region 1 Bergen, Hudson, Passaic and Sussex	Median	\$66,607	\$71,365	\$76,122	\$80,879	\$85,637	\$90,394	\$95,152	\$100,000	\$104,857	\$109,714	2.6%	\$183,294
	Moderate	\$53,266	\$57,092	\$60,918	\$64,744	\$68,570	\$72,396	\$76,222	\$80,048	\$83,874	\$87,700	4.73%	
	Low	\$31,303	\$33,682	\$36,061	\$38,440	\$40,819	\$43,198	\$45,577	\$47,956	\$50,335	\$52,714		
	Very Low	\$19,382	\$21,409	\$23,437	\$25,464	\$27,492	\$29,519	\$31,547	\$33,574	\$35,602	\$37,629		
Region 2 Essex, Morris, Union and Warren	Median	\$70,537	\$75,576	\$80,614	\$85,653	\$90,691	\$95,730	\$100,768	\$105,807	\$110,845	\$115,884	2.6%	\$193,321
	Moderate	\$56,430	\$60,460	\$64,491	\$68,521	\$72,551	\$76,581	\$80,611	\$84,641	\$88,671	\$92,701	5.67%	
	Low	\$35,169	\$37,788	\$40,407	\$43,026	\$45,645	\$48,264	\$50,883	\$53,502	\$56,121	\$58,740		
	Very Low	\$21,161	\$22,673	\$24,184	\$25,696	\$27,207	\$28,719	\$30,230	\$31,742	\$33,253	\$34,765		
Region 3 Hunterdon, Middlesex and Somerset	Median	\$82,810	\$88,725	\$94,640	\$100,555	\$106,470	\$112,385	\$118,300	\$124,215	\$130,130	\$136,045	2.6%	\$225,261
	Moderate	\$66,248	\$70,980	\$75,712	\$80,444	\$85,176	\$89,908	\$94,640	\$99,372	\$104,104	\$108,836	9.64%	
	Low	\$41,405	\$44,363	\$47,320	\$50,278	\$53,235	\$56,193	\$59,150	\$62,108	\$65,066	\$68,024		
	Very Low	\$24,843	\$26,618	\$28,392	\$30,167	\$31,941	\$33,716	\$35,490	\$37,265	\$39,039	\$40,814		
Region 4 Mercer, Monmouth and Ocean	Median	\$72,165	\$77,319	\$82,473	\$87,627	\$92,781	\$97,935	\$103,089	\$108,243	\$113,397	\$118,551	2.6%	\$193,919
	Moderate	\$57,732	\$61,855	\$65,978	\$70,101	\$74,224	\$78,347	\$82,470	\$86,593	\$90,716	\$94,839	3.91%	
	Low	\$36,082	\$38,660	\$41,237	\$43,815	\$46,392	\$48,970	\$51,547	\$54,125	\$56,702	\$59,280		
	Very Low	\$21,648	\$23,186	\$24,724	\$26,262	\$27,800	\$29,338	\$30,876	\$32,414	\$33,952	\$35,490		
Region 5 Burlington, Camden and Gloucester	Median	\$63,070	\$67,575	\$72,080	\$76,585	\$81,090	\$85,595	\$90,100	\$94,605	\$99,110	\$103,615	2.6%	\$166,961
	Moderate	\$50,456	\$54,060	\$57,664	\$61,268	\$64,872	\$68,476	\$72,080	\$75,684	\$79,288	\$82,892	3.09%	
	Low	\$31,535	\$33,788	\$36,041	\$38,294	\$40,547	\$42,800	\$45,053	\$47,306	\$49,559	\$51,812		
	Very Low	\$18,921	\$20,273	\$21,624	\$23,076	\$24,427	\$25,879	\$27,330	\$28,782	\$30,234	\$31,685		
Region 6 Atlantic, Cape May, Cumberland and Salem	Median	\$53,734	\$57,550	\$61,367	\$65,183	\$68,999	\$72,815	\$76,631	\$80,447	\$84,263	\$88,079	2.6%	\$143,713
	Moderate	\$42,971	\$46,040	\$49,110	\$52,179	\$55,248	\$58,317	\$61,386	\$64,455	\$67,524	\$70,593	5.15%	
	Low	\$26,857	\$28,775	\$30,694	\$32,612	\$34,530	\$36,448	\$38,366	\$40,284	\$42,202	\$44,120		
	Very Low	\$16,114	\$17,265	\$18,416	\$19,567	\$20,718	\$21,869	\$23,020	\$24,171	\$25,322	\$26,473		

* These columns are for calculating the price for one, two and three bedroom unit and rental unit as per N.J.A.C. 5:26-26.4(a).

** This column is used for calculating the price for rent increases for units (as previously calculated under N.J.A.C. 5:27-9.3). The increase for 2015 was 2.3%, the increase for 2016 was 1.1%, the increase for 2017 was 2.7%, and the increase for 2018 was 2.3%. The increase for 2019 is 5.6% (Consumer Price Index for All Urban Consumers (CPI-U)). Regions by expenditure category and commodity and service group). Landlords who did not increase rents in 2015, 2016, 2017, or 2018 may increase rent by up to the applicable combined percentage including 2015 or 2016, whichever is less in accordance with N.J.A.C. 5:27-9.3(c). In no case can rent for any particular apartment be increased more than one time per year.

*** This column is used for calculating the price for rent increases for units (as previously calculated under N.J.A.C. 5:27-9.3). The price of owner-occupied low and moderate income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum rentable price established by the administrative agent be lower than the last recorded purchase price.

Low income tax credit developments may increase based on the low income tax credit regulations.

**** The Regional Asset Limit is used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:26-26.16(b).

APPENDIX D

**Township of West Orange Final Third Round
Judgement of Compliance and Repose, dated
March 17, 2021**



Writer's Direct Dial: (973) 721-5039
Writer's Direct Fax: (973) 622-7333
rtrenk@msbnj.com

Client No. 27-0349

April 14, 2021

Via Regular Mail
Service List

Re: In the Matter of the Application of the Township of West Orange
Docket No. ESX-L-4697-15
Township of West Orange Housing Element and Fair Share Affordable
Housing Plan
Order of Judgment of Compliance and Repose

Dear Interested Party:

This office represents the Township of West Orange (the "Township") in the above captioned declaratory action related to the Township's affordable housing obligations. Please find enclosed a copy of the Order of Judgment of Compliance and Repose.

Very truly yours,

Richard D. Trenk

Enclosure

**TOWNSHIP OF WEST ORANGE
SERVICE LIST**

SUPREME COURT

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Montville, NJ 07045

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Lenox Dr, Bldg 3, Ste 204
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Nehmad, Perillo & Davis, PC
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Law Office of Abe Rappaport
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Sills Cummis & Gross
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Newark, NJ 07102

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Wayne Defeo, LLC
15 Washington Valley Road
Warren Township, NJ 07059

Mayfair Farms Holding Corp.
481 Eagle Rock Avenue
West Orange, NJ 07052

REGION 2 ADVOCATES

**AIDS Resource Foundation
for Children**
77 Academy Street
Newark, NJ 07102

Brand New Day
176 First Street
Elizabeth, NJ 07206

City of Elizabeth
50 Winfield Scott Plaza, Room 109
Elizabeth, NJ 07201

Community Access Unlimited
80 West Grand Street
Elizabeth, NJ 07202

Elizabeth Development Company
205 First Street
PO Box 512
Elizabeth, NJ 07206

Essex Community Land Trust
60 S. Fullerton Avenue, Ste 202
Montclair, NJ 07042

GonSosa Construction
429 Chestnut Street
Roselle Park, NJ 07204

Habitat for Humanity Newark, Inc.
58 Park Place
Newark, NJ 07102

**Habitat for Humanity
Greater Plainfield & Middlesex
County**
2 Randolph Road
Plainfield, NJ 07060

Hands, Inc.
15 South Essex Avenue
Orange, NJ 07050

**Homefirst
Interfaith & Family Services**
1009 Park Avenue
Plainfield, NJ 07060

Homeless Solutions, Inc.
3 Wing Drive, Suite 245
Cedar Knolls, NJ 07927

Homes of Montclair Ecumenical Corp (HOME Corp)
17 Talbot Street
Montclair, NJ 07042

Housing Alliance of Morris County
99 Ketch Road
Morris Twp., NJ 0760

Housing Partnership of Morris County
2 East Blackwell St., Suite 12
Dover, NJ 07801

Ironbound Community Corp
317 Elm Street
Newark, NJ 07105

Jewish Community Housing Corp.
760 Northfield Avenue
West Orange, NJ 07052

Advance Housing
100 Hollister Rd. Unit 7
Teterboro NJ 07601

La Casa de Don Pedro
75 Park Avenue
Newark, NJ 07104

Lincoln Park Coast Cultural District
450 Washington Street
Newark, NJ 07102

Madison Affordable Housing Corp
24 Central Avenue
Madison, NJ 07940

Matrix New World Engineering
26 Columbia Turnpike
Florham Park, NJ 07932

Monarch Housing Association
29 Alden Street, Suite 1B
Cranford, NJ 07019

Morris Habitat for Humanity, Inc.
274 South Salem Street, Suite 100
Randolph, NJ 07869

New Community Corporation
233 West Market Street
Newark, NJ 07103

New Jersey Citizen Action
625 Broad Street, Ste. 270
Newark, NJ 07102

NJ Coalition to End Homelessness
c/o Lowenstein Sandler LLP
1 Lowenstein Drive
Roseland, NJ 07068

Newbridge Services, Inc.
7 Industrial Road
Pequannock, NJ 07440

Northwest New Jersey Community Action Program, Inc.
350 Marshall St
Phillipsburg, NJ 08865

Plainfield Community Development Corporation, Inc.
515 Watchung Avenue
Plainfield, NJ 07060

Project Live
465-475 Broadway
Newark, NJ 07104

Redeemus Essex
One Gateway Center, 26th Floor
Newark, NJ 07102

RPM Development Group
77 Park Street
Montclair, NJ 07042

Supportive Housing Association of New Jersey
185 Valley St.
South Orange, NJ 07079

The Genesis Project Initiative
45 South Park Place
Morristown, NJ 07960

Tri City Peoples Corporation
675 South 19th Street
Newark, NJ 07103

The People's Center: Newark Childcare Center
675-681 South 19th St.
Newark, NJ 07103

Unified Vailsburg Services Organization
40 Richelieu Terrace
Newark, NJ 07106

Urban League of Essex County
508 Central Avenue
Newark, NJ 07107

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75 Livingston Avenue

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Richard D. Trenk, Esq. (016951982)

Attorneys for Plaintiff/Petitioner Township of West Orange

IN THE MATTER OF THE APPLICATION
OF THE TOWNSHIP OF WEST ORANGE, a
municipal corporation of the State of New
Jersey,

Plaintiff/Petitioner,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ESSEX COUNTY

Civil Action
(Mount Laurel)

DOCKET NO.: ESX-L-4697-15

**ORDER OF JUDGMENT OF
COMPLIANCE AND REPOSE**

IN ALL DECLARATORY JUDGMENT
ACTIONS FILED BY VARIOUS
MUNICIPALITIES, COUNTY OF ESSEX,
PURSUANT TO THE SUPREME COURT
DECISION IN, In re Adoption of N.J.A.C.
5:96, 221 N.J. 1 (2015),

Plaintiff/Petitioner,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ESSEX COUNTY

Civil Action
(Mount Laurel)

DOCKET NO.: ESX-L-4173-15

**Hearing Date: February 18, 2021
at 1:30 p.m.**

THIS MATTER having been opened to the Court by McManimon, Scotland and Baumann, LLC (Richard D. Trenk, Esq. appearing), attorneys for Plaintiff, the Township of West Orange ("Township"), via a Declaratory Judgment Complaint filed on July 7, 2015 to approve to approve the Township's Housing Element and Fair Share Plan (hereinafter "Fair Share Plan"), as may be amended, in response to In Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015) ("Mount Laurel IV"); and the Court having granted the Township immunity from Mount

Laurel lawsuits from the time of the filing of the Township's Declaratory Judgment action (hereinafter "DJ Action"); and the Court having appointed Elizabeth K. McManus, P.P., A.I.C.P., LEED AP as the Special Mount Laurel Court Master (hereinafter the "Special Master"); and Fair Share Housing Center ("FSHC") having participated in the Township's DJ Action as an Intervenor, and Redwood, LLC ("Redwood") and West Essex Highlands, Inc. ("WEHI") having also appeared as Intervenors; and West Essex Highlands Condominium Association, Inc. ("Condominium Association") having participated in certain mediation; and the Township, FSHC and Redwood having agreed upon a form of Settlement Agreement (attached hereto as Exhibit WO-1 and referred to hereinafter as the "FSHC Settlement Agreement"), which was executed by Adam M. Gordon, Esq. on behalf of FSHC on April 6, 2020 and the Township Council having adopted a resolution on April 14, 2020 (Exhibit WO-3) authorizing the Mayor of West Orange to execute the FSHC Settlement Agreement, which he did on May 6, 2020; and the Township, WEHI and the Condominium Association having entered into a Settlement Agreement on April 23, 2020 (Exhibit WO-2 and referred to hereinafter as the "WEHI Settlement Agreement"), after a resolution authorizing the Mayor to sign the WEHI Settlement Agreement was adopted on April 14, 2020 (Exhibit WO-4); and the Court having scheduled a Fairness Hearing to determine whether or not the settlement agreements are fair and reasonable to low and moderate income households; and the Township having provided proper public and actual notice of the Fairness Hearing; and the Township having filed a Certification of Service, (Exhibit WO-5), to document that proper notice of the Fairness Hearing had been given; and the Special Master having submitted a report to the Court on July 6, 2020 (Exhibit WO-6), in which she recommended that the Court approve the FSHC and WEHI Settlement Agreements; and the Fairness Hearing having been held on July 10, 2020, during which Exhibits WO-1 to WO-04,

which are attached hereto, were marked into evidence; and the Court having considered the testimony of Shirley Bishop and Paul Grygiel taken during the Fairness Hearing, as well as the statements of counsel; and the Court having conducted a further hearing on February 18, 2021 concerning compliance with the approved settlements evidence during the Fairness Hearing; and the Court having considered the report dated February 15, 2021 of the Special Master (the “Special Master Report”), the testimony taken during the Compliance Hearing, as well as the comments of counsel; and good cause having been shown;

IT IS on this 17th day of **March 2021**;

ORDERED as follows:

1. Subject to the satisfaction of the open issues referenced during the Compliance Hearing, the Township of West Orange’s Fair Share Plan creates a realistic opportunity for the production of affordable housing and is hereby approved and the Township is granted a Judgment of Compliance and Repose as to its Rehabilitation Share, its Prior Round Obligation (1987-1999), and its Third Round Obligation (the last comprised of both the Gap (1999-2015) and the Prospective (2015-2025) Needs), pursuant to the Court approved Settlement Agreement entered into between the Township and FSHC on May 6, 2020, the Fair Housing Act (N.J.S.A. 52:27D-301, et. seq.)(“FHA”), the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1, et seq.) (“UHAC”), applicable Council on Affordable Housing (hereinafter “COAH”) substantive rules, and Mount Laurel case law, including the New Jersey Supreme Court’s Mount Laurel IV decision.

2. The Township’s Judgment of Compliance and Repose shall remain in effect for ten (10) years beginning on July 6, 2015 and ending on July 6, 2025, and during this ten (10) year period the Township shall have immunity from all Mount Laurel lawsuits, including, but not

limited to, Builder's Remedy lawsuits, other than actions brought to enforce the terms of the Settlement Agreement or the Court's orders.

3. As per the Settlement Agreement between the Township and FSHC, which was approved by the Court during a Fairness Hearing held on July 10, 2020 and was memorialized by the Court in an Order entered on August 3, 2020, the Township's Rehabilitation Share is 305, the Township's Prior Round Obligation (1987-1999) is 226, and the Township's Third Round Obligation (1999-2025) is 954, reduced to 421 as a result of a vacant land adjustment.

4. The Township is addressing its Prior Round Obligation of 226 as set forth in the Special Master Report.

5. The Township is addressing its Round 3 obligation of 421 as set forth in the Special Master Report.

6. The Township has also implemented the additional compliance mechanisms as set forth in the Special Master Report.

7. Based on testimony given during the February 18, 2021 Compliance Hearing, Conditions 1, 8 and 10 on Pages 11-12 of the Special Master Report are hereby deemed fully satisfied.

8. Short-term conditions 2, 3, 4, 5, 6¹, 7² and 9 on Pages 11-12 in the Special Master Report shall be addressed and resolved by the Township within ninety (90) days of February 18, 2021, by which date the Township shall submit a status update report to the Court, the Special Master and FSHC. Said deadline can only be extended if the Township, the Special Master, FSHC, and the Court agree to such an extension.

¹ With regard to the Selecto Flash site, the agreement contemplated will be a redevelopment agreement.

² With regard to Condition No. 7, the Township shall adopt a zoning amendment because this site is not part of any redevelopment area due to the Appellate Division Decision dated September 11, 2020.

9. The Township shall continue to address the long-term conditions on Page 11 in the Special Master Report, which can only be modified if the Township, the Special Master, and FSHC agree to such a modification, for the remainder of the Third Round.

10. Subject to the deadlines established above, upon the Special Master receiving, reviewing, and approving the additional documents and revisions required by the short-term conditions contained herein, the Special Master shall advise the Court that said short-term conditions have been satisfied. Upon such notification, the Township will provide the Court with a form of Order that will indicate that all of the short-term conditions have been satisfied, and that the Township's conditional Judgment of Compliance and Repose has become a Final Judgment of Compliance and Repose, with only the long-term conditions remaining.

11. The Township's updated and adopted Development Fee Ordinance is hereby approved by the Court.

12. Counsel for the Township shall provide copies of this Order to the Township's Service List within seven (7) days of the date hereof per the Rules of Court.

13. The parties shall within ten (10) days pay any outstanding invoices owed to Special Master McManus and shall so advise this Court with an appropriate certification stating same has been complied with.

X Unopposed

/s/ Robert H. Gardner, JSC
HONORABLE ROBERT H. GARDNER
JUDGE OF THE SUPERIOR COURT

APPENDIX E

Township of West Orange Resolution #67-25 – Approving the Department of Community Affairs Calculation of Regional Need for Affordable Housing for Fourth Round Obligation

**A RESOLUTION APPROVING THE DEPARTMENT OF COMMUNITY AFFAIRS
CALCULATION OF REGIONAL NEED FOR AFFORDABLE HOUSING
FOR FOURTH ROUND OBLIGATION**

WHEREAS, pursuant to N.J.S.A. 52:27D-301 et seq., the New Jersey Department of Community Affairs (“Department”) conducted a calculation of regional need and municipal present and prospective obligations in accordance with the formulas established in sections 6 and 7 of P.L. 2024, c.2; and

WHEREAS, the Department calculated a statewide allocation consisting of a present need of 65,410 and a prospective need of 84,698 for a total of 150,108 affordable housing units; and

WHEREAS, the Department calculated a present need of 409 affordable housing units and prospective need of 660 affordable housing units for West Orange Township, Essex County, State of New Jersey for the fourth round; and

WHEREAS, West Orange Township’s third round obligation consisted of a present need of 305 affordable housing units and a prospective need (Third Round (1999-2025) Obligation, as adjusted through the settlement agreement) of 954 affordable housing units; and

WHEREAS, on May 6, 2020 West Orange Township executed a settlement agreement regarding affordable housing in the matter docketed In re Township of West Orange, docket no. ESX-L-4697-15; and

WHEREAS, the West Orange Township requested and received a vacant land adjustment resulting in a realistic development potential (RDP) of 421 affordable housing units and an unmet need of 533 affordable housing units; and

WHEREAS, West Orange Township continues to lack sufficient resources to address the 660 prospective need and will continue to seek a vacant land adjustment; and

WHEREAS, West Orange Township has reviewed the fourth round of affordable housing obligations, calculations in the report and calculations prepared by the Department; and

WHEREAS, West Orange Township accepts the present need of 409 and the prospective need of 660; and

WHEREAS, the Department has given each municipality until January 1, 2025 to adopt binding municipal resolution accepting their prescribed obligation numbers, or alternatively describe why the numbers provided should be adjusted and what the adjusted number should be; and

NOW THEREFORE BE IT RESOLVED that the Governing Body of West Orange Township, Essex County, State of New Jersey, hereby accepts the Department's calculation consisting of a present need of 409 and the prospective need of 660 for its fourth-round obligation; and

BE IT FURTHER RESOLVED that West Orange Township will rely on its previous court approved vacant land adjustment towards addressing the fourth-round prospective need of 660; and

BE IT FURTHER RESOLVED that the Governing Body of West Orange Township pursuant to the provisions of N.J.S.A. 52:27D-301 et seq. submits this binding establishing a present need of 409 and the prospective need of 660 for its' fourth-round obligation.

BE IT FURTHER RESOLVED, that a copy of this Resolution shall be made available in the Clerk's office in accordance with applicable law.


Karen J. Carnevale, R.M.C.
Municipal Clerk


Joe Krakowiak, Council President

Adopted: January 28, 2025

APPENDIX F

Prism Redevelopment Documentation

**RESOLUTION AUTHORIZING A FINANCIAL AGREEMENT WITH GP
ASHLAND HOUSING, LLC PURSUANT TO THE HMFA LAW**

WHEREAS, Ashland Housing, LLC (hereinafter referred to as the “Sponsor”) proposes to construct a housing project that will provide 44 units of affordable family rental housing (hereinafter referred to as the “Project”) pursuant to the provisions of the New Jersey Housing and Mortgage Finance Agency Law of 1983, as amended (N.J.S.A. 55:14K-1 et seq.), the rules promulgated thereunder at N.J.A.C. 5:80-1.1 et seq. and all applicable guidelines promulgated thereunder (the foregoing hereinafter collectively referred to as the “HMFA Requirements”) within the Township of West Orange (hereinafter referred to as the “Township”) on a site described as Block 64, Lots 3, 21, 22, 25 and 27, as shown on the Official Assessment Map of the Township of West Orange, Essex County and commonly known as 28-40, and 42 Ashland Avenue and 64 Park Avenue; and

WHEREAS, the Project will be subject to the HMFA Requirements and the mortgage and other loan documents to be executed between the Sponsor and the New Jersey Housing and Mortgage Finance Agency (hereinafter referred to as the “Agency”); and

WHEREAS, in accordance with the HMFA Requirements, the Municipality hereby determines that there is a need for this rental housing project in the Township; and

WHEREAS, in furtherance of the Project, the Township wishes to authorize the execution of a financial agreement with the Sponsor, a proposed form of which is attached hereto as Exhibit A (the “Financial Agreement”),

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE
TOWNSHIP OF WEST ORANGE IN THE COUNTY OF ESSEX** as follows:

I. GENERAL

The aforementioned recitals are incorporated herein as though fully set forth at length.

II. FINANCIAL AGREEMENT APPROVED

- A. The Township hereby determines that the proposed family rental project will meet or meets an existing housing need.
- B. The Township does hereby adopt this Resolution and makes the determination and finding herein contained by virtue of, pursuant to, and in conformity with the provisions of the HMFA Requirements with the intent and purpose that the Agency shall rely thereon in making a mortgage loan to the Sponsor, which shall construct, own and operate the Project.
- C. The Township does hereby adopt this Resolution with the further intent and purpose that from the date of execution of the Agency mortgage, the proposed Project will be exempt from real property taxation as provided in the HMFA Requirements, provided that payments in lieu of taxes for municipal services supplied to the Project

are made to the Township in such amounts and manner set forth in the Financial Agreement attached hereto as Exhibit A.

- D. The Mayor is hereby authorized and directed to execute, on behalf of the Township, the Financial Agreement in substantially the form annexed hereto as Exhibit A.

III. SEVERABILITY

If any part of this Resolution shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Resolution.

IV. AVAILABILITY OF THE RESOLUTION

A copy of this Resolution shall be available for public inspection at the offices of the Township.

V. EFFECTIVE DATE

This Resolution shall take effect upon final passage.

I HEREBY CERTIFY the foregoing to be a true copy of a resolution adopted by the West Orange Township Council, in the County of Essex, at its meeting held on _____.

Karen J. Carnevale, Township Clerk

EXHIBIT A

FORM OF FINANCIAL AGREEMENT

Financial Agreement

By and Between

The Township of West Orange

and

GP Ashland Housing, L.L.C.

FINANCIAL AGREEMENT

THIS FINANCIAL AGREEMENT (hereinafter “**Agreement**” or “**Financial Agreement**”), made this _____ day of _____, 2017, by and between **GP Ashland Housing, L.L.C.** (the “**Entity**”), a limited liability company of the State of New Jersey, as a housing sponsor under the New Jersey Housing and Mortgage Finance Agency Law of 1983, N.J.S.A. 55:14K-1 et seq. (the “**HMFA Law**”), with offices at c/o Prism Green Associates IV, LLC, 200 Broadacres Drive, Suite 180, Bloomfield, New Jersey 07003, along with its permitted successors and/or assigns, and **THE TOWNSHIP OF WEST ORANGE**, a municipal corporation in the County of Essex and the State of New Jersey (the “**Township**”, and together with the Entity, the “**Parties**”).

WITNESSETH:

WHEREAS, the Entity has applied for a tax exemption pursuant to the HMFA Law in connection with the construction of forty-four (44) affordable family rental housing units (the “**Affordable Units**”) and all related improvements and located on real property identified on the Township’s tax map as Block 64, Lots 3, 21, 22, 25 and 27 (collectively, the “**Project**”) in accordance with that certain Amended and Restated Redevelopment Agreement by and between the Township and Prism Green Associates IV, LLC (“**Prism**”) dated as [_____, 2017 (the “**Redevelopment Agreement**”); and

WHEREAS, the Township has adopted a resolution approving a tax exemption for the Project and authorizing this Financial Agreement and wishes to enter into this Financial Agreement in order to memorialize the terms and conditions applicable to this tax exemption,

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the legal sufficiency of which is hereby acknowledged by the Parties, it is mutually covenanted and agreed as follows:

ARTICLE I **GENERAL PROVISIONS**

1.01 Governing Law. This Financial Agreement shall be governed by the provisions of (a) the HMFA Law, (b) the resolution authorizing this Financial Agreement, and (c) all other relevant Federal, State or Township statutes, ordinances, resolutions, rules and/or regulations. It is expressly understood and agreed that the Township expressly relies upon the facts, data, and representations contained within the Entity’s tax exemption Application attached hereto in granting this tax exemption.

1.02 General Definitions. Unless specifically provided otherwise or the context otherwise requires, the following terms when used in this Agreement shall have the following meanings:

Affordable Housing Units – Shall have the meaning as set forth in the recitals hereof.

Agency Mortgage – The mortgage on the Property in favor of the HMFA pursuant to the HMFA Law.

Annual Gross Revenue – The total annual gross rents and other income of the Entity from the Project.

Annual Service Charge – The amount the Entity has agreed to pay the Township pursuant to Article IV hereof for municipal services supplied to the Project, which sum is in lieu of any taxes on the Land and the Improvements, which amount shall be pro-rated in the year in which the Annual Service Charge begins and the year in which the Annual Service Charge terminates.

Annual Service Charge Start Date – The Annual Service Charge Start Date shall be the date that Substantial Completion has been achieved.

Application - The application filed by the Entity for a long-term tax exemption for the Project, which is attached hereto as Exhibit A.

Auditor's Report – A complete financial statement outlining the financial status of the Project (for a period of time as indicated by context), which shall also include, among other things, a certification of Annual Gross Revenue for the Project and the Annual Service Charge due to the Township for each year that this Agreement is in effect.

Certificate of Occupancy – New document, whether temporary or permanent, issued by the Township authorizing occupancy of a building, in whole or in part, pursuant to N.J.S.A. 52:27D-133.

Default – Shall be a breach of or the failure of the Entity to perform any obligation imposed upon the Entity by the terms of this Agreement, or under the Law, beyond any applicable grace or cure periods.

Default Notice – Shall be as defined in Section 12.02.

Effective Date – The date of this Agreement.

Entity - Shall have the meaning as set forth in the recitals hereof.

HMFA – The New Jersey Housing and Mortgage Finance Agency.

HMFA Law – Shall have the meaning as set forth in the recitals hereof.

Improvements - Shall mean the existing building on the Land and any and all other improvements to be constructed on, in or under the Land in accordance with the terms hereof.

In Rem Tax Foreclosure - A summary proceeding by which the Township may enforce the lien for taxes due and owing by a tax sale, which shall be governed by the Tax Sale Law.

Land – The land, but not the Improvements, comprising the real property identified on the Township’s tax map as Block 64, Lots 3, 21, 22, 25 and 27.

Law – The term shall refer to the HMFA Law, the resolution pursuant to which the Township Council approved the Application, and all other relevant Federal, State or Township statutes, ordinances, resolutions, rules and/or regulations applicable to this Agreement.

Notice of Termination – Shall be as defined in Section 12.05.

Parties – Shall have the meaning as set forth in the recitals hereof.

Project – Shall have the meaning as set forth in the recitals hereof.

Pronouns – He or it shall mean the masculine, feminine or neuter gender, the singular, as well as the plural, as context requires.

Property – Shall mean property identified on the Township’s tax map as Block 64, Lots 3, 21, 22, 25 and 27.

State – The State of New Jersey.

Substantial Completion – The determination by the Township that the Project has been substantially completed, which shall mean the date on which such Project receives, or is eligible to receive, a Certificate of Occupancy.

Tax Sale Law – Shall mean N.J.S.A. 54:5-1 et seq., as amended or supplemented from time to time.

Termination - Any action or omission which by operation of the terms of this Financial Agreement shall cause the Entity to relinquish its tax exemption.

Township – Shall have the meaning as set forth in the recitals hereof.

1.03 Exhibits and Recitals Incorporated. The Application (including all exhibits to the Application), attached to this Financial Agreement as Exhibit A are incorporated herein and made part hereof.

ARTICLE II **APPROVALS**

2.01 Township Approval of Tax Exemption. The Land and the Improvements comprising the Project shall be exempt from taxation as provided for herein and under the

HMFA Law. Such tax exemption shall constitute a single continuing exemption from local property taxation for the term described below. The Project shall be as described in the Application and the Entity hereby expressly covenants, warrants and represents that the Property, including any Improvements related thereto, shall be used, managed and operated for the purposes set forth in the Application and in accordance with the Law.

ARTICLE III **DURATION OF AGREEMENT**

3.01 Term. It is expressly understood and agreed by the Parties that this Financial Agreement shall become effective on the Effective Date and shall remain in effect until the earlier of: (i) Thirty-five (35) years from the Effective Date, (ii) Thirty (30) years from the Annual Service Charge Start Date, (iii) the Entity's voluntary termination of this Agreement, or (iv) the continuance of a Default as set forth within Article XII of this Agreement beyond the applicable notice and cure periods set forth therein; provided, however, that the exemption from taxation and the Entity's obligation to make payments in lieu of taxes shall not extend beyond the date on which the Agency Mortgage is paid in full. Upon the expiration of the tax exemption provided for herein, all restrictions and limitations of this Financial Agreement imposed upon the Entity and the Property shall terminate and the Property shall thereafter be assessed and taxed according to the general law applicable to other non-exempt property in the Township; provided, however, that any and all related remedies available to the Township shall survive the termination of this Agreement.

ARTICLE IV **ANNUAL SERVICE CHARGE**

4.01 Commencement of Annual Service Charge. In consideration of the tax exemption, the Entity shall make payment of the Annual Service Charge in accordance herewith following the Annual Service Charge Start Date. In the event that the Entity fails to timely pay any installment, the amount past due shall bear the highest rate of interest permitted under applicable New Jersey law and then being assessed by the Township against other delinquent taxpayers in the case of unpaid taxes or tax liens on the land until paid.

4.02 Payment of Annual Service Charge. The Annual Service Charge shall begin to accrue on the first day of the month following the Annual Service Charge Start Date. The Annual Service Charge will be prorated in the year in which the Annual Service Charge Start Date begins and terminates. The Annual Service Charge shall continue for a period of thirty (30) years from the Annual Service Charge Start Date for the Project in accordance with the terms contained herein.

4.03 Annual Gross Revenue. Annual Gross Revenue shall be calculated as the total annual gross rents and other income of the Entity from the Project.

4.04 Calculation of Annual Service Charges. The Annual Service Charge shall be equal to 6.28% of the Annual Gross Revenue.

4.05 Land Taxes. The Land shall be exempt from taxation as of the Annual Service Charge Start Date in accordance with the HMFA Law, provided however, that if such exemption of the Land is invalidated by a court of competent jurisdiction, then this Agreement shall remain in full force and effect and shall be reformed to provide that:

- (a) Conventional taxes are assessed against the Land;
- (b) the Entity shall be entitled to a credit against the Annual Service Charge for the amount, without interest, of the Land tax payments timely made in the last four (4) preceding quarterly installments; and
- (c) In any year that the Entity fails to make any Land tax payments if and when due and owing, such delinquency shall render the Entity ineligible for any Land tax payment credits against the Annual Service Charge for that year. No credit will be applied against the Annual Service Charge for partial payments of Land taxes. In addition, the Township shall have, among this remedy and other remedies, the right to proceed against the Property pursuant to the Tax Sale Law and/or to declare a Default.

4.06 Annual Service Charge Installments. Payment of the Annual Service Charge shall be paid to the Township on a quarterly basis on February 1, May 1, August 1, and November 1 after the Annual Service Charge Start Date, subject, nevertheless, to adjustment for over or underpayment within thirty (30) days after the close of each calendar year. In the event that the Entity fails to timely pay any installment, the amount past due shall bear the rate of interest permitted under applicable New Jersey law and then being assessed by the Township against other delinquent taxpayers in the case of unpaid taxes or tax liens on the land until paid.

4.07 Payments After Recordation of Agency Mortgage. In accordance with N.J.S.A. 55:14K-37, from the date of recording the Agency Mortgage on the Project to the date of Substantial Completion of the Project, the annual amount payable to the Township as taxes or as payments in lieu of taxes in respect of the Project site shall not be in excess of the amount of taxes on the Project site for the year preceding the recording of the Agency Mortgage.

ARTICLE V

ADDITIONAL PROJECT COVENANTS

5.01 Improvements to be Constructed. The Entity will construct the forty-four (44) Affordable Units and all related improvements. The Entity shall commence the Project in accordance with the schedule set forth within the Application and the Redevelopment Agreement. To the extent that the schedule set forth within the Application and the schedule within the Redevelopment Agreement shall conflict, and/or if the schedule set forth in the Redevelopment Agreement shall be adjusted in accordance with the terms thereof, the schedule established under the Redevelopment Agreement shall control.

5.02 Construction Schedule. The Entity agrees to diligently undertake to commence construction and complete the Project in accordance with Section 5.01 of the Financial Agreement. Failure to commence or complete construction in accordance with that schedule shall be grounds for Termination of this Agreement.

5.03 Ownership, Management and Control. The Entity represents that on or before the commencement of construction of any portion of the Project as set forth herein, it will be the fee title owner of the Land upon which that portion of the Project is to be constructed and which is the subject of this Financial Agreement.

5.04 Project Financing. The Entity represents that the Improvements shall be financed in accordance with the financing plan attached to the Application.

ARTICLE VI

CERTIFICATE OF OCCUPANCY/CERTIFICATE OF COMPLETION

6.01 Certificate of Occupancy; Certificate of Completion. It is understood and agreed by the parties that it shall be the obligation of the Entity to make all good faith efforts to obtain the Certificates of Occupancy for the Property and the Improvements related thereto in a timely manner.

6.02 Filing of Certificate of Occupancy or Certificate of Completion. It shall be the primary responsibility of the Entity to forthwith file with both the Tax Assessor and the Tax Collector a copy of the Certificate of Occupancy issued for the Project. Failure of the Entity to file such issued Certificate of Occupancy as required by the preceding paragraph shall not militate against any action or non-action, taken by the Township, including, if appropriate, retroactive billing with interest for any charges determined to be due, in the absence of such filing by the Entity.

ARTICLE VII

REPORTS AND AUDITS

7.01 Accounting System. The Entity agrees to maintain a system of accounting and internal controls established and administered in accordance with generally accepted accounting principles.

7.02 Annual Audit. Within one hundred twenty (120) days after the close of each fiscal or calendar year following issuance of the Certificate of Occupancy, depending on the Entity's accounting basis, during the Term of this Agreement, the Entity shall submit to the Mayor, Township Council, the Tax Collector and the Township Clerk, who shall advise those municipal officials required to be advised, a certified Auditor's Report of the operation of the Project setting forth the Annual Gross Revenue of the Project. The Entity shall assume all costs associated with the preparation and submission of the Auditor's Report.

ARTICLE VIII

SALE AND/OR ASSIGNMENT PROVISIONS

8.01 Approval. The Township, on written application by the Entity, will consent to a sale of the Project and the transfer of this Agreement provided that (a) in the event that the Project or relevant portion thereof has not been completed, the transferee Entity shall have demonstrated to the reasonable satisfaction of the Township that it possesses the experience and capitalization necessary to complete the Project, which determination shall not be unreasonably withheld; (b) the transferee entity qualifies under the HMFA Law and assumes the Agency Mortgage; (c) the Entity is not then in Default of this Agreement or the Law; (d) the Entity's obligations under this Agreement are fully assumed by the transferee entity; (e) the transferee entity agrees to abide by all terms and conditions of this Agreement including, without limitation: and (f) the principal owners of the transferee entity possess the same business reputation, financial qualifications and credit worthiness as the Entity and are otherwise reputable.

(b) The parties hereto acknowledge that the Entity shall transfer a portion of its membership interest to one or more tax credit investors in connection with the financing of the Project. The Township agrees that its consent is not required for this transfer.

ARTICLE IX

WAIVER

9.01 No Waiver. Nothing contained in this Financial Agreement or otherwise shall constitute a waiver or relinquishment by the Township or the Entity of any rights and remedies provided by Law except for the express waiver herein of certain rights of acceleration and certain rights to terminate this Financial Agreement and tax exemption for violation of any of the conditions provided herein. Nothing herein shall be deemed to limit any right of recovery that the Township or the Entity has under law, in equity, or under any provision of this Financial Agreement.

ARTICLE X

NOTICE

10.01 Notice. - Formal notices, demands and communications between and among the Township and the Entity shall be in writing and deemed given if dispatched to the address set forth below by registered or certified mail, postage prepaid, return receipt requested, or by a commercial overnight delivery service with packaging tracking capability and for which proof of delivery is available. In that case such notice is deemed effective upon delivery. Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by written notice.

Copies of all notices, demands and communications shall be sent as follows:

If to the Township:

Township of West Orange
Municipal Building
66 Main Street
West Orange, New Jersey 07052-5313
Attn: John K. Sayers, Township Administrator

with copies to:

Richard Trenk, Esq.
Trenk DiPasquale
347 Mount Pleasant Avenue
Suite 300
West Orange, New Jersey 07052

Jennifer L. Credidio, Esq.
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue
Roseland, New Jersey 07068

If to the Entity:

GP Ashland Housing, LLC
c/o Prism Capital Partners, L.L.C.
200 Broadacres Drive
Bloomfield, NJ 07003

With copies to:

Matthew C. Karrenberg, Esq.
DeCotiis, FitzPatrick, Cole & Giblin, LLP
500 Frank W. Burr Boulevard
Suite 31
Teaneck, New Jersey 07666

ARTICLE XI
DEFENSE/INDEMNIFICATION

11.01 Indemnification. - It is understood and agreed that in the event the Township shall be named as party defendant in any action brought against the Township by allegation of any breach, Default or a violation of any of the provisions of this Agreement and/or the

provisions of Applicable Law, the Entity, provided that it is still the fee title owner of all or any portion of the Land, or any Improvements related thereto, shall indemnify and hold the Township harmless from and against all liability, losses, damages, demands, costs, claims, actions or expenses (including reasonable attorneys' fees and expenses) of every kind, character and nature arising out of or resulting from the action or inaction of the Entity and/or by reason of any breach, Default or a violation of any of the provisions of this Agreement and/or the provisions of Applicable Law, except for the willful misconduct by the Township or its officers, officials, employees or agents and the Entity shall defend the suit at its own expense. However, the Township maintains the right to intervene as a party thereto, to which intervention the Entity hereby consents, the reasonable expense thereof to be borne by the Entity. To the extent practical and ethically permissible, the Entity's attorneys shall jointly defend and represent the interest of the Township and the Entity as to all claims indemnified in connection with this Agreement.

ARTICLE XII

DEFAULT

12.01 Default. Default shall be any failure of the Entity to conform to the terms of this Agreement and/or any failure of the Entity to perform any obligation imposed upon the Entity by statute, ordinance or lawful regulation beyond any applicable notice, cure or grace period.

12.02 Cure Upon Default. Should the Entity be in Default of any obligation under this Agreement, the Township shall notify the Entity and any mortgagee of the Entity in writing of said Default ("Default Notice"). Said Default Notice shall set forth with particularity the basis of said Default. Except as otherwise limited by law, the Entity shall have sixty (60) days to cure any Default (other than a Default in payment of any installment of the Annual Service Charge, for which the cure period shall be ten (10) days) from the date of its receipt of the Default Notice. In the event of any uncured Default, the Township shall have the right to proceed against the Property pursuant to applicable provisions of the Law and the Financial Agreement. Upon any Default in payment of any installment of the Annual Service Charge, the Township shall have the right to proceed to In Rem Tax Foreclosure consistent with the provisions and procedures of the In Rem Tax Foreclosure law.

12.03 Remedies. In the event of any dispute between the parties, other than a dispute arising from the failure of the Entity to timely pay any portion of the Annual Service Charge or any other financial obligation required by this Agreement, the parties shall submit the dispute for arbitration to a third party neutral to be selected by mutual consent of the parties. In the event of a Default on the part of the Entity to pay any installment of the Annual Service Charge required by Article IV above, the Township in addition to its other remedies, reserves the right to proceed against the Entity's land and premises, in the manner provided by law, including the Tax Sale Law, and any act supplementary or amendatory thereof. Whenever the word "Taxes" appears, or is applied, directly or implied, to mean taxes or municipal liens on land, such statutory provisions shall be read, as far as it is pertinent to this Agreement, as if the Annual Service Charge were

taxes or municipal liens on land. In either case, however, the Entity does not waive any defense it may have to contest the rights of the Township to proceed in the above-mentioned manner.

12.04 Remedies Upon Default Cumulative; No Waiver. Subject to the other terms and conditions of this Agreement, all of the remedies provided in this Agreement to the Township, and all rights and remedies granted to it by law and equity shall be cumulative and concurrent and no determination of the invalidity of any provision of this Agreement shall deprive the Township of any of its remedies or actions against the Entity because of Entity's failure to pay Land Taxes, the Annual Service Charge and/or any applicable water and sewer charges and interest payments. This right shall only apply to arrearages that are due and owing at the time, and the bringing of any action for Land Taxes, Annual Service Charges or other charges, or for breach of covenant or the resort of any other remedy herein provided for the recovery of Land Taxes, Annual Service Charges or other charges shall not be construed as a waiver of the right to proceed with In Rem Tax Foreclosure proceedings consistent with the terms and provisions of this Agreement.

12.05 Termination Upon Default of the Entity. In the event the Entity fails to cure or remedy the Default, including without limitation a Default as described in Section 12.01, within the time period provided in Section 12.02, the Township may terminate this Agreement upon thirty (30) days written notice to the Entity ("Notice of Termination").

12.06 Final Accounting. Within one hundred twenty (120) days after the date of Termination, the Entity shall provide a final accounting to the Township. For purposes of rendering a final accounting, the Termination of the Agreement shall be deemed to be the end of the fiscal year for the Entity.

12.07 Conventional Taxes. Upon Termination or expiration of this Agreement, the tax exemption for the Project shall expire and the Land and the Improvements thereon shall thereafter be assessed and conventionally taxed according to the general law applicable to other nonexempt taxable property in the Township.

ARTICLE XIII **MISCELLANEOUS**

13.01 Financial Agreement Controlling. Except as provided in Section 5.01 hereof, the Parties agree that in the event of a conflict between (i) the Application and this Financial Agreement or (ii) the Redevelopment Agreement and this Financial Agreement, the provisions of this Financial Agreement shall govern and prevail.

13.02 Oral Representations. There have been no oral representations made by either of the parties hereto which are not contained in this Financial Agreement. This Financial Agreement, the Resolution of the Township authorizing this Agreement, and the Application constitute the entire agreement between the parties regarding the tax exemption for the Property

and there shall be no modifications thereto other than by a written instrument executed by the parties hereto and delivered to each of them.

13.03 Entire Document. All conditions in the Resolution of the Township Council approving this Agreement are incorporated in this Agreement and made a part hereof.

13.04 Construction. This Financial Agreement shall be construed and enforced in accordance with the laws of the State of New Jersey, and without regard to or aid or any presumption or other rule requiring construction against the party drawing or causing this Agreement to be drawn since counsel for both the Entity and the Township have had the opportunity to review and approve the Financial Agreement.

13.05 Municipal Services. The Entity shall make payments for municipal services, including water and sewer charges and any services that create a lien on parity with or superior to the lien for the Land Taxes and Annual Service Charges, as required by law. Nothing herein is intended to release Entity from its obligation to make such payments.

13.06 Delivery to Tax Assessor. Upon the full execution of this Financial Agreement, the Clerk of the Township shall deliver to the Tax Assessor a certified copy of the Resolution along with an executed copy of this Financial Agreement. Upon such delivery, the Tax Assessor shall implement the tax exemption granted as of the Effective Date and certain requirements will be effective as provided herein and shall continue to enforce the tax exemption, without further certification by the Township Clerk, until the expiration of the tax exemption in accordance with the terms hereof.

13.07 Severability of Invalid Provisions. If any one or more of the covenants, agreements or provisions herein contained shall be held to be illegal or invalid in a final proceeding, then any such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other provisions hereof.

13.08 Counterparts. This Agreement may be simultaneously executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

13.09 Amendments. This Agreement may not be amended, changed, modified, altered or terminated without the written consent of the parties hereto

[Signature Pages to Follow]

8/3/17

IN WITNESS WHEREOF, the Parties have caused this Financial Agreement to be executed as of the day and year first above written.

ATTEST:

TOWNSHIP OF WEST ORANGE

Karen Carnevale
Township Clerk

By: _____
Hon. Robert D. Parisi, Mayor

GP ASHLAND HOUSING, LLC

By: _____
Eugene R. Diaz, Principal

EXHIBIT A
APPLICATION FOR EXEMPTION

APPENDIX G

46 Mount Pleasant Avenue Site Documentation

Township of West Orange
66 Main Street
West Orange, NJ 07052
973-3254112

CERTIFICATE IDENTIFICATION

Date Issued: 12/11/2024
Control #: 92806
Permit #: 20230994

Block: 68 Lot: 1

Work Site Location: 46 MT. PLEASANT AVENUE

WEST ORANGE

Owner in Fee: THE ALPERT GROUP

Address: ONE PARKER PLAZA

FORT LEE NJ 07024

Telephone: 201 866-7800

Agent/Contractor: C&C CONSTRUCTION MGMT. INC.

Address: 10063 SANDMEYER LANE

PHILADELPHIA PA 19116

Telephone: 215 673-1799

Lic. No./ Bids. Reg.No.: Federal Emp. No.: 23-2620153

☒ [X] CERTIFICATE OF OCCUPANCY

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

☐ [] CERTIFICATE OF APPROVAL

This serves notice that the work completed has been constructed or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of inspection.

☐ [] TEMPORARY CERTIFICATE OF OCCUPANCY/COMPLIANCE

If this is a temporary Certificate of Occupancy or Compliance, the following conditions must be met no later than or will be subject to fine or order to vacate:

Thomas Biondi Jr Construction Official
12/11/24

U.C.C 260 (rev. 5/03)

1 - APPLICANT 2 - OFFICE 3 - TAX ASSESSOR

Home Warranty No:

Type of Warranty Plan:

Use Group:

Maximum Live Load:

Construction Classification:

Maximum Occupancy Load:

Certificate Exp Date:

Description of Work/Use:

FIVE (5) STORY APARTMENT BUILDING

Update Desc. of Wk/Use:

SPRINKLERS AND STAND BY PIPES, UPDATE-EMERGENCY GENERATOR

☐ [] CERTIFICATE OF CLEARANCE-LEAD ABATEMENT 5:17

This serves notice that based on written certification, lead abatement was performed as per NJAC 5:17, to the following extent:

☐ [] Total removal of lead-based paint hazards in scope of work

☐ [] Partial or limited time period(____ years); see file

☐ [] CERTIFICATE OF CONTINUED OCCUPANCY

This serves notice that based on a general/smoke/carbon detector inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

☐ [] CERTIFICATE OF COMPLIANCE

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until

Fees: \$50.00

Paid [X] Check No.: 7006

Collected by: AR

RESOLUTION
PLANNING BOARD OF THE TOWNSHIP OF WEST ORANGE

Heard: August 7, 2019
Case Nos.: PB- 19-05C
Re: Library Redevelopment

WHEREAS, pursuant to Municipal Land Use Law N.J.S.A. §40:55D-31 on August 7, 2019 the Board heard a proposed project by the Township of West Orange for construction of certain improvements at the West Orange Library Redevelopment Area which is located on Township owned property located at 46 Mt. Pleasant Avenue, West Orange, NJ, said premises being a portion of the area designated on the municipal tax map as Block 68, Lot 1; and

WHEREAS, the Board having heard the presentation and having performed its review pursuant to N.J.S.A. §40:55D-31 hereby makes the following findings of fact and conclusions of law:

1. The Board accepted into evidence the following:
 - (i) Township of West Orange Planning Board Application Form
 - (ii) Copy of West Orange Township Council Resolution 180-19 dated July 16, 2019
 - (iii) Copy of West Orange Township Council Resolution 188-19 dated July 16, 2019
 - (iv) Boundary Survey prepared by MidAtlantic Engineering Partners, LLC dated July 15, 2019
 - (v) Proposed floor plans and elevations prepared by Kitchen & Associates dated August 7, 2019 (5 sheets)
 - (vi) Site Plan drawing prepared by MidAtlantic Engineering Partners, LLC dated July 31, 2019 (1 sheet) (11" x 17")
 - (vii) Site Plan drawing prepared by MidAtlantic Engineering Partners, LLC dated July 31, 2019 (1 sheet) (24" x 36")

2. The following Exhibits were admitted into evidence:

Ex. A-1 - Aerial photograph of 46 Mt. Pleasant Avenue site

Ex. A-2 - 3-dimensional rendering of proposed plan

Ex. A-3 – Proposed plan prepared by MidAtlantic Engineering Partners

3. Stephen Schoch of Kitchen & Associates was sworn and qualified as an expert in architecture. He testified that the proposed improvements to the existing Library building include the construction of a 65 unit age-restricted affordable housing project, including 61 one-bedroom units, 3 two-bedroom units, and 1 two-bedroom superintendent's unit, 7,500 square feet of space to be used by the Township for a public purpose, all to be located in a four-story elevator building with on-site parking and related improvements.
4. Gregory Domalewski PE of MidAtlantic Engineering Partners, LLC testified about setbacks, curbs, sidewalks, parking, grading, signage landscaping, lighting and circulation.

WHEREAS, the Board having heard the presentation and having performed its review pursuant to N.J.S.A. §40:55D-31 hereby makes the following findings of fact and conclusions of law:

1. The Township of West Orange proposes construction of improvements at the site of the West Orange Public Library including the construction of a four-story mid-rise apartment building having 65 affordable senior housing units, plus 7,500 sq. ft. of community space. The site will be leased to West Orange Senior Housing, LLC for 99 years. The 7,500 sq. ft. community space will be leased back to the Township for 99 years.

2. Pursuant to West Orange Township Resolution 180-19 the Township has determined that the project meets or will meet an existing housing need.

3. The Board finds that because the property is owned by the Township of West Orange and will be used for the purpose of providing affordable senior housing for the Township and space for use by the Township for a public purpose, it qualifies as a capital project under N.J.S.A. §40:55D-31.

4. The Board finds that the proposed project is not inconsistent with the Master Plan of the Township of West Orange.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of West Orange that it finds that the proposed project is not inconsistent with the West Orange Master Plan. The Board makes the following comments and recommendations to the Applicant:

1. The Board reserves the right to review and make comments upon a complete set of Site Plan and Architectural drawings and supporting technical documents, once they are available and prior to building permit application and issuance. The project shall meet the requirements of the Library Redevelopment Plan dated June 10, 2019 and shall comply with all applicable Township of West Orange and State of New Jersey ordinances and regulations.

Certified to be a true copy of the Resolution adopted on the 7th day of August 2019.



Robin Miller, Secretary

Vote on the Action Taken by the Board

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
Bagoff		*	*			
Cardoza (Vice Chair)			*			
Keigher						*
Klein			*			
McCartney			*			
Trenk			*			
Wegner						*
Wilkes						*
Williams (1 st Alt.)			*			
Johnson (2 nd Alt)						*
Weston (Chairman)	*		*			

Vote on the Memorializing Resolution

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
Bagoff		*	*			
Cardoza (Vice-Chair)			*			
Keigher						*
Klein			*			
McCartney			*			
Trenk			*			
Wegner						*
Wilkes						*
Williams (1 st Alt.)			*			
Johnson (2 nd Alt)						*
Weston (Chairman)	*		*			

RESOLUTION

Township of West Orange

Planning Board

PB 22-07 West Orange Senior Housing LLC/46 Mount Pleasant Avenue

Block: 68 Lot: 1 and Block 67 Lot 1; Zone: R-G

Decided on August 3, 2022

Memorialized on September 7, 2022

Senior Housing Project Review

WHEREAS, West Orange Senior Housing, LLC (“Applicant”) has made a referral to the Planning Board for a courtesy review of a senior housing project pursuant to N.J.S.A. 40:55D-31(a) and N.J.A.C. 6A:26-3.2(c) in order to subdivide Township-owned properties to effectuate a development previously approved by the Planning Board on the site of the current West Orange Public Library at property located at 46 Mount Pleasant Avenue, also known as Block: 68; Lot 1 and Block 67 Lot 1, in the R-T Zone; and

WHEREAS, a public hearing was conducted on August 3, 2022; and

WHEREAS, the Applicant was represented by William C. Sullivan, Jr., Esq. and Patrick McNamara, Esq. of the firm Scarinci & Hollenbeck, LLC; and

WHEREAS, the Applicant provided testimony by Greg Domalewski, P.E., of MidAtlantic Engineering, a licensed professional surveyor; and

WHEREAS, the Applicant submitted the following documents to the Board in the form of the submission package:

ITEM	SIGNED BY	DATE/REVISION
Resolution 124-22 Authorizing Proposed Sale and Purchase	Karen J. Carnevale, R.M.C., Municipal Clerk and Susan McCartney, Council President	April 26, 2022

Courtesy Review Application Form	Joseph Alpert	July 29, 2022
Technical Subdivision and Right of Way Vacation Plan	Suzanne L. Warren, P.L.S.	July 11, 2022
West Orange Planning Board Resolution B-19-05C	Robin Miller, Secretary	August 7, 2019

WHEREAS, representatives of the public had an opportunity to ask questions of the witnesses and had an opportunity to offer statements in regard to the submission; and

WHEREAS, the Board reviewed and considered the Subdivision Plat, testimony and documents submitted therewith; and

WHEREAS, the Board also considered the input of its professionals at the hearing; and

NOW THEREFORE, the Board makes the following findings of fact, based upon the evidence presented at its public hearings, at which a record was made:

1. The Applicant has submitted a referral to the Planning Board for courtesy review of a subdivision to effectuate a previously approved development pursuant to N.J.S.A. 40:55D-31(a) and N.J.A.C. 6A:26-3.2(c) on the property.
2. The property is located on Mount Pleasant Avenue near the intersection of Main Street and is the site of the current West Orange Public Library .
3. The Applicant does not require any variance relief from the Board.
4. The Applicant referred the subject subdivision to the Planning Board for “review and recommendation in conjunction with [the] master plan[.]” N.J.S.A. 40:55D-31(a). The Applicant may not act upon the proposed project without first reviewing the Planning Board’s recommendation. Id.

5. The proposed subdivision provides a path to effectuate the purchase and sale of property dedicated to the development of senior housing in the Township and is necessary due to an existing right-of-way between the two lots.
6. The development approvals for the publicly owned property have already been granted and are not the subject of this subdivision.
7. The Municipal Plaza right-of way merged with the two existing adjoining lots – Block 67, Lot 1, the existing library building/future senior housing and the remainder of Block 68, Lot 1, the remainder of the existing Municipal Complex lot.
8. The proposed lot, Block 68, Lot 1.01 is being created pursuant to the West Orange Library Redevelopment Plan for the Library and Senior housing.
9. A portion of the property shown as a “triangle” on the plans and as further described on the record will remain with Block 67, Lot 1 for community parking and as an access easement.
10. A permanent easement for utilities to the property will be provided on the plan.
11. The triangle area will be maintained as part of the Senior Housing project and the permanent easement will be maintained by the Senior Housing project.

NOW, THEREFORE, based upon the foregoing findings of fact, the Board reaches the following conclusions of law:

1. Testimony established that in order to effectuate the development of a proposed Senior Citizen Housing project, the proposed subdivision is beneficial to the Township and is consistent with the Master Plan and the previously approved development plan.
2. The Township Planner, Paul Grygiel, testified that he is satisfied with the plan as presented.

3. The project meets the goals of the Master Plan as it fulfills the goals and objectives including that the affordable senior housing project approved on the subject property implements one of the compliance mechanisms in the Township of West Orange's court approved Master Plan Housing Element and Fair Share Plan.

NOW THEREFORE be it resolved by the Planning Board of the Township of West Orange that the application for subdivision of the property located at 46 Mount Pleasant Avenue, is not inconsistent with the Township Master Plan .

AND IT IS FURTHER RESOLVED that the Planning Board makes the following recommendations regarding the Senior Housing Project:

1. West Orange Senior Housing, LLC and its assigns will maintain the triangular area on Block 67 Lot 1 reserved for parking and as an access easement.
2. Applicant agrees to a permanent easement for utilities running through the site.

The undersigned secretary certifies the decision set forth herein was made by this Board on August 3, 2022 and memorialized herein pursuant to N.J.S.A. 40:55D10(g) on September 7, 2022.



JAMILET BAQUERIZO VITE,
PLANNING BOARD SECRETARY

APPENDIX H

Adopted Inclusionary Housing Ordinances

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XXV LAND USE REGULATIONS
OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST ORANGE**

BE IT ORDAINED, by the Township Council of the Township of West Orange, in the County of Essex, State of New Jersey, as follows:

Section 1. Chapter XXV Land Use Regulations is hereby amended and supplemented to include the following:

25-19 IH-1 (INCLUSIONARY HOUSING) DISTRICT

a. Purpose

The purpose of the IH-1 District is to provide for inclusionary development that contributes to the region's fair share of affordable housing, in accordance with a court settlement agreement which outlines provisions for same.

b. Description of Zone Boundary

The zone boundary of the IH-1 District shall encompass the entirety of the property identified as Block 179 Lot 32, which shall hereafter be referred to as the "Tract." The zone boundary shall be coincident with the lot lines of Block 179, Lot 32. The municipal zone map is hereby amended to reflect same.

c. General Provisions

1. The development regulations set forth herein shall apply to the Tract as a whole, not to individual lots which may be created within the Tract.
2. The Tract shall be permitted to be subdivided into one or more lots, and one or more buildings or uses shall be permitted on a single lot.
3. The Tract shall be permitted to be constructed in one or more phases consistent with N.J.A.C 5:97-6.4 (d).
4. Any street within the Tract shall be permitted to be public or private.
5. Development of the Tract shall be exempt from all bulk, design, and environmental regulations of the West Orange Land Use Regulations Ordinance, unless otherwise indicated herein, and further provided that nothing herein shall circumvent or contravene the procedural requirements of the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) nor the regulatory requirements of outside agencies including but not limited to New Jersey Department of Environmental Protection and Hudson-Essex-Passaic Soil Conservation District.

d. Use Regulations

1. Permitted Principal Uses.

- (a) Multifamily residential
- (b) Open space

2. Permitted Accessory Uses

- (a) Residential amenities including but not limited to the following, by way of example: clubhouse buildings, swimming pools, fitness centers, lounges, common or private terraces and balconies, courts or open lawn areas for multipurpose use such as lawn games i.e. corn hole, bocce, badminton, croquet, and the like; work space or meeting space for tenants, tenant storage, dog parks and/or dog playgrounds. Rooftop amenities shall be permitted including observation areas or rooms, multipurpose or recreation rooms, vestibules, outdoor terraces, pergolas, shade structures, or the like.
- (b) Pet-friendly amenities. As part of the amenity package, in addition to dog parks and/or playgrounds above, a development shall be permitted to include an onsite pet service that shall be permitted to offer walking services, pet-sitting services, a pet spa or grooming service, overnight boarding, or related services, which shall be permitted to operate indoors as part of a building and/or as a stand-alone building.
- (c) Residential accessory uses such as leasing and management offices, maintenance buildings, dwelling units for onsite building superintendents, and model units
- (d) Parking, which shall be permitted to be structured or surface, and further provided that tandem parking shall be permitted where such spaces are assigned to the same unit
- (e) Fences and walls
- (f) Signs
- (g) Any use that is customarily incidental to a permitted principal use

e. Bulk Regulations

- 1. The total number of dwelling units shall be 496, and the total number of units shall be permitted to be lowered without variance at the sole discretion of the developer and/or based on outside agency requirements. Model apartments and onsite housing for the building superintendent and maintenance/management staff shall not be included as part of the unit count.
- 2. The affordable housing set-aside shall be twenty percent (20%) of the total units actually constructed in the development (excluding model apartments and onsite housing for the building superintendent and maintenance/management staff).
- 3. There shall be no minimum lot size requirement.

4. The maximum area of disturbance for the entire Tract shall be 30 acres. Trails, deer fencing, and buffer planting shall not be counted as part of the area of disturbance.
5. Unrestricted site access (ingress and egress) shall be permitted from Warner Drive and Kuzik Drive.
6. Emergency access (ingress and egress) shall be permitted to Block 179.17, Lots 8 and 9 to the north and Bayowski Road to the south.
7. The affordable units shall consist of moderate-income, low-income, and very low-income units in accordance with the requirements of the settlement agreement. The minimum unit sizes for the affordable units shall be as follows:
 - (a) One-bedroom 650 square feet
 - (b) Two-bedroom 875 square feet
 - (c) Three-bedroom 1,150 square feet
8. The maximum building height shall be 75 feet, and further subject to the standards set forth below, which shall supersede any regulation to the contrary in the West Orange Land Use Regulations Ordinance:
 - (a) The building height shall be a vertical dimension measured in a straight line from first story finished floor elevation to the roof line elevation of a flat roof, or the midpoint elevation of a pitched roof.
 - (b) The first story shall mean the lowest story that has its finished floor entirely above grade. Cellars and basements shall not be considered a first story.
 - (c) The building height shall not be measured based on the grading around the building.
9. The maximum number of stories per building shall be 4 stories, and further subject to the standards set forth below which shall supersede any regulation to the contrary in the West Orange Land Use Regulations:
 - (a) Story shall mean the space of a building between the surface of a floor and any floor next above it, or if there be no floor above it, then the space between the floor and the ceiling above it, and as further refined below.
 - (b) Any level with a finished floor entirely below grade or partially below grade shall not be considered a story, such as cellars and basements, including walk-out basements and "garage-under" levels.
 - (c) Any level that contains 10 or more parking spaces shall not be considered a story.
 - (d) Mezzanines shall not be considered a story, provided the floor area of the mezzanine is no greater than 33 percent of the floor area below it.

- (e) Lofts serving individual dwelling units as permitted by building code shall not be considered a story.
 - (f) Rooftop amenities and rooftop features shall not be considered a story or fractional portion thereof.
 - (g) Architectural roof design features such as attics, mansards, parapets, cupolas, and other similar architectural design features and/or appurtenances shall not be considered a story or fractional portion thereof.
10. The grading around buildings shall be subject to the following:
- (a) The maximum exposure of perimeter walls for basements, cellars, or building foundations shall not exceed 50% of the total surface area of such walls, which shall be based on the aggregate area of all perimeter walls, not each wall individually.
 - (b) Walkout basements and “garage under designs shall be permitted and shall be permitted to have one or more perimeter walls entirely exposed, and further provided that the 50% exposure threshold set forth above for all perimeter walls shall still apply.
11. The minimum buffer width around the entire Tract boundary shall be 100 feet. The buffer shall remain undisturbed except for roads and accessways, utilities and stormwater management improvements, signs, fences, walls, and associated grading.
12. The east face of the Watchung Mountain shall remain undisturbed from the peak of the ridgeline, except that utility construction shall be permitted east of the ridgeline
13. Any deviation from the above requirements shall be considered a “c” variance.

f. Parking Regulations

- 1. Principal uses. The quantity and dimensions of off-street parking spaces shall be in accordance with the Residential Site Improvement Standards (RSIS). Any deviation shall be considered a de minimis exception from RSIS, not a variance. Tandem parking arrangements shall be permitted in accordance with the use regulations of this Chapter as set forth above. Automated or mechanical parking shall be permitted to meet the RSIS parking count requirement, and shall be exempt from RSIS parking stall size requirements, subject to review and approval of manufacturer’s specifications.
- 2. Accessory uses. Accessory uses such as clubhouses or recreation areas shall be exempt from parking requirements.

g. Tree Removal and Replacement

The removal of trees shall be permitted, and the replacement of trees shall be in accordance with formula below. Any other regulation pertaining to tree removal and replacement in the

Township of West Orange Code shall not apply to the Tract, and shall be superseded by the regulations set forth below, except where otherwise indicated herein.

1. Tree Baseline. The existing tree count on the Tract shall be established at 212 trees per acre.
2. Tree Baseline Loss.
 - (a) Tree Baseline Loss shall be established by multiplying the proposed number of acres disturbed by the existing 212 trees per acre on the Tract; by way of example, a proposed disturbance area of 25 acres shall calculated to a Tree Baseline Loss of 5,300 trees, which figure would increase or decrease based upon the final acreage disturbed).
 - (b) Tree Baseline Loss shall be reduced for each healthy major tree (greater than 6 inches) within the proposed area of disturbance that is not removed in connection with a proposed development
 - (c) Tree Baseline Loss shall be reduced for each non-invasive major tree or minor tree (as defined in the Township of West Orange Code) proposed as part of a landscape plan. The tree replacement calculation shall apply one credit for each such tree which is a native species and $\frac{1}{4}$ credit for each such tree which is not a native species.
 - (d) The Tree Baseline Loss shall be reduced by 212 trees for each acre of forest outside the area of disturbance enclosed by a controlled, gated access deer fence that is eight (8) feet in height, the purpose of which is to regenerate the growth of the native forest, and which deer fencing shall be maintained in perpetuity;
3. Adjusted Tree Baseline Loss.
 - (a) Adjusted Tree Baseline Loss shall be calculated as the Tree Baseline Loss after crediting.
 - (b) If the Adjusted Tree Baseline Loss calculates to zero (0), or less than zero, the developer shall have no further obligation regarding tree removal or replacement in connection with a proposed development.
 - (c) If the Adjusted Tree Baseline Loss calculates to a number greater than zero, then the development shall satisfy the requirements of the West Orange Tree Ordinance only with respect to the Adjusted Tree Baseline Loss.
- h. Landscape Regulations
 1. Street Trees. Street trees shall be provided in accordance with the West Orange Land Development Code.
 2. Additional Trees. The developer shall plant new trees and landscaping along or near the southern border of the Tract for the purpose of supplementing the buffering of the nearest residential units to the south.

3. Any deviation from the regulations of this section shall be considered design exceptions, not variances, subject to the statutory criteria of N.J.S.A. 40:55D- 51 for relief.
- i. Signage Regulations
 1. Development Entrance Sign. One freestanding sign shall be permitted at the entrance to the development. The sign dimensions shall have a maximum width of 10 feet and a maximum height of 8 feet. The sign may be incorporated as part of a decorative element such as a wall or fence feature, and further provided that the decorative element shall not be included in the calculation of the sign area. The top of the sign, including any decorative element framing it, shall not exceed 10 feet above grade.
 2. Identification Signage. Freestanding identification signs shall be permitted to demarcate individual buildings or sections within the development, not to exceed one such sign per building or section. The sign dimensions shall have a maximum width of 8 feet and a maximum height of 6 height, and the top of any such sign shall not exceed 8 feet above grade. This shall apply to accessory recreation or amenity uses as well, such as a clubhouse or pet service, which shall be permitted to have identification signage in accordance with the above.
 3. Building Signage. One building sign shall be permitted at each building lobby and/or building entrance. The sign dimensions for each building sign shall have a maximum width of 8 feet and a maximum height of 6 feet.

Section 2. If any provision of this Ordinance or application thereof, under any circumstances, is held invalid, the invalidity shall not affect any other provisions or applications of this Ordinance that can be given effect without the invalid provision(s) or application(s) and to this end the provisions of this Ordinance are severable.

Section 3. All other Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed.

Section 4. This Ordinance shall take effect upon final passage and publication in accordance with law.

Karen J. Carnevale, R.M.C.
Municipal Clerk

Michelle Casalino
Council President

Robert D. Parisi, Mayor

Introduced: August 11, 2020

Adopted: September 8, 2020

LEGISLATIVE HISTORY

This Ordinance is presented pursuant to the Affordable Housing Settlement Agreement approved by the Township Council on April 14, 2020. The Superior Court of New Jersey confirmed the Settlement Agreement on July 10, 2020.

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XXV LAND USE REGULATIONS
OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST ORANGE TO
IMPLEMENT A SETTLEMENT AGREEMENT WITH FAIR SHARE HOUSING CENTER**

BE IT ORDAINED, by the Township Council of the Township of West Orange, in the County of Essex, State of New Jersey, as follows:

Section 1. Chapter XXV Land Use Regulations is hereby amended and supplemented by adding the following sections:

25-22 IH-2 (INCLUSIONARY HOUSING) DISTRICT

a. Purpose

The purpose of the IH-2 District is to provide for inclusionary development that contributes to the region's fair share of affordable housing, in accordance with a court settlement agreement which outlines provisions for same.

b. Description of Zone Boundary

The zone boundary of the IH-2 District shall encompass the entirety of the property identified as Block 155, Lot 40.03. The municipal zone map is hereby amended to reflect same.

c. Use Regulations

1. Permitted Principal Uses.

- (a) Retail stores
- (b) Personal service stores or studios
- (c) Offices
- (d) Restaurants and bars
- (e) Banks
- (f) Fitness centers
- (g) Medical, dental, psychiatric or chiropractic offices
- (h) Multi-family residential dwellings
- (i) Mixed-use development including any of the above permitted principal uses

2. Permitted Accessory Uses.

- (a) Parking
- (b) Signage
- (c) Outdoor dining
- (d) Uses which are customarily incidental to the principal use

d. Bulk Regulations

1. Minimum Lot Area: four acres
 2. Minimum Setback to Rooney Circle: 15 feet
 3. Minimum Setback to All Other Property Lines: 20 feet
 4. Maximum Building Height: 4 stories/50 feet. The building height shall be the vertical distance measured from the mean elevation of the finished grade adjacent to the building foundation to the roof line elevation of a flat roof, or the midpoint elevation of a pitched roof. Projections for roof equipment shall be permitted provided they are screened with a solid or decorative shield and do not exceed 15 feet in height above the roof deck. Rooftop amenities and architectural roof design features such as attics, mansards, parapets, cupolas, and other similar architectural design features and/or appurtenances shall not be considered a story or fractional portion thereof.
 5. Maximum Gross Residential Density: 32 dwelling units/acre
 6. Maximum Impervious Coverage: 65%
- e. Parking Regulations
1. Residential portion of a mixed-use development. Off-street parking for residential uses shall be provided in accordance with the requirements of Parking Schedule I in Subsection 25-12.2a.1.
 2. Nonresidential uses. Off-street parking for nonresidential uses shall be provided in accordance with the requirements of Parking Schedule II in Subsection 25-12.2b.1.
- f. Affordable Housing Requirements
1. Low- and moderate-income dwelling units shall be provided in accordance with this subsection. The minimum affordable housing set-aside shall be 20 percent of the dwelling units in the development for for-sale units, or 15 percent for rental units. Of these, at least half must be reserved for, and affordable to, low-income households. A minimum of 13 percent of the affordable units shall be affordable to households earning 30 percent or less of the area median income for the Council on Affordable Housing region. Low- and moderate-income housing units shall be governed by the standards set forth in the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq., and shall comply with the applicable rules of the Council on Affordable Housing and any other relevant state regulations. All development including affordable dwelling units shall also be subject to Section 25-18 Affordable Housing; Low/Moderate Housing Provisions of the Township of West Orange Land Use Regulations Ordinance.
 2. The minimum unit sizes for the affordable units shall be as follows, except if the square footage of the market rate units is smaller than the minimum square footage of the affordable units, then the affordable units shall be the same size as the market rate units:
 - (a) One-bedroom 650 square feet
 - (b) Two-bedroom 875 square feet
 - (c) Three-bedroom 1,150 square feet
- g. Additional Standards
1. Structured parking shall be designed to blend into the architectural character of the building and to be screened from public view.
 - (a) All parking structures shall be designed using compatible or complementary materials to the principal building(s). All voids in the structures shall be architecturally screened, so that lights and vehicles are not individually visible.

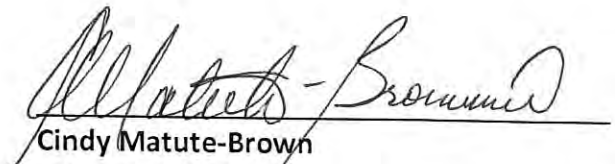
- (b) No blank walls of parking structures shall face Rooney Circle. Any Rooney Circle facing façade shall provide pedestrian interest at ground level through a building lobby, storefront, or other architectural screening / wrapping mechanism.
2. Pedestrian connections shall be provided across Rooney Circle to the Essex Green Shopping Center. The connections shall feature pedestrian activated signals, raised or stamped concrete crosswalks or other similar improvements subject to approval by the Township Council, Township Engineer, and Planning Board.
3. Amenity space shall be provided as part of any multi-family residential development, consisting of one or more of a community room, a roof deck, a pool, a fitness center, or other similar offering.

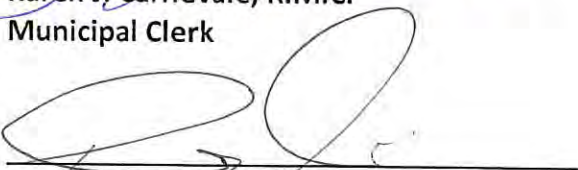
Section 2. If any provision of this Ordinance or application thereof, under any circumstances, is held invalid, the invalidity shall not affect any other provisions or applications of this Ordinance that can be given effect without the invalid provision(s) or application(s) and to this end the provisions of this Ordinance are severable.

Section 3. All other Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed.

Section 4. This Ordinance shall take effect upon final passage and publication in accordance with law.


Karen J. Carnevale, R.M.C.
Municipal Clerk


Cindy Matute-Brown
Council President


Robert D. Parisi, Mayor

Introduced: March 9, 2021

Adopted: March 23, 2021

LEGISLATIVE HISTORY

This Ordinance is presented pursuant to the Affordable Housing Settlement Agreement with Fair Share Housing Center approved by the Township Council on April 14, 2020. The Superior Court of New Jersey confirmed the Settlement Agreement on July 10, 2020.

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XXV LAND USE REGULATIONS
OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST ORANGE TO
IMPLEMENT A SETTLEMENT AGREEMENT WITH FAIR SHARE HOUSING CENTER**

BE IT ORDAINED, by the Township Council of the Township of West Orange, in the County of Essex, State of New Jersey, as follows:

Section 1. Chapter XXV Land Use Regulations is hereby amended and supplemented by amending the following sections:

25-18 AFFORDABLE HOUSING; LOW/MODERATE HOUSING PROVISIONS.

25-18.1 Purpose and Applicability.

The purpose of this section is to include provisions addressing the Township of West Orange's constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Supreme Court and consistent with N.J.A.C. 5:93-1 et seq., as amended and supplemented, N.J.A.C. 5:80-26.1 et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985. This chapter is intended to assure compliance with the regulations of the Council on Affordable Housing ("COAH") set forth at N.J.A.C. 5:93-1 et seq., and the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq., including provisions for unit affordability controls as well as eligibility for low- and moderate-income households. This chapter shall apply except where inconsistent with applicable law.

25-18.2 Definitions.

Accessory Apartment shall mean a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

Act shall mean the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.).

Adaptable shall mean constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

Administrative agent shall mean the entity designated by the Township to administer affordable units in accordance with this chapter, the regulations of the Council on Affordable Housing set forth at N.J.A.C. 5:93 et seq., and the Uniform Housing Affordability Controls set forth at N.J.A.C. 5:80-26 et seq..

Affirmative marketing shall mean a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

Affordability average shall mean an average of the percentage of median income at which restricted units in an affordable development are affordable to low- and moderate-income households.

Affordable shall mean a sales price or rent level that is within the means of a low- or moderate-income household as defined within N.J.A.C. 5:93-7.4, and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

Affordable development shall mean a housing development all or a portion of which consists of restricted units.

Affordable unit shall mean a housing unit proposed or created pursuant to the Fair Housing Act and approved for crediting by the court and/or funded through an affordable housing trust fund.

Agency shall mean the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1 et seq.) and in, but not of, the DCA.

Age-restricted unit shall mean a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development wherein the unit is situated are sixty-two (62) years of age or older; or 2) at least eighty (80%) percent of the units are occupied by one person who is fifty-five (55) years of age or older; or, 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as "housing for older persons," as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

Alternative living arrangement shall mean a structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D, and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

Assisted living residence shall mean a facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four (4) or more adult persons unrelated to the proprietor and offer, at a minimum, one (1) unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

Certified household shall mean a household that has been certified by an administrative agent as a low-income household or moderate-income household.

COAH or the Council shall mean the Council on Affordable Housing in, but not of, the DCA, established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

Conversion shall mean the conversion of existing commercial, industrial or residential structures for low and moderate income housing purposes.

Court shall mean the Superior Court of New Jersey, Law Division, Essex County.

DCA shall mean the State of New Jersey Department of Community Affairs.

Deficient housing unit shall mean a housing unit with health and safety code violations that requires the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

Developer shall mean any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land included in a proposed development including the holder of an option to contract to purchase, or other person having an enforceable proprietary interest in such land.

Development shall mean the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required, pursuant to N.J.S.A. 40:55D-1 et seq.

Fair share plan shall mean the plan that describes the mechanisms, strategies and the funding sources, if any, by which the Township proposes to address its affordable housing obligation as established in the Housing Element, including the draft ordinances necessary to implement that plan, and addresses the requirements of N.J.A.C. 5:93-5.

Fair Share Round shall mean any one (1) of three (3) periods in time during which the Council established municipal obligations to provide affordable housing and the first round was from 1987-1993 and the second period was from 1993-1997 and the third is for 1999-2018.

HAS shall mean the Housing Affordability Service, formerly known as the "Affordable Housing Management Service," at the New Jersey Housing and Mortgage Finance Agency.

Housing element shall mean the portion of the Township's Master Plan, required by the Municipal Land Use Law ("MLUL"), N.J.S.A. 40:55D-28b(3) and the Act, that includes the information required by N.J.A.C. 5:93-5.1 and establishes the Township's fair share obligation.

Inclusionary development shall mean a development containing both affordable units and market rate units. This term includes, but is not limited to: new construction, the conversion of a non-residential structure to residential use and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

Low-income household shall mean a household with a total gross annual household income equal to fifty (50%) percent or less of the median income.

Low-income unit shall mean a restricted unit that is affordable to a low-income household.

Median income shall mean the median income by household size for an applicable county, as adopted annually by COAH or a successor entity approved by the Court.

Moderate-income household shall mean a household with a total gross annual household income in excess of fifty (50%) percent but less than eighty (80%) percent of the median income.

Moderate-income unit shall mean a restricted unit that is affordable to a moderate-income household.

MONI shall mean the Agency's Market Oriented Neighborhood Investment Program, as it may be authorized from time to time by the Agency.

95/5 unit shall mean a restricted ownership unit that is part of a housing element that received substantive certification from COAH pursuant to N.J.A.C. 5:93 before October 1, 2001.

Non-exempt sale shall mean any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a class A beneficiary; and the transfer of ownership by court order.

Random selection process shall mean a process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one (1) applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

Regional asset limit shall mean the maximum housing value affordable to a four-person household with an income at or above eighty (80%) percent of the regional median as defined by the Council's annually adopted income limits.

Rehabilitation shall mean the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

Rent shall mean the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

Restricted unit shall mean a dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, but does not include a market-rate unit financed under UHROP or MONI.

Township shall mean the Township of West Orange in Essex County, New Jersey.

UHAC shall mean the Uniform Housing Affordability Controls, as set forth in N.J.A.C. 5:80-26 et seq.

UHROP shall mean the Agency's Urban Homeownership Recovery Program.

Very low-income household shall mean a household with a total gross annual household income equal to thirty (30%) percent or less of the regional median household income by household size.

Very low-income unit shall mean a restricted unit that is affordable to a very low-income household.

Weatherization shall mean building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for purposes of a rehabilitation program.

25-18.3 Affordable Housing Program.

The following general guidelines apply to all developments that contain low- and moderate-income units, and any future developments that may occur.

25-18.4 Rehabilitation.

a. *The Rehabilitation Program.*

1. West Orange's rehabilitation program is designed to renovate deficient housing units occupied by low- and moderate-income households and after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28.
2. West Orange has designated Community Action Services and the Essex County Home Improvement Program as the administrators of the rehabilitation program.
3. Both renter occupied and owner occupied units are eligible for rehabilitation funds.
4. Both renter occupied and owner occupied units must remain affordable to low- and moderate-income households for a period of ten (10) years. For owner occupied units this control period will be enforced with a lien and for renter occupied units the control period will be enforced with a deed restriction.
5. West Orange will dedicate a minimum of ten thousand (\$10,000.00) dollars for units rehabilitated through this program.
6. West Orange has created a rehabilitation manual for this rehabilitation program, which is available for inspection at the West Orange Planning Department.

25-18.5 Phasing Schedule for Zoning.

West Orange has adopted redevelopment plans that include affordable housing.

If future zoning is adopted, there will be a set-aside for affordable housing. Payment in lieu of development funds will be used within West Orange for the creation of affordable housing units.

In inclusionary zones, the following schedule shall be followed:

<i>Percentage of Market-Rate Units Completed</i>	<i>Minimum Percentage of Low- and Moderate-Income Units</i>
25	0
25+1	10
50	50
75	75
90	100

25-18.6 New Construction.

a. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

1. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit.
2. At least thirteen (13%) percent of all restricted rental units within each bedroom distribution shall be very low-income units (affordable to a household earning thirty (30%) percent or less of median income). The very low-income units shall be counted as part of the required number of low-income units within the development.
3. At least twenty-five (25%) percent of the obligation shall be met through rental units, including at least half in rental units available to families.
4. A maximum of twenty-five (25%) percent of the Township's obligation may be met with age restricted units. At least half of all affordable units in the Township's Plan shall be available to families.
5. In each affordable development, at least fifty (50%) percent of the restricted units within each bedroom distribution shall be low-income units including that thirteen (13%) percent shall be very-low income.
6. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - (a) The combined number of efficiency and one-bedroom units is no greater than twenty (20%) percent of the total low- and moderate-income units;
 - (b) At least thirty (30%) percent of all low- and moderate-income units are two (2) bedroom units;
 - (c) At least twenty (20%) percent of all low- and moderate-income units are three (3) bedroom units; and
 - (d) The remainder may be allocated among two (2) and three (3)- bedroom units at the discretion of the developer.
 - (e) Age-restricted low- and moderate-income units may utilize a modified bedroom distribution and at a minimum, the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the affordable development.

This standard may be met by having all one (1)-bedroom units or by having a two (2)-bedroom unit for each efficiency unit.

b. *Accessibility Requirements.*

1. The first floor of all restricted townhouse dwelling units and all restricted units in other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.
2. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
 - (a) An adaptable toilet and bathing facility on the first floor; and,
 - (b) An adaptable kitchen on the first floor; and,
 - (c) An interior accessible route of travel on the first floor; and,
 - (d) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
 - (e) If not all of the foregoing requirements in 2.(a) through 2.(d) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs 2.(a) through 2.(d) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and,
 - (f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that West Orange has collected funds from the development sufficient to make ten (10%) percent of the adaptable entrances in the development accessible:
 - (1) In the case of a unit or units which are constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed;
 - (2) The builder of the unit or units shall deposit funds, sufficient to adapt ten (10%) percent of the affordable units in the projects which have not been constructed with accessible entrances, with West Orange, for deposit into the municipal affordable housing trust fund;
 - (3) The funds under paragraph (f)(2) above shall be available for the use of West Orange for the purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance;
 - (4) The developer of the affordable project subject to P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) shall submit the design with a cost estimate for conversion to West Orange; and
 - (5) Once West Orange has determined that the plans to adapt the entrances of the townhouse or other multistory unit meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, the West Orange Chief Financial Officer shall ensure that the funds are deposited into that fund.
 - (6) Full compliance with this section shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

c. *Maximum Rents and Sales Prices.*

1. In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and by the Superior Court.
2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than sixty (60%) percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than fifty two (52%) percent of median income.
3. The developers and/or municipal sponsors of restricted rental units shall establish at least one (1) rent for each bedroom type for both low-income and moderate-income units, provided that at least thirteen (13%) percent of all low- and moderate-income rental units shall be affordable to very low-income households, earning thirty (30%) percent or less of the regional median household income, with such very low-income units counted toward the low-income housing requirement.
4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than seventy (70%) percent of median income, and each affordable development must achieve an affordability average of fifty five (55%) percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two (2) different sales prices for each bedroom type.
5. In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
 - (a) A studio unit shall be affordable to a one (1)-person household;
 - (b) A one (1)-bedroom unit shall be affordable to a one and one-half (1 ½)-person household;
 - (c) A two (2)-bedroom unit shall be affordable to a three (3)-person household;
 - (d) A three-(3) bedroom unit shall be affordable to a four and one-half (4 ½)-person household; and
 - (e) A four (4)-bedroom unit shall be affordable to a six (6)-person household.
6. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
 - (a) A studio shall be affordable to a one (1)-person household;
 - (b) A one (1)-bedroom unit shall be affordable to a one and one-half (1 ½)-person household; and,
 - (c) A two (2)-bedroom unit shall be affordable to a two (2)-person household or to two (2) one (1)-person households.
7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to ninety-five (95%) percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed twenty-eight (28%) percent of the eligible monthly income of the appropriate size household as determined under

N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

8. The initial rent for a restricted rental unit shall be calculated so as not to exceed thirty (30%) percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
9. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
10. The rent of low- and moderate-income units may be increased annually based on the permitted percentage increase in the Regional Income Limits chart. This increase shall not exceed nine (9%) percent in any one (1) year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.

25-18.7 Utilities.

- a. Affordable units shall utilize the same type of heating source as market units within the affordable development.
- b. Those tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

25-18.8 Occupancy Standards.

- a. In referring certified households to specific restricted units, the administrative agent shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:
 1. Provide an occupant for each bedroom;
 2. Provide children of different sexes with separate bedrooms;
 3. Provide separate bedrooms for parents and children; and,
 4. Prevent more than two (2) persons from occupying a single bedroom.

25-18.9 Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

Control periods for restricted ownership units are pursuant to N.J.A.C. 5:80-26.5 and each restricted ownership unit shall remain subject to the requirements of this ordinance for a period of at least thirty (30) years and thereafter until West Orange takes action by ordinance to release the unit from such requirements. Prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1.

- a. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- b. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the administrative agent shall determine the restricted price for the unit and shall also determine the non-restricted,

fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.

- a. At the time of the first sale of the unit, the initial purchaser shall execute and deliver to the administrative agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the requirements of this section, an amount equal to the difference between the unit's nonrestricted fair market value and its restricted price and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- b. All conveyances of restricted ownership units shall be made by deeds and restrictive covenants pursuant to N.J.A.C. 5:80-26.1.
- c. The affordability controls set forth in this section shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- d. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Municipal Building Inspector stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a).

25-18.10 Price Restrictions for Restricted Ownership Units, Homeowner Association Fees, and Resale Prices.

Price restrictions for restricted ownership units are pursuant to N.J.A.C. 5:80-26.1, including:

- a. The initial purchase price for a restricted ownership unit shall be approved by the administrative agent.
- b. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- c. The master deeds of affordable developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.
- d. The owners of restricted ownership units may apply to the administrative agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom.

25-18.11 Buyer Income Eligibility.

- a. Buyer income eligibility for ownership units is pursuant to N.J.A.C. 5:80-26.1, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to fifty (50%) percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than eighty (80%) percent of median income.
- b. Notwithstanding the foregoing, however, the administrative agent may, upon approval by the Township Council, and subject to the Court's approval, permit moderate-income purchasers to buy low-income units in housing markets if the administrative agent determines that there is an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate-income households shall retain the required pricing and pricing restrictions for low-income units.
- c. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the administrative agent may permit the owner of a restricted ownership unit, upon

application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one (1) year.

- d. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees as applicable) does not exceed thirty-three (33%) percent of the household's eligible monthly income.

25-18.12 Limitations on Indebtedness Secured by Ownership Unit; Subordination.

- a. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the administrative agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the administrative agent shall issue such determination prior to the owner incurring such indebtedness.
- b. With the exception of first purchase money mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed ninety five (95%) percent of the maximum allowable resale price of the unit, as such price is determined by the administrative agent in accordance with N.J.A.C. 5:80-26.6(b).

25-18.13 Capital Improvements to Ownership Unit.

- a. The owners of restricted ownership units may apply to the administrative agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that adds an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
- b. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the administrative agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to ten (10)-year, straight-line depreciation, has been approved by the administrative agent. Unless otherwise approved by the administrative agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

25-18.14 Control Period for Restricted Rental Units.

Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, and each restricted rental unit shall remain subject to the requirements of this section for a period of at least thirty (30) years and thereafter until West Orange takes action by ordinance to release the unit from such requirements, however, prior to such a municipal election, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.11. For new projects receiving nine percent low income housing tax credits, a control period of not less than a thirty (30) year compliance period plus a fifteen (15) year extended use period shall be required.

- a. Deeds of all real property that include restricted rental units shall contain deed restriction language, the deed restriction shall have priority over all mortgages on the property and the deed restriction shall be filed by the developer or seller with the records office of the county and a copy of the filed document shall be provided to the administrative agent within thirty (30) days of the receipt of a Certificate of Occupancy. Neither the unit nor its affordability designation shall change throughout the term of the deed restriction.
- b. A restricted rental unit shall remain subject to the affordability controls of this section, despite the occurrence of any of the following events:
 1. Sublease or assignment of the lease of the unit;
 2. Sale or other voluntary transfer of the ownership of the unit; or
 3. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

25-18.15 Rent Restrictions for Rental Units; Leases.

- a. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the administrative agent.
- b. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the administrative agent.
- c. Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the administrative agent to be applied to the costs of administering the controls applicable to the unit as set forth in this chapter.
- d. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least fifteen (15%) percent of the total number of dwelling units are restricted rental units in compliance with this chapter.

25-18.16 Tenant Income Eligibility.

Pursuant to N.J.A.C. 5:80-26.13, tenant income eligibility shall be determined as follows:

- a. Low-income rental units shall be reserved for households with a gross household income less than or equal to fifty (50%) percent of median income. Moderate-income rental units shall be reserved for households with a gross household income less than eighty (80%) percent of median income. Very-low-income rental units shall be reserved for households with a gross household income of thirty (30%) percent or less of median income.
- b. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed thirty-five (35%) percent (forty (40%) percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 1. The household currently pays more than thirty-five (35%) percent (forty (40%) percent for households eligible for age-restricted units) of its gross household income for rent and the proposed rent will reduce its housing costs;

2. The household has consistently paid more than thirty-five (35%) percent (forty (40%) percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 3. The household is currently in substandard or overcrowded living conditions;
 4. The household documents the existence of assets, with which the household proposes to supplement the rent payments; or
 5. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the administrative agent and the owner of the unit.
- c. The applicant shall file documentation sufficient to establish the existence of the circumstances in paragraph b. above with the Administrative Agent, who shall counsel the household on budgeting.

25-18.17 Municipal Housing Liaison.

- a. The Court requires West Orange to appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for administering its affordable housing program, including affordability controls and the Affirmative Marketing Plan, and, where applicable, supervising any Administrative Agent. West Orange adopted an ordinance creating the position of Municipal Housing Liaison. West Orange adopted a resolution on May 23, 2006 appointing a Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the Governing Body and may be a full or part time municipal employee.
- b. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for West Orange, including the following responsibilities which may not be contracted out, exclusive of paragraph 6 which may be contracted out:
 1. Serving as West Orange's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents, and interested households;
 2. Monitoring the status of all restricted units in West Orange's Fair Share Plan;
 3. Compiling, verifying, and submitting annual reports as required;
 4. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable;
 5. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered;
 6. If applicable, serving as the Administrative Agent for some or all of the restricted units in West Orange.

West Orange will contract with or authorize a consultant, authority, government or any agency charged by the Governing Body, which entity shall have the responsibility of administering the affordable housing program of West Orange, except for those responsibilities which may not be contracted out as described above. If West Orange will contract with another entity to administer all or any part of the affordable housing program, including the affordability controls and Affirmative Marketing Plan, the Municipal Housing Liaison shall supervise the contracting Administrative Agent.

25-18.18 Administrative Agent for West Orange's Affordable Housing Units.

The affordability controls set forth in this section shall be administered and enforced by the Administrative Agent. The primary responsibility of the Administrative Agent shall be to ensure

that the restricted units under administration are sold or rented, as applicable, only to low- and moderate-income households.

- a. The Administrative Agent shall create and shall publish in plain English, and in such other languages as may be appropriate to serving its client base, a written operating manual, setting forth procedures for administering such affordability controls, including procedures for long-term control of restricted units; for enforcing the covenants of N.J.A.C. 5:80-26.18 and for releasing restricted units promptly at the conclusion of applicable control periods. The Administrative Agent shall have authority to take all actions necessary and appropriate to carrying out its responsibilities hereunder. The operating manual shall have a separate and distinct chapter or section setting forth the process for identifying applicant households seeking certification to restricted units, for reviewing applicant household eligibility, and for certifying applicant households in accordance with the household certification and referral requirements set forth in N.J.A.C. 5:80-26.16.
- b. The Administrative Agent shall establish and maintain a ready database of applicant households as a referral source for certifications to restricted units, and shall establish written procedures to ensure that selection among applicant households be via the database, and in accordance with a uniformly applied random selection process and all applicable State and Federal laws relating to the confidentiality of applicant records.
- c. The municipality in which restricted units are located shall select one or more Administrative Agents for those units. A municipality itself (through a designated municipal employee, department, board, agency or committee) may elect to serve as the Administrative Agent for some or all restricted units in the municipality, or the municipality may select HAS or an experienced private entity approved by the Court to serve as Administrative Agent for some or all restricted units in the municipality. The foregoing approval by the Court is to be based on the private entity's demonstration of the ability to provide a continuing administrative responsibility for the length of the control period for the restricted units.
- d. The Administrative Agent shall have the authority to discharge and release any or all instruments, as set forth in this section, filed of record to establish affordability controls.

25-18.19 Affirmative Marketing.

The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer or sponsor of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward the COAH Housing Region in which the municipality is located and covers the period of deed restriction.

- a. The Administrative Agent shall assure the affirmative marketing of affordable units.
- b. If the municipality does not designate a municipal staff person, it shall contract with other experienced Administrative Agents approved by the Court to administer the affirmative marketing plan. Where a municipality contracts with another Administrative Agent to administer the affirmative marketing plan, the municipality shall appoint a Municipal Housing Liaison who shall supervise the contracting Administrative Agent. In addition, where the contracting Administrative Agent is not responsible for the entire affirmative marketing plan, the municipality shall outline who or what municipal agent is responsible for the remaining portion of the affirmative marketing plan. The municipality has the ultimate responsibility for the proper administration of the affirmative marketing program, including initial sales and rentals and resales and rerentals.

- c. In implementing the affirmative marketing plan, Administrative Agents shall designate an experienced staff person to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- d. The affirmative marketing plan shall describe the media to be used in advertising and publicizing the availability of housing. In developing the plan, the Administrative Agent shall consider the use of language translations.
- e. The affirmative marketing process for available affordable units shall begin at least four (4) months prior to expected occupancy.
- f. Applications for affordable housing shall be available in several locations, including, at a minimum, the county administrative building and/or the county library for each county within the housing region; the municipal administrative building(s) and the municipal library in the municipality in which the units are located; and the developer's sales office. Applications shall be mailed to prospective applicants upon request.
- g. The Court shall review and assess the effectiveness of West Orange's affirmative marketing program.

25-18.18 Household Certification and Referral; Related Project Information.

No household may be referred to a restricted unit, or may receive a commitment with respect to a restricted unit, unless that household has received a signed and dated certification and has executed a certificate.

- a. The sources of income considered by the Administrative Agent shall be the types of regular income reported to the Internal Revenue Service and which can be used for mortgage loan approval.
- b. If the applicant household owns a primary residence with no mortgage on the property valued at or above the regional asset limit as published annually, a certificate of eligibility shall be denied unless the applicant's existing monthly housing costs exceed thirty-eight (38%) percent of the household's eligible monthly income.
- c. The Administrative Agent shall employ a random selection process when referring households for certification to affordable units.

25-18.19 Enforcement of Affordable Housing Regulations.

By submitting to the jurisdiction of the Court, a municipality shall be deemed to have delegated to its Administrative Agent the day-to-day responsibility for implementing practices and procedures designed to ensure effective compliance with the controls set forth in this section. The municipality, however, shall retain the ultimate responsibility for ensuring effective compliance with this section.

- a. Administrative Agent practices and procedures shall include, but shall not necessarily be limited to, the following:
 - 1. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent.
 - 2. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates.
 - 3. The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent can be made.

4. If the unit is owner-occupied, that the unit may be resold only to a household that has been approved in advance and in writing by the Administrative Agent.
5. That no sale of the unit shall be lawful, unless approved in advance and in writing by the Administrative Agent, and that no sale shall be for a consideration greater than regulated maximum permitted resale price, as determined by the Administrative Agent.
6. That no refinancing, equity loan, secured letter of credit, or any other mortgage obligation or other debt secured by the unit may be incurred except as approved in advance and in writing by the Administrative Agent, and that at no time will the Administrative Agent approve any debt, if incurring the debt would make the total of all such debt exceed ninety-five (95%) percent of the then applicable maximum permitted resale price.
7. That the owner of the unit shall at all times maintain the unit as his or her principal place of residence, which shall be defined as residing at the unit at least two hundred sixty (260) days out of each calendar year.
8. That, except as set forth in N.J.A.C. 5:80-26.18(c)4vii, at no time shall the owner of the unit lease or rent the unit to any person or persons, except on a short-term hardship basis, as approved in advance and in writing by the Administrative Agent.
9. That the maximum permitted rent chargeable to affordable tenants is as stated in the notice required to be posted in accordance with N.J.A.C. 5:80-26.18(d)3, a copy of which shall be enclosed, and that copies of all leases for affordable rental units must be submitted annually to the Administrative Agent.
10. No individual or owner shall permit any bank or other lending institution from issuing any loan secured by the real property subject to the affordability controls set forth in this section, if such loan would be in excess of amounts permitted by the restriction documents recorded in the deed or mortgage book in the County in which the property is located.

25-18.20 Appeals.

Appeals from all decisions of an Administrative Agent appointed pursuant to this ordinance shall be filed in writing with the Court.

25-18.21 Reporting Requirements.

a. *Trust Fund Activity.*

On the first anniversary of the entry of the order granting West Orange a final judgment of compliance and repose in In re Township of West Orange Compliance with Mount Laurel Third Round Affordable Housing Obligation, and every anniversary thereafter through the end of the repose period, the Township shall provide annual reporting of its affordable housing trust fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing or Division of Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Division of Local Government Services. The reporting shall include an accounting of all affordable housing trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

b. *Affordable Housing Activity.*

On the first anniversary of the entry of the order granting West Orange a final judgment of compliance and repose in In re Township of West Orange Compliance with Mount Laurel

Third Round Affordable Housing Obligation, and every anniversary thereafter through the end of the repose period, the Township shall provide annual reporting of the status of all affordable housing activity within the Township through posting on the municipal website, with copies provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the court-appointed special master and Fair Share Housing Center.

c. *Very Low Income Housing.*

For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of the entry of the order granting West Orange a final judgment of compliance and repose in *In re Township of West Orange Compliance with Mount Laurel Third Round Affordable Housing Obligation*, and every third year thereafter, the Township will post on its municipal website, with copies provided to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements, including the family very low-income requirements referenced herein. Such posting shall invite any interested party to submit comments to the Township, with copies provided to Fair Share Housing Center, on the issue of whether the Township has complied with its very low-income housing obligation.

25-18.22 Development Fees.

a. *Purpose.*

1. In Holmdel Builder's Association V. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.
2. Pursuant to P.L. 2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of a court of competent jurisdiction and have an approved spending plan may retain fees collected from nonresidential development.
3. In Re: Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015), also known as the Mount Laurel IV decision, the Supreme Court remanded COAH's duties to the Superior Court. As a result, affordable housing development fee collections and expenditures from the municipal affordable housing trust funds to implement municipal Third Round Fair Share Plans through July 1, 2025 are under the Court's jurisdiction and are subject to approval by the Court.
4. This subsection establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L. 2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this subsection shall be used for the sole purpose of providing low- and moderate-income housing. This subsection shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

b. *Basic Requirements.*

1. This subsection shall not be effective until approved by the Court pursuant to N.J.A.C. 5:96-5.1.

2. The Township of West Orange shall not spend development fees until the Court has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.
- c. *Definitions.* The following terms, as used in this subsection, shall have the following meanings:

Affordable housing development shall mean a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a one hundred (100%) percent affordable development.

COAH or the *Council* shall mean the New Jersey Council on Affordable Housing established under the Act which had primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.

Developer shall mean the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

Development fee shall mean money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.

Equalized assessed value shall mean the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).

Green building strategies shall mean those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

- d. *Residential Development Fees.*

1. *Imposed Fees.*

- (a) Within all residential district(s), residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and one-half (1 1/2%) percent of the equalized assessed value for residential development provided no increased density is permitted.
- (b) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of six (6%) percent of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four (4) units to be constructed on a site that was zoned for two (2) units, the fees could equal one and one-half (1 1/2%) percent of the equalized assessed value on the first two (2) units; and the specified higher percentage up to six (6%) percent of the equalized assessed value for the two (2) additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

2. Eligible Exactions, Ineligible Exactions and Exemptions for Residential Development.
 - (a) Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
 - (b) Developers of low- and moderate-income units shall be exempt from paying development fees.
 - (c) Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
 - (d) All single-family residential additions, renovations and accessory structures shall be exempt; however, all new residential dwelling units shall be subject to a development fee.
 - (e) All multi-family additions, renovations and accessory structures not requiring site plan approval shall be exempt; however, all new residential dwelling units shall be subject to a development fee.
 - (f) Homes replaced as a result of a natural disaster (such as fire or flood) shall be exempted from the payment of a development fee.
- e. *Nonresidential Development Fees.*
 1. Imposed Fees.
 - (a) Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5%) percent of the equalized assessed value of the land and improvements, for all new nonresidential construction on an unimproved lot or lots.
 - (b) Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5%) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.
 - (c) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and one-half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.
 2. Eligible Exactions, Ineligible Exactions and Exemptions for Nonresidential Development.
 - (a) The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the two and one-half (2.5%) percent development fee, unless otherwise exempted below.
 - (b) The two and one-half (2.5%) percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
 - (c) Nonresidential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to

P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.

- (d) A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L. 2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three (3) years after that event or after the issuance of the final Certificate of Occupancy of the nonresidential development, whichever is later.
- (e) If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this subsection within forty-five (45) days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Township of West Orange as a lien against the real property of the owner.

f. *Collection Procedures.*

1. Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the Construction Official responsible for the issuance of a building permit.
2. For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a nonresidential development shall complete Form N-RDF as per instructions provided. The Construction Official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
3. The Construction Official responsible for the issuance of a building permit shall notify the local Tax Assessor of the issuance of the first building permit for a development which is subject to a development fee.
4. Within ninety (90) days of receipt of that notice, the Municipal Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
5. The Construction Official responsible for the issuance of a final Certificate of Occupancy notifies the local Assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
6. Within ten (10) business days of a request for the scheduling of a final inspection, the Municipal Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
7. Should the Township of West Orange fail to determine or notify the developer of the amount of the development fee within ten (10) business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L. 2008, c.46 (C.40:55D-8.6).
8. Fifty (50%) percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the Certificate of Occupancy. The developer shall be responsible for paying the difference

between the fee calculated at building permit and that determined at issuance of Certificate of Occupancy.

9. Appeal of Development Fees.

- (a) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Township of West Orange. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within ninety (90) days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
- (b) A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within forty-five (45) days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Township of West Orange. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within ninety (90) days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

g. *Affordable Housing Trust Fund.*

- 1. There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
- 2. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - (a) Payments in lieu of on-site construction of affordable units;
 - (b) Developer contributed funds to make ten (10%) percent of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - (c) Rental income from municipally operated units;
 - (d) Repayments from affordable housing program loans;
 - (e) Recapture funds;
 - (f) Proceeds from the sale of affordable units; and
 - (g) Any other funds collected in connection with the Township of West Orange's affordable housing program.
- 3. In the event of a failure by the Township of West Orange to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in In re Tp. of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be

expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Township of West Orange, or, if not practicable, then within the County or the Housing Region.

Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.

4. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by the Court.

h. *Use of Funds.*

1. The expenditure of all funds shall conform to a spending plan approved by the Court. Funds deposited in the housing trust fund may be used for any activity approved by the Court to address the Township of West Orange's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing nonresidential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or State standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.
2. Funds shall not be expended to reimburse the Township of West Orange for past housing activities.
3. At least thirty (30%) percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third (1/3) of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning thirty (30%) percent or less of median income by region.
 - (a) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.
 - (b) Affordability assistance to households earning thirty (30%) percent or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning thirty (30%) percent or less of median income.
 - (c) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

4. Township of West Orange may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
5. No more than twenty (20%) percent of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than twenty (20%) percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with monitoring requirements.
 - i. *Monitoring.* The Township of West Orange shall complete all monitoring forms included in monitoring requirements related to the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Township of West Orange's housing program, as well as to the expenditure of revenues and implementation of the plan approved by the Court. All monitoring reports shall be completed on designated forms.
 - j. *Ongoing Collection of Fees.* The ability for the Township of West Orange to impose, collect and expend development fees shall expire with its judgment of compliance and repose unless the Township of West Orange has filed an adopted Housing Element and Fair Share Plan with the Court or other appropriate jurisdiction, has filed a Declaratory Judgment action, and has received Court approval of its development fee ordinance. If the Township of West Orange fails to renew its ability to impose and collect development fees prior to the expiration of its judgment of compliance and repose, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L. 1985, c.222 (C.52:27D-320). The Township of West Orange shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its judgment of compliance and repose, nor shall the Township of West Orange retroactively impose a development fee on such a development. The Township of West Orange shall not expend development fees after the expiration of its judgment of compliance and repose.

25-18.23 Inclusionary Housing Requirements for Multifamily Residential Developments

Any multifamily residential development consisting of five or more dwelling units shall produce low- and moderate-income housing on-site or elsewhere in the Township. The number of affordable units to be provided shall be 20 percent of the residential units in the development. The provisions of this section shall not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwellings of five or more.

Section 2. Chapter XXV Land Use Regulations is hereby amended and supplemented

by adding the following sections:

25-20 IHO-1 (INCLUSIONARY HOUSING OVERLAY) DISTRICT

- a. Purpose

The purpose of the IHO-1 District is to provide for inclusionary development that contributes to the region's fair share of affordable housing, in accordance with a court settlement agreement which outlines provisions for same.

b. Description of Zone Boundary

The zone boundary of the IHO-1 District shall encompass the entirety of the properties identified as Block 152.01, Lots 1445, 1445.01 and 1445.05. The municipal zone map is hereby amended to reflect same.

c. Use Regulations

1. Permitted Principal Uses. In addition to any principal or conditional use permitted in the underlying zone district, mixed-use development shall be permitted. Permitted uses on the first story of a mixed-use development shall include the following: retail store, personal service store or studio, office, business or vocational school, restaurant, and bar. Dwelling units in a mixed-use development shall only be permitted above the first story. Multiple principal buildings and/or uses shall be permitted on a single lot.
2. Permitted Accessory Uses. In addition to any accessory use permitted in the underlying zone district, any use that is customarily incidental to a mixed-use development shall be permitted. Examples include, but are not limited to, residential amenities and accessory uses such as leasing and management offices.

d. Bulk Regulations

1. The bulk regulations for any principal or conditional use permitted in the underlying zone district shall be the applicable bulk regulations for the underlying zone district.
2. The bulk regulations for mixed-use development shall be as follows:
 - (a) Minimum Lot Area: 60,000 square feet
 - (b) Minimum Lot Frontage: 200 feet
 - (c) Minimum Front Yard Setback: 50 feet
 - (d) Minimum Side Yard Setback: 75 feet
 - (e) Minimum Rear Yard Setback: 100 feet
 - (f) Maximum Building Coverage: 40%
 - (g) Maximum Impervious Coverage: 65%
 - (e) Maximum Building Height: 4 stories/48 feet
 - (f) Maximum Gross Residential Density: 16 dwelling units/acre
3. Building Height and Stories

The standards set forth below shall supersede any regulation to the contrary in the West Orange Land Use Regulations Ordinance:

- (a) The building height shall be the vertical distance measured from the mean elevation of the finished grade adjacent to the building foundation to the roof line elevation of a flat roof, or the midpoint elevation of a pitched roof.
- (b) Rooftop amenities and rooftop features shall not be considered a story or fractional portion thereof.
- (c) Architectural roof design features such as attics, mansards, parapets, cupolas, and other similar architectural design features and/or appurtenances shall not be considered a story or fractional portion thereof.

e. Parking Regulations

1. Residential portion of a mixed-use development. Off-street parking for residential uses shall be provided in accordance with the requirements of Parking Schedule I in Subsection 25-12.2a.1.
2. Nonresidential uses. Off-street parking for nonresidential uses shall be provided in accordance with the requirements of Parking Schedule II in Subsection 25-12.2b.1.

f. Affordable Housing Requirements

1. Low- and moderate-income dwelling units shall be provided in accordance with this subsection. The minimum affordable housing set-aside shall be 20 percent of the dwelling units in the development. Of these, at least half must be reserved for, and affordable to, low-income households. A minimum of 13 percent of the affordable units shall be affordable to households earning 30 percent or less of the area median income for the Council on Affordable Housing region. Low- and moderate-income housing units shall be governed by the standards set forth in the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq., and shall comply with the applicable rules of the Council on Affordable Housing and any other relevant state regulations. All development including affordable dwelling units shall also be subject to Section 25-18 Affordable Housing; Low/Moderate Housing Provisions of the Township of West Orange Land Use Regulations Ordinance.
2. The minimum unit sizes for the affordable units shall be as follows, except if the square footage of the market rate units is smaller than the minimum square footage of the affordable units, then the affordable units shall be the same size as the market rate units:
 - (a) One-bedroom 650 square feet
 - (b) Two-bedroom 875 square feet
 - (c) Three-bedroom 1,150 square feet

25-21 IHO-2 (INCLUSIONARY HOUSING OVERLAY) DISTRICT

a. Purpose

The purpose of the IHO-2 District is to provide for inclusionary development that contributes to the region's fair share of affordable housing, in accordance with a court settlement agreement which outlines provisions for same.

b. Description of Zone Boundary

The zone boundary of the IHO-2 District shall encompass the entirety of the property identified as Block 151, Lot 33. The municipal zone map is hereby amended to reflect same.

c. Use Regulations

1. Permitted Principal Uses. In addition to any principal or conditional use permitted in the underlying zone district, multifamily residential development shall be permitted.
2. Permitted Accessory Uses. In addition to any accessory use permitted in the underlying zone district, any use that is customarily incidental to a multifamily residential development shall be permitted. Examples include, but are not limited to, residential amenities and accessory uses such as leasing and management offices.

d. Bulk Regulations

1. The bulk regulations for any principal or conditional use permitted in the underlying zone district shall be the applicable bulk regulations for the underlying zone district.
2. The bulk regulations for multifamily residential development shall be as follows:
 - (a) Minimum Lot Area: five acres
 - (b) Minimum Building Setback from Any Property Line: 50 feet, plus one additional foot for each foot of building height above 50 feet
 - (c) Maximum Building Coverage: 35%
 - (d) Maximum Impervious Coverage: 75%
 - (e) Maximum Building Height: 5 ½ stories/65 feet
 - (f) Maximum Gross Residential Density: 24 dwelling units/acre, rounded up to a maximum of 142 dwelling units with (a) 28 on-site affordable housing units and a payment in lieu of \$59,473.20 or (b) 29 on-site affordable housing units.
3. Building Height and Stories

The standards set forth below shall supersede any regulation to the contrary in the West Orange Land Use Regulations Ordinance:

 - (a) The building height shall be the vertical distance measured from the mean elevation of the finished grade adjacent to the building foundation to the roof line elevation of a flat roof, or the midpoint elevation of a pitched roof.
 - (b) Rooftop amenities and rooftop features shall not be considered a story or fractional portion thereof.
 - (c) Architectural roof design features such as attics, mansards, parapets, cupolas, and other similar architectural design features and/or appurtenances shall not be considered a story or fractional portion thereof.
- e. Other Regulations
 1. Tree removal on slopes of 15% or greater shall only be permitted to allow for pedestrian access.
 2. A maximum of two development identification signs shall be permitted as follows:

At development entrance, with maximum area of 75 square feet (per side)

At parking lot, with maximum area of 55 square feet (one side only)
- f. Parking Regulations. Off-street parking for residential uses shall be provided in accordance with the requirements of Parking Schedule I in Subsection 25-12.2a.1.
- g. Affordable Housing Requirements
 1. Low- and moderate-income dwelling units shall be provided in accordance with this subsection. The minimum affordable housing set-aside shall be 20 percent of the dwelling units in the development. Of these, at least half must be reserved for, and affordable to, low-income households. A minimum of 13 percent of the affordable units shall be affordable to households earning 30 percent or less of the area median income for the Council on Affordable Housing region. Low- and moderate-income housing units shall be governed by the standards set forth in the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq., and shall comply with the applicable rules of the Council on Affordable Housing and any other relevant state regulations. All development including affordable dwelling units shall also be subject to Section 25-18

Affordable Housing; Low/Moderate Housing Provisions of the Township of West Orange Land Use Regulations Ordinance.

2. The minimum unit sizes for the affordable units shall be as follows, except if the square footage of the market rate units is smaller than the minimum square footage of the affordable units, then the affordable units shall be the same size as the market rate units:
 - (a) One-bedroom 650 square feet
 - (b) Two-bedroom 875 square feet
 - (c) Three-bedroom 1,150 square feet

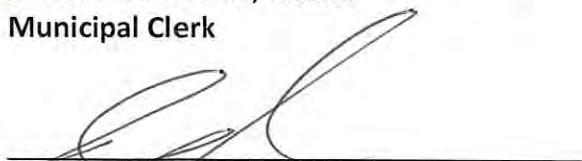
Section 3. If any provision of this Ordinance or application thereof, under any circumstances, is held invalid, the invalidity shall not affect any other provisions or applications of this Ordinance that can be given effect without the invalid provision(s) or application(s) and to this end the provisions of this Ordinance are severable.

Section 4. All other Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed.

Section 5. This Ordinance shall take effect upon final passage and publication in accordance with law.


Karen J. Carnevale, R.M.C.
Municipal Clerk


Michelle Casalino
Council President


Robert D. Parisi, Mayor

Introduced: October 6, 2020

Adopted: October 20, 2020

LEGISLATIVE HISTORY

This Ordinance is presented pursuant to the Affordable Housing Settlement Agreement with Fair Share Housing Center approved by the Township Council on April 14, 2020. The Superior Court of New Jersey confirmed the Settlement Agreement on July 10, 2020.

APPENDIX I

25 Tompkins Street Site Documentation

Resolution
Township of West Orange
Planning Board
In the Matter of Tompkins Street Apartments Urban Renewal, LLC
Tompkins Street; Block 6, Lot: 36.01; R-M Zone
Application #PB-21-04
Decided on May 5, 2021
Memorialized on June 2, 2021
Preliminary and Final Major Site Plan and Variance Approval

WHEREAS, Tompkins Street Apartments Urban Renewal, LLC (hereinafter the "Applicant") has made an application for preliminary and final major site plan approval with variances to construct a 17-unit multifamily residential building on a vacant lot owned by the Township of West Orange (the "Township"); and

WHEREAS, a public hearing was conducted on May 5, 2021; and

WHEREAS, the Applicant was represented by William C. Sullivan, Jr., Esq.; and

WHEREAS, the Applicant provided testimony by Mary Johannesen, a professional architect whose credentials were accepted by the Board, David Eareckson, a professional engineer whose credentials were accepted by the Board, Joseph Alpert, the proposed developer and Charles Heydt, a professional planner whose credentials were accepted by the Board; and

WHEREAS, the Applicant submitted the following documents to the Board in the form of the application package:

Item	Signed By	Date/Revision
Boundary and Topographic Survey	Frank J. Barlowski, P.L.S.	9/14/20
Site Plan (10 sheets)	Sean M. Savage, P.E.	3/12/21
Architectural Plans (2 sheets)	Stephen L. Schoch, A.I.A.	3/10/21
Architectural Renderings (1 sheet)	Unsigned-Kitchen & Associates	12/16/20
Justification of Variances report	Unsigned- Dresdner Robin	4/27/21

WHEREAS, representatives of the public had an opportunity to ask questions of the witnesses and had an opportunity to offer statements in regard to the application; and

WHEREAS, the Board reviewed and considered the application, testimony and documents submitted therewith; and

WHEREAS, the Board also considered the input of its professionals at the hearing and in written reports; and

WHEREAS, the Board also considered the input of the Site Plan Advisory Review Board which held a virtual meeting with the Applicant and his professionals on April 20, 2021.

NOW THEREFORE, the Board makes the following findings of fact, based upon the evidence presented at its public hearing, at which a record was made.

1. The Applicant is requesting approvals to construct a 17-unit multifamily residential building on a vacant lot previously owned by the Township. The proposed development will consist solely of low- and moderate-income units, which will address the affordable housing obligation for a recently approved multifamily development at 18 Central Avenue. The subject property is in the R-M zone district. The proposal is consistent with the permitted uses and most bulk and design regulations but requires variances from certain requirements.

2. The application requires preliminary and final major site plan approval and variance approval.

3. The application requires the following variances:

Bulk Standard	Required	Proposed
25-7.1 Max. building height	2.5 stories/35 feet	3 stories/38 feet
25-7.1 Min. rear yard	30 ft.	13.9 ft.
25-7.1 Max. building coverage	40%	45.3%
25-7.1 Max. lot coverage	55%	57.9%
25-12.2a.1 Min. parking spaces	35	0

4. The subject property consists of one tax lot with an area of 14,787.39 square feet (0.34 acres). It is located on the west side of Tompkins Street. The site is currently vacant and is owned by the Township.

5. There are a mix of land uses in the surrounding area. These include single-, two- and multifamily residential uses along Tompkins and Mitchell Streets, vacant lots and commercial uses. The somewhat recently constructed Harvard Printing multifamily residential development is located approximately 250 feet to the north on Mitchell Street and the Planning Board recently approved a mixed-use development just to the west of Harvard Printing at 18 Central Avenue. The developer of the Harvard Printing and the 18 Central projects is a related entity to the applicant for the subject property.

6. New Jersey Transit's Highland Avenue railroad station is three blocks to the east along Mitchell Street. Bus stops are located on Scotland Road and Central Avenue approximately five blocks to the northeast. Central Avenue is an Essex County road (Route 508). There are sidewalks on both sides of Tompkins Street.

7. The Applicant is proposing to construct a three-story multifamily residential building with 17 dwelling units. The ground floor is proposed to include five dwelling units and a management office. Six units per floor are proposed on the second and third stories of the building. The breakdown of unit types is three one-bedroom units, 10 two-bedroom units and four three-bedroom units. The bedroom distribution is dictated by New Jersey's Uniform Housing Affordability Controls (UHAC), which set a minimum of 20 percent three-bedroom units and a maximum of 20 percent one-bedroom units.

8. Access to the units in the front third of the building, as well as the management office, will be provided by a front entrance. The remaining units will be accessed by an entrance on the north side of the building. An additional door is proposed on the south side of the building, which will provide access to a fenced-in area including a trash area. Exterior doors accessing the electrical and water meter rooms are proposed in this area as well. A freestanding mailbox for tenants is proposed in the front yard area. Two existing driveway aprons along the street will be replaced by Belgian block curbing.

9. The building's design is more in keeping with the low-rise residential character of the surrounding properties than the design of the developments on Central Avenue constructed or proposed by related entities of the applicant. Brick will be provided on the base of the façade as well as up to the top of the second floor in some other locations on the building. Horizontal siding and cedar shake siding will clad the rest of the building below the roof line. The building will have double hung windows and a pitched roof.

10. No on-site parking spaces are proposed. Instead, one space per unit in this building is reserved in the parking lot of the recently approved multifamily development at 18 Central Avenue.

11. The application materials list the correct block and lot number but have the incorrect street address (20 Tompkins Street is an existing dwelling on the east side of the street). The applicant will revise the application materials to remove the incorrect information. A street number will need to be provided for the subject property.

12. The quality of the units will be very comparable to the Harvard Printing development and the recently approved 18 Central Avenue project. The building will be fully sprinklered.

13. The first-floor entrances will be ADA accessible and one ADA accessible unit will be provided.

14. The applicant stated that trash will be picked up by the publicly contracted hauler but a private hauler will be contracted to provide additional service if necessary, similar to the arrangement for the Harvard Printing site and as approved by the Board for the new Central Avenue project.

15. The public was afforded an opportunity to ask questions of witnesses and offer testimony on the application.

NOW, THEREFORE, based upon the foregoing findings of fact, the Board reaches the following conclusions of law.

1. This application requires the following bulk "c" variances, as well as preliminary and final major site plan approval:

Bulk Standard	Required	Proposed
25-7.1 Max. building height	2.5 stories/35 feet	3 stories/38 feet
25-7.1 Min. rear yard	30 ft.	13.9 ft.
25-7.1 Max. building coverage	40%	45.3%
25-7.1 Max. lot coverage	55%	57.9%
25-12.2a.1 Min. parking spaces	35	0

2. The Municipal Land Use Law, at N.J.S.A. 40:55D-70(c) provides Boards with the power to grant variances from bulk and other Ordinance requirements when the Applicant satisfies certain specific proofs which are enunciated in the statute.
3. Under the (c)(2) criteria, the Applicant must demonstrate that in a particular instance relating to a specific piece of property, the purposes of the Act would be advanced by allowing a deviation from the Zoning Ordinance requirements and that the benefits of any deviation will substantially outweigh any detriment.
4. These tests specifically enumerated above constitute the affirmative proofs necessary in order to obtain "bulk" variance relief, under Section (c)(2).
5. Also, an applicant for these variances must show that the proposed relief sought will not cause a substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance. The burden of proof is upon the Applicant to establish that these criteria have been met.
6. The proposed project is developing a vacant parcel with 17 affordable units within walking distance to the Highland Avenue New Jersey Transit Rail Station.
7. The proposed affordable housing will contribute to the diversity of housing options available for the community.
8. The project proposes a building height of 38 feet and 3 stories where the R-M District permits a maximum building height of 35 feet and 2.5 stories. The subject property is to be developed with comfortably sized units with approximately 650 net square feet for 1-bedrooms, 870 net square feet for 2-bedrooms and 1,148 net square feet for 3-bedroom units. These units sizes are consistent with New Jersey's Uniform Housing Affordability Controls (UHAC). The additional height is necessary for a full third story for the structure to accommodate 17 residential units. The proposed building height is in character with developments in the surrounding area. This includes the adjacent property at 9-21

Tompkins Street that is improved with a 3-story, multi-unit residential building. In addition, several other properties along Tompkins Street (1 Tompkins Street, 3 Tompkins Street, 35 Tompkins Street, and 37 Tompkins Street), as well as existing and proposed residential developments on Central Avenue, are developed with 3-story buildings. From an aesthetic standpoint, the proposed facades incorporate various elements (peaked roof, projections, etc.) and materials (vinyl siding, cedar shake, etc.) to provide architectural interest. Therefore, the proposed project is consistent with the height of the adjacent residential development, in similar character to the buildings in the area, and design of the roof lines providing for a desirable streetscape.

9. The proposed project does not provide any off-street parking spaces where a minimum of 35 parking spaces are required. The project will instead use a shared parking system with a project recently approved for development on Central Avenue and Mitchell Street. The project on Central Avenue will provide 17 spaces at a 1:1 ratio to future residents of the project proposed at the subject property.
10. Field data was gathered to analyze existing residential parking utilization and understand future parking demand for the proposed multi-family project. Both on-street and off-street parking spaces at various locations in the neighborhood and at different days of week and times of day were counted. The on-street parallel parking spaces along the northbound and southbound sides of Tompkins Street between Mitchell Street and Freeman Street, and the off-street parking spaces at the Harvard Printing I parking deck at the corner of South Jefferson Street and Mitchell Street and the off-street covered and surface and covered parking spaces for the Harvard Printing II development along Central Avenue were included in the analysis. The following provide the summary utilization rates: • Weekday morning (4/23 7:00am): 54% • Weekend afternoon (4/24 3:00pm): 40% • Weekday evening (4/26 8:00pm): 53%. As evidenced from the analysis, the surrounding area has a surplus of parking spaces.
11. According to 2019 American Community Survey 5-year estimates, 68% of renter-occupied households have either one (45.6%) or zero (22.7%) vehicles available in their household for West Orange Township. Based on data from the Institute of Transportation Engineer's Parking Generation, 5th Edition, the 85th percentile peak period parking demand for "Multifamily Housing (low-rise)" is 1.52 vehicle per dwelling unit during the weekday peak period and 1.61 vehicles per dwelling unit during the Saturday peak period. This equates to a weekday peak period demand of 26 vehicles and a weekend peak period of 27 vehicles. As evidenced from the aforementioned analysis, the residents of the existing Harvard Printing I and II multi-family developments have a lower demand for off-street parking. This further supports the parking variance as the 17 proposed off-site parking spaces will be sufficient supply for the anticipated demand of the proposed 17 units.
12. The project is proposing a building coverage of 45.3% where a maximum building coverage of 40% is permitted. The proposed building coverage exceeds the permitted amount by 5.3%. The proposed building footprint is suitable to provide for appropriately sized 1-, 2- and 3-bedroom units. The proposed project meets the front and side yard

setback requirements, exceeding the total side yard requirement by over 10 feet, thus mitigating any impacts to adjacent properties from the increase in building coverage.

13. In terms of the maximum lot coverage, the project is seeking relief for the proposed 57.9% lot coverage where a maximum of 55% is permitted. The proposed building design provides access to the front using from the front entrance on Tompkins Street, and access to the units in the rear of the building from a separate side entrance and walkway from the north side yard. The proposed side entry will be at-grade allowing for ADA access to the units in the rear of the building. In addition, there is a walkway in the south side yard that leads to an opposite side entrance from the south side yard where the proposed trash area is located. The proposed project provides landscaped areas throughout the property except for the necessary walkways to accommodate the additional coverage and provides two new street trees.
14. In terms of the minimum rear yard setback, the project is seeking relief for the proposed 13.9-foot rear yard setback where a minimum of 30 feet is required. The rear yard of the subject property abuts the rear yard of Lots 16 and 18 that front onto Valley Road, which are in the Retail Business (B-1) District. Lot 18 is developed with a mixed-use building and Lot 16 is developed with a residential building. The rear of the proposed building is stepped down to 2 stories compared to the majority of the building with 3 stories. This design further reduces impacts from the rear yard variance on the adjacent property. In addition, the project is proposing a vinyl-fence surrounding the property to buffer the two properties. The benefits of the increased side yard setback providing for greater light and air between the adjacent residential properties would substantially outweigh the reduced rear yard setback adjacent to the B-1 District properties.
15. Granting the requested variances will guide the appropriate use and development of the property in a manner that will promote the public health, safety, and general welfare consistent with N.J.S.A. 40:55D2.c through the provision of adequate light, air, and open space.
16. The project is proposing a permitted density in the R-M District, and therefore is promoting the establishment of appropriate population densities and concentrations that will contribute to the wellbeing of persons, neighborhoods, communities; consistent with N.J.S.A. 40:55D-2.e.
17. The proposed project will promote a more desirable visual development techniques consistent with N.J.S.A. 40:55D-2.i. by developing the vacant lot with a new multi-unit affordable building that will improve the streetscape.
18. Granting the variances will not result in a detriment to the general welfare. The project will be improving a vacant lot. The proposed project will provide for adequate light, air, and open space. The architectural style of the proposed building is consistent with the adjacent residential development and the character of the neighborhood. The proposed project will add new street trees.

19. In addition, granting the variances will not result in substantial impairment to the zone plan or the zoning ordinance. The proposed building is a permitted use and will comply with front yard setback and exceeds the side yard setbacks required in the zone.
20. The requested variances are justified and meet the positive and negative proof standards and therefore can be granted.

NOW THEREFORE be it resolved by the Planning Board of the Township of West Orange that the application of Tompkins Street Apartments Urban Renewal, LLC for property located at Tompkins Street; Block 6, Lot: 36.01; R-M Zone, is determined as follows:

1. The Board grants the following bulk variance relief pursuant to N.J.S.A. 40:55D-(c)(2):

Bulk Standard	Required	Proposed
25-7.1 Max. building height	2.5 stories/35 feet	3 stories/38 feet
25-7.1 Min. rear yard	30 ft.	13.9 ft.
25-7.1 Max. building coverage	40%	45.3%
25-7.1 Max. lot coverage	55%	57.9%
25-12.2a.1 Min. parking spaces	35	0

2. Preliminary and final site plan approval is granted pursuant to N.J.S.A. 40:55D-46 and 50.

AND IT IS FURTHER RESOLVED that the above approval is subject to the following terms and conditions:

1. The Applicant shall comply with all applicable Township, County, State and Federal laws, ordinances, regulations and directives, including without limitation, obtaining all applicable local, state and federal approvals and/or permits. Without limitation of the foregoing, prior to the signing of the approved site plans, and prior to the commencement of any land disturbance or construction, the Applicant shall submit to this Board, with a copy to the Board Engineer, proof that it has obtained all required governmental approvals.
2. If another governmental entity or agency grants a waiver or variance affecting the plans and/or exhibits submitted by the Applicant, this approval or the conditions attached to it, then the Applicant shall re-apply to this Board respecting the same and this Board shall have the right to view that issue as it relates to this approval and these conditions and modify and amend same, if appropriate.
3. In the event that any other required regulatory approval conflicts with the terms and conditions hereof, or materially alters the same, or the terms and conditions hereof are materially altered by any change in applicable law or regulation other than those municipal regulations for which change is prohibited by the Municipal Land Use Law (MLUL), or in the event Applicant or its

successors or assigns construct or attempt to construct any improvement in conflict with or in violation of the terms of this approval, the Board hereby reserves the right to withdraw, amend or supplant the instant approval.

4. All construction, use and development of the property shall be in conformance with the plans approved herein, all representations of the Applicant and its witnesses during the public hearing, all exhibits introduced by the Applicant, and all terms and conditions of this resolution.

5. The Applicant shall pay all outstanding taxes, tax liens, application fees and technical review fees, as well as any inspection fees that may be required hereunder. The Applicant shall pay any additional fees or escrow deposits which may be due and owing within thirty (30) days of notification or this approval shall be deemed withdrawn.

6. All notes included in the approved plans, including notes required by this Resolution, shall be deemed conditions of approval having the same force and effect as conditions expressly set forth in this Resolution.

7. Applicant shall list all conditions of approval onto final site plan submission.

8. Applicant shall obtain all necessary approvals pertaining to water and sewer utilities and soil conservation districts.

9. Applicant shall comply with all recommendations found in the 4/29/21 letter of the Board's Engineer, excepting the differences that were addressed at the public hearing with respect to Sections 22 and 23; specifically, that landscaped screening shall not be provided on the west side of the building, and that mulch will be provided in lieu of the ground cover identified in section 23.

10. Applicant shall provide for an additional Electric Vehicle Charging station if necessary and appropriate.

11. Applicant shall comply with all comments and recommendations with the Planning Director's Memorandum dated April 29, 2021.

12. Applicant shall lower the height of the outdoor lighting fixtures to seven (7) feet.

13. Applicant shall work in good faith with the Township in order to supply a handicap parking spot on Tompkins Street.

14. Applicant shall comply with all commitments made in its sustainability checklist submission.

15. Applicant shall work with the Township to supply a street address for the project and thereafter provide a street address sign in accordance with the Township's Ordinances.

16. Applicant shall provide a rain barrel for watering on site.

17. Applicant shall provide clear signage with respect to the location of the water connection service room vault and shutoff valve.

18. Applicant shall work with the Township's Engineer and public safety officials as to whether an appropriate loading space can be designated in the street in front of the building.

19. Applicant shall ensure that trash is picked up in an adequate manner.

20. Applicant shall address all future needs for additional parking by providing such parking at appropriate locations within walking distance of the subject property.

21. Applicant shall record appropriate deed notice(s)/easement(s)/right(s) of way with respect to all parking arrangements between the Township and the Applicant concerning separate property.

The undersigned secretary certifies the decisions set forth herein was made by this Board on May 5, 2021 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on June 2, 2021.


Diana L. Chandler, Acting Board Secretary

Vote on Action Taken by the Board on May 5, 2021

BOARD MEMBER	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Bagoff (Ch.)	x		x			
Guarino		x	x			
Johnson						x
Trenk						x
Smeraldo			x			
Klein			x			
McCartney			x			
McNair			x			
Wilkes (V.Ch)			x			

Vote on Memorialization on June 2, 2021:

BOARD MEMBER	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Bagoff (Ch.)	x					
Guarino		x	x			
Johnson					x	
Trenk					x	
Smeraldo			x			
Klein			x			
McCartney			x			
McNair			x			
Wilkes (V.Ch)						x

APPENDIX J

Stonehill Site Documentation

Township of West Orange
66 Main Street
West Orange, NJ 07052
973-3254112

Block: 155 Lot : 42.02 Qualification Code: _____

Work Site Location: 1000 EXECUTIVE DRIVE

WEST ORANGE

Owner in Fee: GREEN ESSEX PARTNERS

Address: 1000 EXECUTIVE DRIVE

WEST ORANGE NJ 07052

Telephone: 973 640-0973

Agent/Contractor: BUILDERS AT ESSEX GREEN

Address: 16 MIROLAB ROAD

LIVINGSTON NJ 07039

Telephone: 973 640-0973

Lic. No./ Bldrs. Reg.No.: 87-260447 Federal Emp. No.: _____

☒ **CERTIFICATE OF OCCUPANCY**

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

☐ **CERTIFICATE OF APPROVAL**

This serves notice that the work completed has been constructed or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of inspection.

☐ **TEMPORARY CERTIFICATE OF OCCUPANCY/COMPLIANCE**

If this is a temporary Certificate of Occupancy or Compliance, the following conditions must be met no later than _____ or will be subject to fine or order to vacate:

CERTIFICATE IDENTIFICATION

Date Issued: 12/12/2024
Control #: 89011
Permit #: 20220205

Home Warranty No: _____

Type of Warranty Plan: ☐ State ☐ Private

Use Group: M

Maximum Live Load: _____

Construction Classification: _____

Maximum Occupancy Load: _____

Certificate Exp Date: _____

Description of Work/Use: FOOTING AND FOUNDATION BUILDING A
Update Desc. of Wk/Use: CONSTRUCTION OF 304 RESIDENTIAL APARTMENTS (BLDG A), UNDERGROUND PLUMBING-BLDG A, UNDERGROUND CONDUIT- BLDG A, UNDERGROUND PLUMBING- GARAGE, , RADIO COMMUNICATOR ON FACP, EXTEND TCO UNITS (200-226), (320-333), (420-434, 460&461), (510-524, 570&571) & (600-607,653&654), EXTEND TCO UNITS (100-109) (200-226) (300-333, 334-336) (400-434, 437-440, 441-461) (500-571) (600-654) (700-740)

☐ **CERTIFICATE OF CLEARANCE-LEAD ABATEMENT 5:17**

This serves notice that based on written certification, lead abatement was performed as per NJAC 5:17, to the following extent:

☐ Total removal of lead-based paint hazards in scope of work

☐ Partial or limited time period(____ years); see file

☐ **CERTIFICATE OF CONTINUED OCCUPANCY**

This serves notice that based on a general/smoke/carbon detector inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

☐ **CERTIFICATE OF COMPLIANCE**

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until _____

TPB 12/12/24

Thomas Biondi Jr Construction Official

Fees: \$0.00

Paid: ☒ Check No.: 6024

Collected by: PQ

Township of West Orange
66 Main Street
West Orange, NJ 07052
973-3254112

Block: 155 Lot: 40.02 Qualification Code: _____

Work Site Location: 2000 EXECUTIVE DRIVE

WEST ORANGE

Owner in Fee: WEST ORANGE OFFICE EXECUTIVE PARK

Address: 100 EXECUTIVE DRIVE

WEST ORANGE NJ 07052

Telephone: 973 640-0973

Agent/Contractor: BUILDERS AT GREEN ESSEX

Address: 16 MICROLAB ROAD

LIVINGSTON NJ 07039

Telephone: 973 640-0973

Lic. No./ Bldrs. Reg.No.: _____ Federal Emp. No.: _____

☒ **CERTIFICATE OF OCCUPANCY**

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

☐ **CERTIFICATE OF APPROVAL**

This serves notice that the work completed has been constructed or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of inspection.

☐ **TEMPORARY CERTIFICATE OF OCCUPANCY/COMPLIANCE**

If this is a temporary Certificate of Occupancy or Compliance, the following conditions must be met no later than _____ or will be subject to fine or order to vacate:

Thomas Biondi Jr Construction Official

**CERTIFICATE
IDENTIFICATION**

Date Issued: 12/12/2024
Control #: 90738
Permit #: 20221435

Home Warranty No: _____

Type of Warranty Plan: _____

Use Group: R-2

Maximum Live Load: _____

Construction Classification: _____

Maximum Occupancy Load: _____

Certificate Exp Date: _____

Description of Work/Use: CONSTRUCT FOOTINGS AND FOUNDATION FOR A 59 UNIT APARTMENT BUILDING - 2000 EXECUTIVE DRIVE BLDG B UNDERGROUND PLUMBING
Update Desc. of Wk/Use: 59 RESIDENTIAL APARTMENT BUILDING- BLDG B, UNDERGROUND ELECTRICAL CONDUIT, UPDATE SPRINKLER HEAD, RADIO COMMUNICATOR ON FACP

☐ **CERTIFICATE OF CLEARANCE-LEAD ABATEMENT 5:17**

This serves notice that based on written certification, lead abatement was performed as per NJAC 5:17, to the following extent:

☐ Total removal of lead-based paint hazards in scope of work

☐ Partial or limited time period(____ years); see file

☐ **CERTIFICATE OF CONTINUED OCCUPANCY**

This serves notice that based on a general/smoke/carbon detector inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

☐ **CERTIFICATE OF COMPLIANCE**

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until _____

Fees: \$0.00

Paid[X]Check No.: 6062

Collected by: PQ

Township of West Orange
66 Main Street
West Orange, NJ 07052
973-3254112

Block: 155 Lot: 42.02 Qualification Code: _____

Work Site Location: 3000 EXECUTIVE DRIVE

WEST ORANGE

Owner in Fee: WEST ORANGE OFFICE EXECUTIVE PARK

Address: 100 EXECUTIVE DRIVE

WEST ORANGE NJ 07052

Telephone: 973 640-0973

Agent/Contractor: BUILDERS AT GREEN ESSEX

Address: 16 MICROLAB ROAD

LIVINGSTON NJ 07039

Telephone: 973 640-0973

Lic. No./ Bldrs. Reg.No.: _____ Federal Emp. No.: _____

☒ **CERTIFICATE OF OCCUPANCY**

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

☐ **CERTIFICATE OF APPROVAL**

This serves notice that the work completed has been constructed or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of inspection.

☐ **TEMPORARY CERTIFICATE OF OCCUPANCY/COMPLIANCE**

If this is a temporary Certificate of Occupancy or Compliance, the following conditions must be met no later than _____ or will be subject to fine or order to vacate:

**CERTIFICATE
IDENTIFICATION**

Date Issued: 12/12/2024
Control #: 90737
Permit #: 20221436

Home Warranty No: _____

Type of Warranty Plan: ☐ State ☐ Private

Use Group: R-2

Maximum Live Load: _____

Construction Classification: _____

Maximum Occupancy Load: _____

Certificate Exp Date: _____

Description of Work/Use: FOOTING & FOUNDATION FOR 62 UNIT APARTMETN BUILDING - 3000 EXECUTIVE DRIVE BLDG C UNDERGROUND PLUMBING Update Desc. of Wk/Use: CONSTRUCT 62 APARTMENT BUILDING- BLDG C, RADIO COMMUNICATOR ON FACP

☐ **CERTIFICATE OF CLEARANCE-LEAD ABATEMENT 5:17**

This serves notice that based on written certification, lead abatement was performed as per NJAC 5:17, to the following extent:

☐ Total removal of lead-based paint hazards in scope of work

☐ Partial or limited time period(____ years); see file

☐ **CERTIFICATE OF CONTINUED OCCUPANCY**

This serves notice that based on a general/smoke/carbon detector inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

☐ **CERTIFICATE OF COMPLIANCE**

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until _____

TR 12/12/24
Thomas Biondi Jr Construction Official

Fees: \$50.00

Paid[☒ Check No.: 6063

Collected by: PQ

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 _____

This Redevelopment Agreement (the “**Agreement**” or “**Redevelopment Agreement**”) is dated as of this ____ day of ____, 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.); 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 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 (i) 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*, that (i) a copy of the fully executed written instrument of conveyance and assignment and assumption of this Redevelopment Agreement shall be promptly delivered to the Township; and (ii) such conveyance or assignment does not violate any of the Governmental Approvals.

8.3 Prohibition of Transfer of Redevelopment Agreement. Redeveloper further agrees for itself, its successors and assigns, that prior to the Completion of the Project, as evidenced by the issuance of a Certificate of Completion, Redeveloper will not make or create, or suffer to be made or created, any assignment or other Transfer of its interests in this Agreement, without the prior written approval of the Township, except as provided in Section 8.1 above, Section 8.2 above or Section 8.4 below (including a Transfer as a result of a foreclosure or a deed in lieu given to a lender).

8.4 Consent to Permitted Transfers. The Township hereby consents, without the necessity of further approvals from any entity, to the following Transfers:

(a) a Mortgage or related security granted by Redeveloper to a Mortgagee for the purpose of obtaining the financing necessary to enable Redeveloper to perform its obligations under this Redevelopment Agreement, including any Mortgage or Mortgages and other liens and encumbrances granted by Redeveloper to a Mortgagee for the purpose of financing costs associated with the acquisition, development, construction, or marketing of the Project; *provided, however*, that Redeveloper shall give the Township at least fifteen (15) days prior written notice of such Permitted Transfer, including a description of the nature of such Transfer, and the name(s) and address(es) of the transferee and any parties, individuals or entities involved in such Permitted Transfer; and *provided further*, that Redeveloper shall simultaneously provide to the Township true and complete copies of all Project Schedules and project budgets submitted to such Mortgagee; or

(b) Transfers of easements or dedications of property as may be required as conditions of Governmental Approvals.

(c) Inter-family transfers of interests in the Redeveloper for estate planning purposes.

(d) The Township recognizes and acknowledges that financing of the Project is likely to include one or more of equity participations, “mezzanine” debt, and other financing arrangements in addition to a Mortgage. Such financing arrangements shall be reviewed and approved by the Mayor in good faith and he will not unreasonably withhold or delay his consent to such arrangements if they do not result in a change in control of Redeveloper or materially and negatively affect the Township’s ability to enforce its rights under this Agreement.

8.5 Prohibition Against Speculative Investment. Because of the importance of the Project to the general welfare of the community, Redeveloper represents and agrees that its acquisitions of the Property and Redeveloper’s undertakings pursuant to this Redevelopment Agreement are, and will be used, for the purpose of the Redevelopment Project and redevelopment of the Redevelopment Area as provided herein, and not for speculation in land holding.

8.6 Information as to Ownership of Redeveloper. In order to assist in the effectuation of the purpose of this Article 8, Redeveloper represents that the certificate attached to this Agreement as Exhibit E is an incumbency certificate of Redeveloper as of the Effective Date, subscribed and sworn to by a manager or authorized member of Redeveloper, setting forth the name(s) and address(es) of all entities owning at least a 10% interest in Redeveloper, and, as to each such entity, all entities owning at least a 10% interest therein, such disclosure being intended to be the same disclosure that Redeveloper will be required to make in connection with its Governmental Applications for land use approvals pursuant to *N.J.S.A. 40:55D-48.2*.

(a) At such times as reasonably requested by the Township, Redeveloper will update the incumbency certificate and keep Exhibit E current as to Redeveloper as well as to each permitted urban renewal entity or joint venture.

(b) Redeveloper will immediately notify the Township in writing of any and all changes whatsoever in the ownership of Redeveloper and any permitted urban renewal entity or joint venture, legal or beneficial, or of any other act or transaction involving or resulting in any change in such ownership or in the relative distribution thereof, or with respect to the identity of the parties in control of Redeveloper or the degree thereof, of which it or any of its officers or members have been notified or otherwise have knowledge or information.

(c) Redeveloper shall, at such time or times as the Township may request, furnish the Township with a complete statement subscribed and sworn to by managing member of Redeveloper, setting forth all of managing members, or other owners of equity interests of Redeveloper, and of any permitted urban renewal entity or joint venture, and the extent of their respective holdings, and in the event any other parties have a beneficial interest in Redeveloper’s entity, their names and the extent of such interest.

8.7 Transfer or Assignment Fee. Any reasonable costs incurred by the Township in connection with a request made by the Redeveloper for the Township’s consent to transfer or assign this Redevelopment Agreement shall constitute a Township Cost for purposes of this Agreement.

ARTICLE IX MORTGAGE FINANCING

9.1 Mortgages, Liens, or other Encumbrances. Prior to the issuance of a Certificate of Completion Redeveloper shall promptly notify the Township of any encumbrance or lien that has been created on or attached to the Project, by mortgage or involuntary act of the Redeveloper or others, upon obtaining knowledge or notice of same.

9.2 Obligations of Mortgagee. Notwithstanding any of the provisions of this Redevelopment Agreement, including but not limited to those which are or are intended to be covenants running with the land, the holder of any mortgage authorized by this Redevelopment Agreement (including but not limited to any such holder who obtains title to one or more Property, or to any part thereof as a result of foreclosure proceedings, or action in lieu thereof, but not including (a) any other party who thereafter obtains title from or through any such holder or (b) any other purchaser at foreclosure sale, other than the holder of the mortgage itself) shall in no way be obligated by the provisions of this Redevelopment Agreement to construct or complete the Project or to guarantee such construction or completion; *provided* that nothing in this Article or any other Article or provision of this Redevelopment Agreement shall be deemed or construed to permit or authorize any such holder to devote the Property or any part thereof to any uses, or to construct any project thereon, other than those uses provided or permitted under this Agreement, the Redevelopment Plan, Governmental Approvals and Applicable Laws.

9.3 Notice of Default to Mortgagee and Right to Cure. Subject to *N.J.S.A. 55:17-1 et seq.*, whenever the Township shall deliver any notice or demand to the Redeveloper with respect to any breach or default by the Redeveloper under this Redevelopment Agreement, the Township shall at the same time deliver to each lender (or equity participant in Redeveloper) a copy of such notice or demand, provided that the Redeveloper has delivered to the Township a written notice of the name and address of such lender and equity participant. Each such lender shall (insofar as the rights of the Township are concerned) have the right at its option within ninety (90) days after the receipt of such notice, to cure or remedy, or to commence to cure or remedy, any such default with respect to that portion of the Project which is being financed by such lender and which is subject to being cured and to add the cost thereof to the debt and the lien which it holds, or to the obligations of the lessees under any lease-back or of the guarantor under any other conveyance for financing.

9.4 Estoppel Certificate; Mortgagee Request for Modifications. (a) Within thirty (30) days following written request by the Redeveloper, or of any Mortgagee, lender, purchaser, tenant or other party having an interest in the Project, the Township shall issue a signed estoppel certificate stating (i) that this Agreement is unmodified and in full force and effect as to the Project (excepting only modifications which shall be set forth), (ii) whether to the best 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; and (iii) confirming such other factual matters within the Township's knowledge or control pertinent to this Agreement, as the same relate to, or might affect, the Project or the Property. In the event the estoppel certificate discloses such a default, breach or event, it shall also state the manner in which such default, breach or event may be cured. No more than a reasonable number of

estoppel certificates may be requested per year.

(b) In the event that a permitted Mortgagee reasonably requests changes to this Agreement in order to make the same acceptable to the Mortgagee, the Township agrees to consider such changes in good faith and to consent to such changes if they do not materially and adversely affect the Township's rights nor increase the Township's obligations, which consent will not be unreasonably withheld, conditioned or delayed.

ARTICLE X EVENTS OF DEFAULT; TERMINATION

10.1 Default Related to Conveyance of the Public Dog Park or Lot 41.02.

(a) If title to the Public Dog Park or Lot 41.02 does not close because of the Township's Default, then the Redeveloper shall be entitled to pursue all other remedies at law or equity available to it by reason of the Township's default (including but not limited to specific performance and recovery of costs); *provided, however*, that failure of the Governing Body to authorize or approve the transaction shall not constitute a Default by the Township, but only a failure of the condition precedent to the conveyance; and *provided further*, that under no circumstances shall the Township be liable for consequential, indirect or special damages of any kind. However, regardless of whether the failure to close title to the Public Dog Park or Lot 41.02 is the result of a Township Default or the Governing Body failing to authorize or approve the transaction, the Redeveloper shall be permitted to proceed with the residential apartment building construction and provide the required Affordable Units or terminate this Agreement.

(b) If title to the Public Dog Park or Lot 41.02 does not close because of the Redeveloper's Default, the Township shall be entitled to terminate this Agreement. Nothing in this Section shall be construed as limiting the ability of the Township to be reimbursed from the Escrow Account for Township Costs incurred through the date of termination.

10.2 Events of Default by Redeveloper. Any one or more of the following shall constitute an “Event of Default” hereunder, subject to Force Majeure Extension and tolling as provided elsewhere in this Agreement:

(a) Failure of Redeveloper to observe or perform any covenant, condition, representation, warranty or agreement hereunder and any other failure, act or omission by Redeveloper designated elsewhere in this Agreement as a “Default” or a “default”, and except as otherwise specified below the continuance of such Default for a period of thirty (30) days after Notice from the Township specifying the nature of such Default and requesting that such Default be remedied; *provided, however*, if the Default is one that cannot be completely remedied within thirty (30) days after such Notice, it shall not be an Event of Default as long as Redeveloper is proceeding in good faith and with due diligence to remedy the same as soon as practicable, but in no event later than ninety (90) days after such Notice unless this Agreement specifically provides otherwise.

(b) Redeveloper's failure or refusal to make any payment or deposit of funds required

hereunder as and when required, and the failure to make such payment or deposit within fifteen (15) days after Notice from the Township, including but not limited to failure to make timely payments of real estate taxes or to refresh the Escrow Account or to reimburse the Township for properly reimbursable Township Costs not cured within ten (10) business days of Notice by the Township.

(c) (i) Redeveloper shall have applied for or consented to the appointment of a custodian, receiver, trustee or liquidator of all or a substantial part of its assets; (ii) a custodian shall have been legally appointed with or without consent of Redeveloper; (iii) Redeveloper, (1) has made a general assignment for the benefit of creditors, or (2) has filed a voluntary petition in bankruptcy or a petition or an answer seeking an arrangement with creditors or has taken advantage of any insolvency law; (iv) Redeveloper has filed an answer admitting the material allegations of a petition in any bankruptcy or insolvency proceeding; or (v) Redeveloper shall take any action for the purpose of effecting any of the foregoing; (vi) a petition in bankruptcy shall have been filed against Redeveloper, and shall not have been dismissed for a period of ninety (90) consecutive days; (vii) an Order for Relief shall have been entered with respect to or for the benefit of Redeveloper, under the Bankruptcy Code; (viii) an Order, judgment or decree shall have been entered, without the application, approval or consent of Redeveloper, by any court of competent jurisdiction appointing a receiver, trustee, custodian or liquidator of Redeveloper, or a substantial part of its assets and such order, judgment or decree shall have continued unstayed and in effect for any period of ninety (90) consecutive days; or (ix) Redeveloper shall have suspended the transaction of its usual business.

(d) Redeveloper (i) except as otherwise permitted hereunder fails to perform its obligations with respect to acquisition of the Property or the implementation of the Project in accordance with this Agreement and the Project Schedule, the Redevelopment Plan, Governmental Approvals or Applicable Laws, including but not limited to failure to Commence Construction or Complete Construction in accordance with the Project Schedule; or (ii) abandons the Project or substantially suspends construction work without the prior knowledge and consent of the Township (unless such suspension arises out of a Force Majeure Event), and any such failure, abandonment or suspension shall not be cured, ended, or remedied within thirty (30) days after Notice by the Township; *provided, however*, if the Default is one that cannot be completely remedied within thirty (30) days after such Notice has been given, it shall not be an Event of Default as long as the Redeveloper is proceeding in good faith and with due diligence to remedy the same as soon as practicable, but in no event later than ninety (90) days after such Notice.

(e) There is a prohibited Transfer, immediately upon such Transfer with no Notice or opportunity to cure.

(f) Material breach of any warranty or representation made by Redeveloper.

(g) Violation by Redeveloper of any covenant or restriction contained in the Declaration of Covenants and Restrictions.

(h) Redeveloper's failure to pay or delinquency in the payment of real property taxes or assessments, which failure or delinquency is not cured within ten (10) days of Notice by the

Township.

(i) Cancellation or termination by reason of any act or omission of Redeveloper of any insurance policy, performance or completion, letter of credit, guaranty or other surety required hereunder to be provided by Redeveloper for the benefit of the Township, immediately upon cancellation or termination thereof if not replaced with no resulting gaps in coverage.

(j) Foreclosure of any of the Property once such parcel has been acquired by the Redeveloper.

(k) Failure of WOOEP to comply with the terms and conditions of the Tax Agreement.

10.3 Events of Default by Township. Any one or more of the following shall constitute an “**Event of Default**” hereunder, subject to Force Majeure Extension and tolling as provided elsewhere in this Agreement:

(a) Failure of the Township to perform its obligations with respect to Redeveloper Protections as set forth in Article V, and the continuance of such Default for a period of thirty (30) days after Notice from the Redeveloper specifying the nature of such Default and requesting that such Default be remedied; *provided, however*, if the Default is one that cannot be completely remedied within thirty (30) days after such Notice, it shall not be an Event of Default as long as the Township is proceeding in good faith and with due diligence to remedy the same as soon as practicable, but in no event later than ninety (90) days after such Notice unless this Agreement specifically provides otherwise.

(b) Material breach of any warranty or representation made by the Township and the continuance thereof for a period of thirty (30) days after Notice from the Redeveloper specifying the nature of such Default and requesting that such Default be remedied; *provided, however*, if the Default is one that cannot be completely remedied within thirty (30) days after such Notice, it shall not be an Event of Default as long as the Township is proceeding in good faith and with due diligence to remedy the same as soon as practicable, but in no event later than ninety (90) days after such Notice unless this Agreement specifically provides otherwise.

(c) Failure to comply with the terms and conditions of the Tax Agreement.

10.4 Remedies Upon Event of Default. Whenever any Event of Default of Redeveloper shall have occurred, the Township may, on written notice to Redeveloper (a “**Termination Notice**”) terminate this Redevelopment Agreement and Redeveloper’s designation as Redeveloper hereunder, and take whatever other action at law or in equity as may appear necessary or desirable to enforce the performance or observance of any rights, remedies, obligations, agreements, or covenants of Redeveloper under this Agreement. Whenever any Event of Default of the Township shall have occurred, Redeveloper or WOOEP, as the case may be, may take whatever action at law or in equity may be available to enforce the performance or observance of any rights, remedies, obligations, agreements, or covenants of the Township under this Agreement. Neither the Township nor the Redeveloper shall be liable for indirect, consequential or special damages of any kind. In the event of a finally adjudicated dispute

regarding an Event of Default or Termination Notice, then in addition to damages and other relief the prevailing Party shall be entitled to recover its reasonable attorney's fees from the other Party.

10.5 Force Majeure Extension. For the purposes of this Agreement, neither the Township nor Redeveloper shall be considered in breach or in default with respect to its obligations hereunder because of a delay in performance arising from a Force Majeure Event. It is the purpose and intent of this provision that in the event of the occurrence of any such delay, the time or times for performance of the obligations of the Township or Redeveloper shall be extended for the period of the delay; *provided, however*, that such delay is actually caused by or results from the Force Majeure Event. The time for completion of any specified obligation hereunder shall be tolled for a period of time up to but not exceeding the period of delay resulting from the occurrence of a Force Majeure Event plus a reasonable period of time not to exceed sixty (60) days, or such other period of time which may be agreed to by the Township and the Redeveloper, for Redeveloper to re-mobilize its contractors and agents to complete the Project or affected Phase thereof, and Redeveloper's non-performance of such obligation during any such period of time shall not be deemed a default by Redeveloper of its obligations under this Agreement. To invoke the tolling provisions hereunder the party invoking the provisions hereof must give Notice to the other party of the occurrence of a Force Majeure Event as soon as practicable. The tolling period shall be calculated from the date of the Notice.

10.6 No Waiver. Except as otherwise expressly provided in this Redevelopment Agreement, any failure or delay by the Township in asserting any of its rights or remedies as to any default by Redeveloper, shall not operate as a waiver of such default, or of any such rights or remedies, or to deprive the Township of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

10.7 Remedies Cumulative. No remedy conferred by any of the provisions of this Redevelopment Agreement is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.

10.8 Failure or Delay by Either Party. Except as otherwise expressly provided in this Redevelopment Agreement, any failure or delay by either party in asserting any of its rights or remedies as to any default, shall not operate as a waiver of any default, or any such rights or remedies, or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies as established by this Agreement.

10.9 Termination Rights Related to Litigation. If third party litigation is commenced challenging the validity of (i) the designation of the Redevelopment Area, (ii) the Redevelopment Plan, (iii) execution of this Redevelopment Agreement by the Township, or (iv) a financial agreement or RAB for the Project, the commencement of such litigation shall be a Force Majeure Event effective as of the date of the filing of the summons and complaint if

Redeveloper invokes the Force Majeure provisions of Section 10.4; *provided, however*, that (a) if such litigation is finally determined in favor of the plaintiff with no further opportunity for appeal, then either Party may terminate this Agreement by written notice to the other, and (b) if such litigation is not finally determined (inclusive of the expiration of any applicable appeal period) but the Force Majeure Extension has been in effect for at least eighteen (18) months from the date the complaint was filed, either Party may elect to terminate this Agreement by Notice to the other; provided the Redeveloper remains under contract to acquire the Property, if such contract has terminated and Redeveloper cannot secure an extension, then it may terminate this Agreement.

10.10 Events of Default Specific to Phase. To the extent that a Default by Redeveloper occurs which is specific only to a particular Phase of the Project, such Default shall not be considered a Default with respect to any other Phase which has both Commenced Construction and obtained third-party financing in the form of a Permitted Mortgage. Defaults by Redeveloper which are not specific to a particular Phase of the Project (e.g., failure to make payment of escrow deposits to the Township from time to time) shall be considered a Default with respect to all Phases.

ARTICLE XI INSURANCE

11.1 Insurance – General Requirements. At all times during the term of this Agreement the Redeveloper shall maintain, or cause to be maintained, insurance for the mutual benefit of the Township and Redeveloper as their interests may appear:

(a) Loss or damage by fire, and such other risks as may be included in the standard form of extended coverage insurance from time to time available, in amounts sufficient to prevent the Township or Redeveloper from becoming a co-insurer within the terms of the applicable policies, and in any event, in amounts not less than 100% of the then full insurable value of the Project;

(b) War risks, when and to the extent that such insurance is generally obtainable from the United States Government or an agency thereof pursuant to the Terrorism Risk Insurance Act, in an amount sufficient to prevent the Township or Redeveloper from becoming a co-insurer within the terms of the applicable policy, and, in any event, in an amount not less than 100% of the then full such lesser amount as insurable value of either the Project or the amount that the United States Government or an agency thereof limits the insured to obtaining, pursuant to the Terrorism Risk Insurance Act;

(c) All claims for bodily injury and property damage, under a policy of commercial general public liability insurance, with such limits as may reasonably be required by the Township from time to time, but not less than \$1 million 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.

(d) 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 Redeveloper and the Contractors.

(e) Such other hazards and in such amounts as the Township may reasonably require provided that such insurance is then customarily maintained in buildings of similar construction, use and class in the area in which the Township-Owned Property is located.

11.2 Insurance – Restrictions. All insurance provided for under this Agreement will be reasonably effected under valid enforceable policies issued by insurers rated “A” or better by A.M. Best and reasonably acceptable to the Township; *provided, however*, that if such insurance is not commercially available Redeveloper’s failure to procure such insurance shall not constitute a Default hereunder. On or before the first Closing Date, a certificate procured by Redeveloper pursuant to Article 11.1 (or certificates thereof) will be delivered to the Township. At least 30 days prior to the expiration date of any policy, the original renewal policy (or certificates thereof) for such insurance will be delivered by the Redeveloper to the Township as aforesaid, together with satisfactory evidence of payment of the premium thereon. All policies referred to in Article 11.1 will, to the extent then generally obtainable, contain agreements by the insurers that (a) such policies may not be canceled except upon 30 days prior written notice to each named insured and loss payee, and (b) the coverage afforded thereby must not be affected by the performance of any work in or about the Property.

11.3 Township as Insured. Each policy of insurance required herein shall name the Township as an additional insured, as its interests may appear.

11.4 Additional Insurance. Nothing in this Article shall prevent the Redeveloper from taking out insurance of the kind and in the amounts and with companies provided for under Article 11.1 or 11.2 under a blanket insurance policy or policies which can cover other properties as well as the Property; provided, however, that any such policy of insurance provided for under Article 11.1 must (a) specify therein, or the Redeveloper shall furnish the Township with a written statement from the insurers under such policies specifying the amount of the total insurance allocated to the Project, which amount will not be less than the amount required by Article 11.1 to be carried, and (b) not contain any clause which would result in the insured thereunder being required to carry insurance with respect to the property covered thereby in an amount equal to a minimum specified percentage of the full insurable value of such property in order to prevent the insured therein named from becoming a co-insurer of any loss with insurer under such policy.

11.5 Deductibles. All insurance provided under this Article XI may contain loss deductible clauses in such maximum amounts as the Township approves in its reasonable discretion.

11.6 Subrogation. All insurance policies obtained pursuant to this Article must include waivers of subrogation against the Township and Redeveloper.

ARTICLE XII COMMUNITY INITIATIVES

12.1 Equal Employment Opportunity. Redeveloper agrees that during construction of the Project:

(a) Redeveloper will not discriminate against any employee of Redeveloper or applicant for employment because of race, color, religion, sex, or national origin. Redeveloper will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Redeveloper agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause and any such notices provided by the Township that are consistent therewith.

(b) Redeveloper will, in all solicitations or advertisements for employees placed by or on behalf of Redeveloper, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(c) Subcontractors and suppliers to the Project shall include qualified and certified minority enterprises, to the extent qualified subcontractors and suppliers are available consistent with the Project Schedule.

(d) The obligations contained in this Article shall be binding on all contractors and subcontractors to the extent that any work is done by any contractor or subcontractor, and any contract entered into by Redeveloper shall so provide.

12.2 First Source Employment. The Redeveloper shall make good faith efforts to employ and shall provide in its contracts with its contractors and subcontractors that they must make good faith and commercially reasonable efforts to employ residents of Township in the construction of the Project, consistent with market wages and the financial success of the Project. If so requested by the Township, Redeveloper agrees (i) to cooperate with the Township or its designee in developing a plan to coordinate training programs and employment recruitment efforts for Township residents; (ii) to cooperate with efforts to recruit Township residents for all employment opportunities in connection with the Project, including participation in Township job fairs or similar events; and (iii) to meet with appropriate Township officials to determine the status of recruitment and training efforts, and to plan future employment training and recruitment activities.

12.3 Affirmative Action. Redeveloper during the construction of the Project shall use good faith efforts to comply with, and provide in its contracts with its contractors and subcontractors, the following:

(a) When hiring workers in each construction trade, or when engaging contractors, Redeveloper agrees to use its good faith efforts to employ Minority workers and Township residents.

(b) Redeveloper will undertake a program of local preference to facilitate entering into contracts with and/or purchasing good and services from local merchants and businesses located within the Township, including preferences for local retail and restaurant businesses;

(c) Where applicable, Redeveloper will at all times conform to the laws, regulations, policies of the State, the Federal government, and other governmental bodies with respect to affirmative action and equal employment opportunities requirements, and particularly those which are imposed as a condition to receipt of any government sponsored funding for the Project, notwithstanding any other provision of this Redevelopment Agreement to the contrary.

12.4 Reporting and Enforcement. During construction of the Project, Redeveloper shall use good faith efforts to provide that:

(a) All contracts entered into by the Redeveloper for the construction of the Project shall contain appropriate language to effectuate this Article.

(b) If and as reasonably requested by the Township, or if otherwise required by Applicable Law, Redeveloper and its contractors and subcontractors shall submit periodic reports regarding their compliance with this Article.

ARTICLE XIII PILOT CONTINGENCY & FINANCIAL AGREEMENT; LITIGATION COSTS; 2017 TAX APPEAL

13.1 PILOT Contingency & Financial Agreement. (a) Redeveloper intends to apply to the Township for approval of a financial agreement with respect to Block 155, Lots 40.02 and 42.02 (the “**Financial Agreement**”) providing for, among other things, payments in lieu of taxes (the “**PILOT**”) pursuant to the Long Term Tax Exemption Law and the Redevelopment Area Bond Financing Law. The Township agrees to consider such application in good faith and to consider and pursue in good faith and in accordance with the criteria set forth in the Applicable Laws the issuance of non-recourse redevelopment area bonds (the “**RAB**”) of not more than a total par amount of Four Million Five Hundred Thousand Dollars (\$4,500,000.00) to provide financial assistance to the Project. The RAB, if issued, may be issued in multiple series, as further described and limited at Exhibit G hereto, and shall comply with the criteria to be set forth in the Financial Agreement and the resolutions, indentures or other agreements to be negotiated providing for and securing the issuance of the RAB. The RAB shall be non-recourse to the Township and shall not in any way require the Township to levy *ad valorem* taxes, whether to pay principal, interest, interest reserves or any other costs or expenses with respect to the RAB. The Redeveloper may utilize the proceeds of the RAB for costs of the Project, including, but not limited to, the construction of Infrastructure Improvements, the construction of the Library Improvements (or in the alternative, payment to the Township of \$1,500,000.00 toward Library Improvements), and construction of the Public Dog Park.

(b) The Township agrees to consider and pursue Redeveloper's PILOT applications and RAB issuance in good faith, but Redeveloper acknowledges that the Township retains discretion under Applicable Laws as to whether to grant the PILOT or issue the RAB. If the terms of a mutually acceptable Financial Agreement, RAB financing, and all applicable State approvals in connection therewith have not been obtained by the Contingency Satisfaction Deadline, then either Party may elect to terminate this Agreement by providing Notice to that effect to the other Party (the "**PILOT Contingency**").

13.2 Litigation Costs. (a) All litigation costs incurred by the Township arising out of or in connection third party litigation challenging this Agreement or any RAB, PILOT or Financial Agreement hereunder or implementation thereof (including but not limited to reasonable attorneys' fees and other reasonable out of pocket costs incurred in the defense of such litigation or dispute resolution in connection therewith, "**Litigation Costs**") shall constitute Township Costs that Redeveloper is obligated to pay pursuant to the terms of this Agreement. The Township agrees to cooperate with Redeveloper in the defense of such litigation.

(b) With respect to third party litigation challenging (i) designation of the Redevelopment Area as an area in need of redevelopment; or (ii) the Redevelopment Plan, then from time to time during the pendency of such litigation and as requested by the Township Redeveloper shall deposit into the Escrow Account an amount reasonably estimated by the Township to cover one half (1/2) of the Litigation Costs in connection therewith. If such litigation is finally and conclusively resolved in favor of the Township, Redeveloper shall reimburse the Township for the Township's share of the Litigation Costs. The reimbursement obligations of the Parties pursuant to this Section 13.2 shall survive termination of this Agreement.

13.3 Redeveloper's Indemnification of Township. In amplification and not limitation of the definition of Township Costs and any other indemnity obligation pursuant to this Agreement, and except as otherwise set forth above in Section 13.2(b) with regard to certain Litigation Costs, Redeveloper hereby agrees to indemnify and shall pay, protect and hold the Township harmless from and against all liabilities, losses, claims, demands, costs, expenses (including reasonable attorneys' fees and expenses) and judgments of any nature arising, or alleged to arise, from or in connection with this Agreement; *provided, however*, that such liability, loss, claim, demand, cost or expense is not the result of gross negligence or willful misconduct of the Township or its officers, employees, agents or representatives. Redeveloper's obligation to indemnify the Township pursuant to this Section shall survive conveyance of title to the Acquisition Parcels to Redeveloper and any termination of this Redevelopment Agreement.

13.4 Township's Indemnification of the Redeveloper. Township hereby agrees to indemnify and shall pay, protect and hold the Redeveloper harmless from and against all liabilities, losses, claims, demands, costs, expenses (including reasonable attorneys' fees and expenses) and judgments of any nature arising, or alleged to arise, from or in connection with the Public Dog Park or Library Improvements, arising or caused after the conveyance of the Public Dog Park and Lot 41.02, provided however, that such liability, loss, claim, demand, cost or expense is not the result of gross negligence or willful misconduct of the Redeveloper or its officers, employees, agents or representatives. The Township's obligation to indemnify the Redeveloper pursuant to this Section shall survive conveyance of the Public Dog Park and Lot 41.02 to the Township and any termination of this Redevelopment Agreement post-closing on the Public Dog Park and Lot 41.02.

13.5 2017 Tax Appeal Liability. WOOEP shall be responsible for any and all refunds of overpaid real estate taxes, the reasonable fees of experts retained by the Township, including but not limited to a real estate appraiser, and the reasonable fees of an attorney retained by the Township (at an hourly rate not to exceed \$350) that are incurred by the Township in connection with its defense of the 2017 real estate tax appeals pending in the Tax Court of New Jersey (the "**Tax Court**") challenging the assessments on Lots 40.02, 41.02, 42.01 and 42.02 in Block 155 (the "**2017 Tax Appeals**"). WOOEP agrees to pay, or reimburse the Township for, such expenses upon presentation of reasonably detailed invoices. The Township agrees not to settle the 2017 Tax Appeals, or any of them, without the prior written consent of the Redeveloper and WOOEP. If the Redeveloper and WOOEP instruct the Township to settle the 2017 Tax Appeals, or any of them, the Township agrees to settle same in accordance with such instructions. If requested by the Redeveloper or WOOEP, the Township agrees to defend any appeal from a judgment or judgments entered in the Tax Court and to appeal, and prosecute such appeal to conclusion, and to appeal from, and prosecute such appeal to conclusion, any adverse decision with respect to the 2017 Tax Appeals, or any of them (which appeal(s) shall be at WOOEP's expense), upon receipt of instructions from WOOEP or the Redeveloper to do so. WOOEP reserves the right to appoint co-counsel to the Township of WOOEP's choosing to assist in the defense of the 2017 Tax Appeals, or any of them, at the trial level and to assist in the prosecution or defense of any appeal from a judgment or judgments entered in the Tax Court, at WOOEP's sole cost and expense. Under no circumstances shall WOOEP be entitled to any monies, refunds, interest or other benefits in the event of a judgment or other resolution of the 2017 Tax Appeals.

ARTICLE XIV MISCELLANEOUS

14.1 Cooperation. The Parties hereto agree to cooperate with each other and to provide all necessary and reasonable documentation, certificates, consents in order to satisfy the terms and conditions hereof and the terms and conditions of this Agreement. The Township further agrees to cooperate as may be reasonably requested by any mortgagee of the Redeveloper in connection with obtaining financing for the Project; *provided, however*, that all costs and expenses of such cooperation by the Township shall constitute Township Costs.

14.2 Conflict of Interest. No member, official or employee of the Township shall have any direct or indirect interest in this Redevelopment Agreement or any Project, nor participate in any decision relating to the Redevelopment Agreement or any Project which is prohibited by law.

14.3 No Consideration For Agreement. The Redeveloper warrants it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Redevelopment Agreement, other than normal costs of conducting business and costs of professional services such as architects, engineers, financial consultants and attorneys. The Redeveloper further warrants it has not paid or incurred any obligation to pay any officer or official of the Township, any money or other consideration for or in connection with this Redevelopment Agreement.

14.4 Non-Liability of Officials and Employees of the Township. No member, official or employee of the Township shall be personally liable to the Redeveloper, or any successor in interest, in the event of any default or breach by the Township, or for any amount which may become due to the Redeveloper or its successor, or on any obligation under the terms of this Redevelopment Agreement.

14.5 Non-Liability of Officials and Employees of the Redeveloper. No member, officer, shareholders, director, partner or employee of the Redeveloper, and no member, officer, shareholders, director, partner or employee of the members of the Redeveloper or the members of the Redeveloper shall be personally liable to the Township, or any successor in interest, in the event of any default or breach by the Redeveloper or for any amount which may become due to the Township, or their successors, on any obligation under the terms of this Redevelopment Agreement.

14.6 Inspection of Books and Records.

(a) The Township shall have the right upon reasonable request and at all reasonable times to inspect the books and records of the Redeveloper pertinent to the purposes of this Redevelopment Agreement.

(b) The Redeveloper shall have the right at all reasonable times to inspect the books and records of the Township pertinent to the purposes of this Redevelopment Agreement.

(c) Such inspections must be for a legitimate business purpose affecting the material interest of the party seeking the inspection.

(d) Such inspections must be performed at a time and in a manner as to not unreasonably interfere with the business operations of the party whose books and records are being inspected.

14.7 Time of the Essence. Any other provision of this Agreement notwithstanding, the Township reserves its right to serve a “time of the essence” notice as permitted under and in accordance with Applicable Law.

14.8 Modification of Agreement. No modification, waiver, amendment, discharge, or change of this Agreement shall be valid unless the same is in writing, duly authorized, and signed by the Redeveloper and the Township.

14.9 Notices. A notice, demand or other communication required to be given under this Redevelopment Agreement by any Party to the other (the “**Notice**”) shall be in writing and shall be sufficiently given or delivered if dispatched by United States Registered or Certified Mail, postage prepaid and return receipt requested, or delivered by overnight courier or delivered personally (with receipt acknowledged), or by facsimile transmission (with receipt acknowledged) to the parties at their respective addresses set forth herein, or at such other address or addresses with respect to the parties or their counsel as any party may, from time to time, designate in writing and forward to the others as provided in this Section.

As to the Township:

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

With copies to:

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

As to the Redeveloper:

Green Essex Partners Urban Renewal, LLC
c/o BNE Real Estate Group
16 Microlab Road, Suite A
Livingston, New Jersey 07039

With a copy to:

Francis X. Regan, Esq.
DeCotiis, FitzPatrick, Cole & Giblin, LLP
61 South Paramus Road
Paramus, New Jersey 07652

From time to time either party may designate a different person or address for all the purposes of this Notice provision by giving the other party no less than ten (10) days’ notice in advance of such change of address in accordance with the provisions hereof. Notices shall be effective upon receipt or rejection of delivery by the addressee.

14.10 Titles of Articles and Sections. The titles of the several Articles and Sections of this Redevelopment Agreement, as set forth in the Table of Contents or at the heads of said Articles and Sections, are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

14.11 Severability. The validity of any Articles and Section, clause or provision of this Redevelopment Agreement shall not affect the validity of the remaining Articles and Section, clauses or provisions hereof.

14.12 Successors Bound. This Redevelopment Agreement shall be binding upon the respective parties hereto and their permitted successors and assigns.

14.13 Governing Law; Jurisdiction and Venue; Jury Trial Waiver. This Redevelopment Agreement shall be governed by and construed and enforced pursuant to the laws of the State of New Jersey, without regard to its conflict of laws principles. Any action hereunder shall be brought exclusively in a court of the State of New Jersey or in a United States Court having jurisdiction in the District of New Jersey, in either case sitting in Essex County, New Jersey, and Redeveloper hereby waives all objections to such venue. Redeveloper, Guarantor and the Township, for themselves and their successors and assigns, hereby waive trial by jury in any action arising out of or in connection with this agreement.

14.14 Counterparts. This Redevelopment Agreement may be executed in counterparts. All such counterparts shall be deemed to be originals and together shall constitute but one and the same instrument.

14.15 Exhibits. Any and all Exhibits annexed to this Redevelopment Agreement are hereby made a part of this Redevelopment Agreement by this reference thereto.

14.16 Entire Agreement. This Redevelopment Agreement constitutes the entire Redevelopment Agreement between the parties hereto and supersedes all prior oral and written agreements between the parties with respect to the subject matter hereof.

14.17 Waiver. No waiver made by any party with respect to any obligation of any other party under this Redevelopment Agreement shall be considered a waiver of any other rights of the party making the waiver beyond those expressly waived in writing and to the extent thereof.

14.18 No Survival. None of the rights and obligations of the Parties or WOOEP survive termination of this Agreement unless expressly provided otherwise.

14.19 Dispute Resolution. Unless emergent relief is needed, any party may initiate mediation to resolve a dispute by sending the other parties a notice in writing. The party requesting mediation shall provide a list of three or more people to serve as mediator, all of which who have no monetary or personal relationship with the lawyers or parties. The other parties have 10 days from receipt of the list to pick one of the three people listed to serve as mediator, which selection shall be communicated in writing to the other party. In the event the

other party does not pick one of the three people listed to serve as mediator, the party requesting mediation may select from the list. The hourly rate for the mediator shall not exceed \$600.00 per hour, which shall be split pro rata between the parties. If the mediation has not been resolved to conclusion within thirty (30) days from the notice initiating mediation, then any party may initiate litigation.

IN WITNESS WHEREOF, the parties hereto have caused this Redevelopment Agreement to be properly executed and their corporate seals affixed and attested as of the date first written above.

**TOWNSHIP OF WEST ORANGE,
NEW JERSEY**

Attest

By: _____
Robert D. Parisi, Mayor

Witness:

**GREEN ESSEX PARTNERS URBAN
RENEWAL, LLC**

By: _____

The undersigned joins in this Agreement solely for the purpose of agreeing to perform its express obligations under Article III, Section 10.2k and Section 13.5 of this Agreement, subject however, to the terms and conditions of this Agreement and the performance by the Parties of their respective obligations hereunder.

Witness:

**WEST ORANGE OFFICE EXECUTIVE
PARK, LLC**

By: _____

EXHIBIT A
PUBLIC DOG PARK
APPROXIMATE LOCATION ON PROPERTY

EXHIBIT B
LOT 41.02 METES AND BOUNDS

EXHIBIT C
INFRASTRUCTURE IMPROVEMENTS

EXHIBIT D
PROJECT SCHEDULE

Estimated Construction Schedule

Estimated project schedules if constructed in one phase

Submission of site plan application	6/1/2021
Receipt of all approvals for project	7/1/2022
Commencement of construction	7/1/2022
Completion of construction	7/1/2025

Estimated Project Schedule if the project is Phased

Submission of site plan application	6/1/2021
Receipt of all approvals for project	7/1/2022
Phase 1 Commencement of Construction (Approximately 300 units)	7/1/2022
Phase 1 Completion of Construction	9/1/2024
Phase 2 Commencement of Construction (Approximately 125 units)	1/1/2026
Phase 2 Completion of Construction	1/1/2028

EXHIBIT E
INCUMBENCY CERTIFICATE

EXHIBIT F
FORM DECLARATION OF COVENANTS AND RESTRICTIONS

Record and Return to:
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue, Second Floor
Roseland, New Jersey 07068
Attention: Richard Trenk, Esq.

DECLARATION OF COVENANTS AND RESTRICTIONS

Block 155, Lots 40.02 and 42.02 in the Township of West Orange, New Jersey (the “**Property**”)

This Declaration of Restrictions is made this ____ day of _____, 2021 by and between the **TOWNSHIP OF WEST ORANGE** (the “**Township**”), a municipal corporation 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, with an address of c/o BNE Real Estate Group, 16 Microlab Road, Suite A, Livingston, New Jersey 07039 8 (together with permitted successors or assigns hereinafter provided, referred to as the “**Redeveloper**”).

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, the Redeveloper entered an agreement in order to develop, construct and implement that certain Project defined in the redevelopment agreement executed by and between the Township and the Redeveloper dated _____ (the “**Redevelopment Agreement**”) in accordance with N.J.S.A. 40A:12A-8(f) of the Redevelopment Law; and

WHEREAS, N.J.S.A. 40A:12A-9(a) of the Redevelopment Law requires that all agreements, leases, deeds and other instruments between a municipality and a redeveloper shall contain a covenant running with the land requiring, among other things, that “. . . the owner shall construct only the uses established in the current redevelopment plan . . .”; and

WHEREAS, the Redevelopment Agreement requires that such covenants be memorialized in a Declaration of Restrictions and said declaration be recorded in the office of the Essex County Clerk,

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

Section 1. Defined terms not otherwise defined herein shall have the meaning assigned to such terms in the Redevelopment Agreement.

Section 2. Redeveloper covenants and agrees that, subject to the terms of the Redevelopment Agreement:

(a) Redeveloper shall construct the Project on the Property in accordance with, and subject to the terms of, the Redevelopment Plan, the Redevelopment Agreement and all Applicable Laws.

(b) Redeveloper shall not use the Property or any part thereof in a manner that is not in all material respects consistent with the Redevelopment Plan, the Approvals and the Redevelopment Agreement. Redeveloper will construct only those uses established in the Redevelopment Plan or as the Redevelopment Plan may be modified, in writing, by the Township from time to time in accordance with the Redevelopment Law.

(c) Except as permitted in paragraph (d) below, prior to the issuance of a Certificate of Completion for the Project or any part thereof, pursuant to N.J.S.A. 40A:12A-9(a), Redeveloper shall not, without the prior written consent of the Township, which the Township shall not unreasonably withhold, condition or delay: (i) effect or permit any change, directly or indirectly, in the majority ownership of more than fifty percent (50%) of control of Redeveloper (whether in one transaction or by virtue of the combined effect of more than one transaction), provided, however, that the Mayor will not unreasonably withhold consent to a transfer of a majority or greater interest in Redeveloper (or in an Affiliate of Redeveloper) to a reputable financial institution for *bona fide* financing purposes, provided that the current members of Redeveloper remain in day-to-day control of the entity, (ii) assign or attempt to assign the

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 OF WEST ORANGE

Township
Clerk

By: _____
Name: Robert D. Parisi
Title: Mayor

Attest:

**GREEN ESSEX PARTNERS URBAN
RENEWAL, LLC**

By: _____
Name:
Title:

STATE OF NEW JERSEY :

: ss.:

COUNTY OF ESSEX :

BE IT REMEMBERED, that on this ____ day of _____, 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.

Notary or Attorney At Law
The State of New Jersey

STATE OF NEW JERSEY :

: ss.:

COUNTY OF :

BE IT REMEMBERED, that on this ____ day of _____, 2019 before me, the subscriber, a Notary Public of New Jersey, personally appeared _____, 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.

Notary or Attorney At Law
The State of New Jersey

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 H
TAX AGREEMENT

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 be 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

GREEN ESSEX PARTNERS URBAN RENEWAL ENTITY, LLC

RESOLUTION OF THE PLANNING BOARD OF THE TOWNSHIP OF WEST ORANGE

Granting preliminary site plan, final site plan, and tree removal permit approval to construct a multi-family residential development.

WHEREAS, the Planning Board of the Township of West Orange, at a meeting held on June 3, 2020, as well as at a continued special meeting on June 25, 2020, both which were properly noticed in accordance with the Open Public Meetings Act, considered the application for preliminary site plan, final site plan, and tree removal permit approval to construct a multi-family residential development on property located in the Executive Drive Multi-Family Residential Zone of the Essex Green - Executive Drive Redevelopment Plan identified as Block 155, Lots: 40.02, 42.01, and 42.02. The application was submitted by Green Essex Partners Urban Renewal Entity, LLC (the "Applicant"), through its attorney, Francis X. Regan, Esq.; and

WHEREAS, the Applicant provided notice to property owners within 200 feet of the property and in the official newspaper of the Township in accordance with the Municipal Land Use Law, N.J.S.A. 40:55D-12; and

WHEREAS, the Planning Board considered the presentation of Francis X. Regan, Esq., attorney for the Applicant; and heard and considered the testimony of Zachary E. Chaplin, P.E., the Applicant's engineer (licensed in New Jersey as an engineer, and qualified in that capacity by the Board), Jack L. Raker, R.A., the Applicant's architect (licensed in New Jersey as an architect, and qualified in that capacity by the Board), Paul DeVitto, the Applicant's landscape architect (licensed in New Jersey as a certified landscape architect, and qualified in that capacity by the Board), Eric L. Keller, P.E., the Applicant's Traffic Engineer (licensed in New Jersey as an engineer, and qualified in the capacity of a professional traffic engineer by the board); and

considered questions and comments from Board members and from the public as shall appear in the Board's minutes for the meetings of June 3, 2020 and June 25, 2020; and considered the following documents submitted by the Applicant:

SUBMISSIONS

<u>ITEM</u>	<u>SIGNED BY</u>	<u>DATE/REVISION</u>
Site Plan (29 sheets)	Zachary E. Chaplin, P.E.	5/7/20
Tree Location Survey (2 sheets)	Philip A. McEntee, Jr., P.L.S.	4/22/20
Landscaping Plan (2 sheets)	Zachary E. Chaplin, P.E.	4/29/20
Tree Removal Plan (1 sheet)	Zachary E. Chaplin, P.E.	4/29/20
Truck Turn Exhibit (5 sheets)	Jeffery A. Martell, P.E.	4/28/20
Sustainability Memorandum	Zachary E. Chaplin, P.E.	5/8/20
Architectural Plans (22 sheets)	Minno Wasko Architects and Planners	3/19/20
Traffic Engineering Evaluation	Eric L. Keller, P.E., P.P., LEED AP	3/19/20
Stormwater Management Report	Zachary E. Chaplin, P.E.	5/7/20
Report of Geotechnical Investigation	Nejm E. Jundi, P.E.	12/31/19

EXHIBITS PRESENTED BEFORE THE BOARD

<u>NUMBER</u>	<u>DESCRIPTION</u>
A-1	AERIAL EXHIBIT
A-2	STONEFIELD 5/27/20 REPORT
A-3	COLORED SITE PLAN
A-4	EXISTING CONDITIONS PLAN
A-21	COVER SHEET
A-22	SECOND FLOOR PLAN, BUILDING A
A-24	PACKAGE CENTER PHOTO
A-30	FLOOR PLANS-BUILDINGS B/C
A-31	ELEVATIONS—BUILDING B
A-32	ELEVATIONS—BUILDING C

A-34	UNIT PLANS
A-35	APARTMENT INTERIOR PHOTOS
A-36	APARTMENT PHOTOS
A-37	VIEW OF LIVING SPACE

WHEREAS, a complete application has been filed, all fees required by Ordinance have been paid and it otherwise appears that the jurisdiction and powers of the Planning Board have been properly invoked and exercised; and the Board having conducted a vote on this application on June 25, 2020;

NOW, THEREFORE, does the Planning Board of the Township of West Orange make the following findings of fact and conclusions of law with regard to this application:

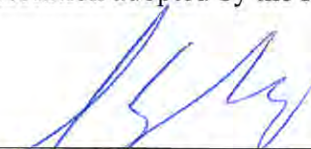
1. This is an application for preliminary site plan, final site plan, and tree removal permit approval to construct a multi-family residential development.
2. The Board reviewed the site plan and related submission items and exhibits listed in this Resolution.
3. The Board finds that the detailed drawings, specifications, and estimates submitted by the Applicant and listed in this Resolution conform to the standards of all applicable ordinances.
4. The Board has recommended and the Applicant has agreed to the following additional conditions of approval:
 - a. Subject to the Applicant's compliance with all comments in the report of the Board Engineer;

- b. Subject to the Applicant's compliance with all comments in the report of the Township Forester;
- c. The Applicant shall supply the Township Planning Director with an Affidavit of Compliance with all conditions agreed to by the Applicant;
- d. The Applicant's Traffic Engineer shall provide guidance/recommendations to the Township Engineer as to which signalization modifications should be suggested to Essex County Transportation Officials concerning the Prospect Avenue intersection at Eagle Ridge/Essex Green. It being understood that the Applicant shall not be responsible for the cost of any such modifications nor to implement such modifications unless specified in County planning board approval;
- e. The Applicant shall use best efforts to coordinate pedestrian sidewalk lay outs with adjoining property owners where possible;
- f. The Applicant shall consider installing additional bike storage racks abutting proposed residential buildings B and C;
- g. Prior to the issuance of a construction permit, the Applicant shall meet with officials from the Township Fire Department in order to address any of the Department's concerns, which shall include the proper specifications for installation of standpipes within the parking garage structure;
- h. The Applicant shall submit a colorized tree exhibit, which includes a tree replacement plan;

- i. The Applicant will retain a Landscape Architect to provide construction administration oversight during the tree removals and planting to assure proper tree and landscape protections are carried out;
- j. The Applicant shall provide documentation on the snow removal maintenance plan for the property;
- k. The Applicant will provide 'blue light' emergency call station(s) in the vicinity of the dog park for purposes of enhancing public safety;
- l. The Applicant's engineer shall add these conditions onto the final site plan drawings to be signed by the Township Engineer and Planning Board Chair;
- m. The Applicant shall coordinate with the Township for purposes of providing shuttle/jitney station service from the property as may be needed;
- n. The Applicant shall confer with the appropriate Township officials in an effort to provide adequate safety precautions in regards to the lighting conditions on the pedestrian walkways within the property;
- o. All findings of fact and conclusions of law set forth herein are deemed conditions that are binding on the Applicant.

NOW, THEREFORE, BE IT RESOLVED that this application for preliminary site plan, final site plan, and tree removal permit approval to construct a multi-family residential development is approved in accordance with the site plan, subject to the conditions set forth in this resolution.

The foregoing is a true copy of the resolution adopted by the Planning Board of the Township of West Orange.


SEAN MCCAULEY, ACTING BOARD SECRETARY

Dated: 8/6/2020

WEST ORANGE TOWNSHIP PLANNING BOARD

**ROLL CALL VOTE ON ACTION TAKEN BY THE BOARD AT SPECIAL MEETING
ON JUNE 25, 2020**

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
Bagoff (Vice-Chair)		X	X			
Johnson (1 st Alt.)						X
Smeraldo			X			
Klein						X
McCartney			X			
Trenk			X			
Wegner						X
Weston (Chair)	X		X			
Williams			X			
Wilkes			X			

**ROLL CALL VOTE ON ADOPTION OF MEMORIALIZED RESOLUTION OF
ACTION TAKEN BY THE BOARD AT REGULAR MEETING ON AUGUST 5, 2020**

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
Bagoff (Vice-Chair)		X	X			
Johnson (1 st Alt.)			X			
Smeraldo			X			
Klein						X
McCartney			X			
Trenk			X			
Wegner						X
Weston (Chair)	X		X			
Williams						X

Wilkes			X			
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APPENDIX K

Mandatory Set-Aside Ordinance

4. Township of West Orange may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
5. No more than twenty (20%) percent of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than twenty (20%) percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with monitoring requirements.
 - i. *Monitoring.* The Township of West Orange shall complete all monitoring forms included in monitoring requirements related to the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Township of West Orange's housing program, as well as to the expenditure of revenues and implementation of the plan approved by the Court. All monitoring reports shall be completed on designated forms.
 - j. *Ongoing Collection of Fees.* The ability for the Township of West Orange to impose, collect and expend development fees shall expire with its judgment of compliance and repose unless the Township of West Orange has filed an adopted Housing Element and Fair Share Plan with the Court or other appropriate jurisdiction, has filed a Declaratory Judgment action, and has received Court approval of its development fee ordinance. If the Township of West Orange fails to renew its ability to impose and collect development fees prior to the expiration of its judgment of compliance and repose, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L. 1985, c.222 (C.52:27D-320). The Township of West Orange shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its judgment of compliance and repose, nor shall the Township of West Orange retroactively impose a development fee on such a development. The Township of West Orange shall not expend development fees after the expiration of its judgment of compliance and repose.

25-18.23 Inclusionary Housing Requirements for Multifamily Residential Developments

Any multifamily residential development consisting of five or more dwelling units shall produce low- and moderate-income housing on-site or elsewhere in the Township. The number of affordable units to be provided shall be 20 percent of the residential units in the development. The provisions of this section shall not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwellings of five or more.

Section 2. Chapter XXV Land Use Regulations is hereby amended and supplemented

by adding the following sections:

25-20 IHO-1 (INCLUSIONARY HOUSING OVERLAY) DISTRICT

- a. Purpose

APPENDIX L

West Orange Homeowners Rehabilitation Program (WOHRP) Documentation

WEST ORANGE HOUSING REHABILITATION PROGRAM

ATTENTION TOWNSHIP HOMEOWNERS

YOU MAY BE ELIGIBLE FOR A \$25,000 INTEREST FREE HOME IMPROVEMENT LOAN

There are no loan payments and loan is not repaid until you sell your home

MONEY MAY BE USED FOR NECESSARY REPAIR OR REPLACEMENT OF:

Roofs & Gutters	Heating Systems
Doors & Windows	Electrical Systems
Kitchen & Bathroom updates	Painting or Siding
Insulation	Exterior Stairs, Porches, Decks

TOTAL FAMILY INCOME CANNOT EXCEED THESE LIMITS

Persons in Household	1	2	3	4	5	6	7	8+
Maximum Income	\$75,840	\$86,640	\$97,440	\$108,240	\$116,960	\$125,600	\$134,240	\$142,880

Just fill out this Preliminary Application as soon as possible and bring it or mail it to:
West Orange Housing Rehabilitation Program (WOHRP)
Department of Planning & Development
Town Hall, 66 Main Street (2nd Floor)
West Orange, NJ 07052

WOHRP Applicants will be served on a first come, first served basis.

Name: _____ Home phone # _____

Address: _____ Cell # _____

Type of home: Single ☐ Duplex ☐ 3+ ☐ Email _____

Name(s) on Deed (1) _____ (2) _____

Total # of persons in your household ____ Gross 2024 Annual Family Income all adults \$ _____

Our Gross Family Income is below the maximum on the chart above for our size family. Yes ☐
No ☐

Additional info via the WOHRP Administrator, Steve Weinberg, at (732) 485-0756 steve.weinberg@mac.com

I/we certify that all information on this preapplication is true and correct to the best of my/our knowledge. I/we understand that any willful misstatement of material fact may be grounds for disqualification.

Applicant Signature _____ Date: _____

Co-Applicant signature _____ Date: _____ 6/25

APPENDIX M

555 Northfield Avenue Documentation



Essex County Register Document Summary Sheet

ESSEX COUNTY REGISTER OF DEEDS & MORTGAGES HALL OF RECORDS - ROOM 130 465 DR. MARTIN LUTHER KING BLVD NEWARK NJ 07102	Transaction Identification Number		6590374	8018983
	Recorded Document to be Returned by Submitter to: PRESTIGE TITLE AGENCY, NOS 130 POMPTON AVE VERONA, NJ 07044			
Official Use Only JUAN M. RIVERA, JR REG. OF DEEDS & MORTGAGES ESSEX COUNTY New Jersey DOCUMENT TYPE 1 INSTRUMENT NUMBER 2023018959 RECORDED ON Mar 27, 2023 9:37:03 AM Total Pages: 6 NJ PRESERVATION ACCOUNT \$30.00 REGISTER RECORDING FEE \$40.00 HOMELESSNESS TRUST FUND \$3.00 CODE BLUE EMERGENCY \$2.00 SHELTER SERVICES TOTAL PAID \$75.00 INV: 639894 USER: IKM	Submission Date (mm/dd/yyyy)		03/23/2023	
	No. of Pages (excluding Summary Sheet)		4	
	Recording Fee (excluding transfer tax)		\$75.00	
	Realty Transfer Tax		\$0.00	
	Total Amount		\$75.00	
	Document Type	DEED-NO CONSIDERATION		
	Electronic Recordation Level		L2 - Level 2 (With Images)	
	Municipal Codes		ESSEX COUNTY 99	
704604				

Additional Information (Official Use Only)

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Essex County Register Document Summary Sheet

DEED-NO
CONSIDERATION

Type	DEED-NO CONSIDERATION				
Consideration	\$1.00				
Submitted By	SIMPLIFILE, LLC. (SIMPLIFILE)				
Document Date	03/06/2023				
Reference Info					
Book ID	Book	Beginning Page	Instrument No.	Recorded/File Date	
GRANTOR	Name			Address	
	CGPH LLC			1249 SOUTH RIVER ROAD, SUITE 301, CRANBURY, NJ 08512	
GRANTEE	Name			Address	
	555 NORTHFIELD LLC			204 MADISON AVENUE, SUITE B, MORRISTOWN, NJ 07960	
Parcel Info					
Property Type	Tax Dist.	Block	Lot	Qualifier	Municipality
	99	168	26 & 28		99

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**COVER SHEET [DOCUMENT SUMMARY FORM] IS PART OF ESSEX COUNTY REGISTER FILING RECORD.
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Prepared by: Dean J. Donatelli, Esq.

Deed Restriction

DEED-RESTRICTED AFFORDABLE HOUSING PROPERTY WITH RESTRICTIONS ON RESALE AND REFINANCING

To Rental Property
With Covenants Restricting Rentals, Conveyance and Improvements
And Requiring Notice of Foreclosure and Bankruptcy

and
delivered
3/13/2023
②

THIS DEED RESTRICTION (this "Deed") entered into as of this 6 day of March, 2023, by and between the **CGP&H, LLC**, or its successor, acting on behalf of the Township of West Orange, with offices at 1249 South River Road, Suite 301, Cranbury, NJ 08512-3633 ("Administrative Agent"), and **555 Northfield LLC**, a New Jersey limited liability company, having offices at 204 Madison Avenue, Suite B, Morristown, NJ 07960 (the "Owner") the developer of a 70-unit residential rental project, certain units of which shall be very low, low- or moderate-income rental units in accordance herewith (the "Project").

WITNESSETH

Article 1. Consideration

In consideration of benefits and/or right to develop received by the Owner from the Township of West Orange and/or its political subdivisions (the "Municipality") regarding this rental Project, the Owner hereby agrees to abide by the covenants, terms and conditions set forth in this Deed Restriction, with respect to the Affordable Units more specifically described in Article 2 hereof (the "Property").

Article 2. Description of Property

The Property consists of all of the land, and a portion of the improvements thereon wherein the Affordable Units are located, is located in the municipality of West Orange Township, County of Essex, State of New Jersey, and described more specifically as Block No. 168, Lot Nos. 26 and 28 , and known by the street address:

555 Northfield Avenue, West Orange, NJ 07052.

And, the affordable units subject to this Deed Restriction are more specifically designated as follows (each an "Affordable" Unit", and collectively, the "Affordable Units") and containing a total of eleven (11) bedrooms:

Unit# 121 (2 bed plus den)
Unit# 207 (1 bed)
Unit# 221 (2 bed plus den)
Unit# 222 (2 bed)
Unit# 306 (2 bed)
Unit# 321 (2 bed)

Article 3. Affordable Housing Covenants

The following covenants (the "Covenants") shall run with the land with respect only to the Affordable Units for the period of time (the "Control Period"), determined separately with respect for each dwelling unit, commencing upon the earlier of the (a) date hereof or (b) the date on which the first certified household occupies the unit, and shall and expire as determined under the Uniform Controls, as defined below.

In accordance with N.J.A.C. 5:80-26.11, each Affordable Unit shall remain subject to the requirements of this subchapter, the "Control Period". Each Affordable Unit must remain subject to the requirements of this Deed Restriction pursuant to this subchapter for a period of at least 30 years; provided, however, that:

1. Units located in high-poverty census tracts shall remain subject to these affordability requirements for a period of at least 10 years; and
 2. Any unit that, prior to December 20, 2004, received substantive certification from COAH, was part of a judgment of compliance from a court of competent jurisdiction or became subject to a grant agreement or other contract with either the State or a political subdivision thereof, shall have its control period governed by said grant of substantive certification, judgment or grant or contract.
- A. Sale and use of the Property is governed by regulations known as the Uniform Housing Affordability Controls, which are found in New Jersey Administrative Code at Title 5, chapter 80, subchapter 26 (N.J.A.C. 5:80-26.1, *et seq.*, the "Uniform Controls").
 - B. The Affordable Units shall be used solely for the purpose of providing rental dwelling units for very-low-income (making 30 percent or less of median income in the housing region, as defined in the New Jersey Fair Housing Act), persons in need of supportive and special needs housing. While special needs housing units are exempt from income eligibility review by the Administrative Agent, no commitment for any Affordable Unit shall be given or implied by JSDD, its successors or assigns, without securing documentation that affirms the household's income is at or below 30 percent of median income in the housing region.
 - C. No improvements may be made to the Property that would affect the bedroom configuration of any of the Affordable Units, and any improvements to the Affordable Units must be approved in advance and in writing by the Administrative Agent.
 - D. The Owner shall notify the Administrative Agent and the Municipality of any foreclosure actions filed with respect to the Property within five (5) business days of service upon Owner.
 - E. The Owner shall notify the Administrative Agent and the Municipality within three (3) business days of the filing of any petition for protection from creditors or reorganization filed by or on behalf of the Owner.

Article 4. Remedies for Breach of Affordable Housing Covenants

A breach of the covenants set forth herein will cause irreparable harm to the Administrative Agent, to the Municipality and to the public, in light of the public policies set forth in the New Jersey Fair Housing Act, the Uniform Housing Affordability Control rules found at N.J.A.C. 5:80-26, and the obligation for the provision of low and moderate-income housing.

- A. In the event of a threatened breach of any of the covenants herein by the Owner, or any successor in interest of the Property, the Administrative Agent and the Municipality shall have all remedies provided at law or equity, including the right to seek injunctive relief or specific performance.
- B. Upon the occurrence of a breach of any covenants by the Owner, or any successor in interest or other owner of the Property, the Administrative Agent and the Municipality shall have all remedies provided at law or equity including but not limited to forfeiture, foreclosure, acceleration of all sums due under any mortgage, recouping of any funds from a sale in violation of the covenants, diverting of rent proceeds from illegal rentals, injunctive relief to prevent further violation of said Covenants, entry on the premises, those provided under Title 5, Chapter 80, Subchapter 26 of the New Jersey Administrative Code and specific performance.

IN WITNESS WHEREOF, the Administrative Agent and the Owner have executed this Deed Restriction as of the date first above written.

ADMINISTRATIVE AGENT:

CGP&H, LLC

By: 

Name: Daniel Levin

Title: Administrative Agent

OWNER:

555 Northfield LLC

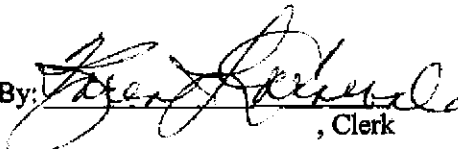
By: 

Name: Nancy Varnum

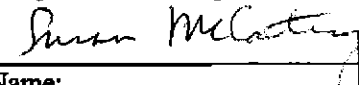
Title: Managing Member

APPROVED:

Township of West Orange

By: 

, Clerk

By: 

Name:

Title: Mayor

SUSAN MCCARTNEY

ACKNOWLEDGEMENTS

On this the 13 day of March, 2023 before me came Daniel Levin,
 the _____ of CGP&H, LLC to me known and known to me to be the
 Administrative Agent for the Township of West Orange, who states that (s)he has signed said
 Agreement on behalf of said Municipality for the purposes stated therein.

Stephanie C. Rubin
 NOTARY PUBLIC

STEPHANIE C. RUBIN
 Commission # 50098692
 Notary Public, State of New Jersey
 My Commission Expires
 February 12, 2024

On this the 6 day of March, 2023 before me came Rocco Verna, to me
 known and known to me to be the Mary M. Verna of 555 Northfield LLC, the Owner of
 the Property, who states that (s)he has signed said Deed for the purposes stated therein.

Arlene Flores
 NOTARY PUBLIC

ARLENE FLORES
 Notary Public, State of New Jersey
 Comm. # 50177719
 My Commission Expires 11/15/2026

On this the 21st day of March, 2023 before me came Lisa M. Carter, known
 and known to me to be Mayor of the Township of West Orange, the Municipality identified as
 such in the foregoing Deed, who states that (s)he is duly authorized to execute said Agreement
 on behalf of said Municipality, and that (s)he has so executed the foregoing Deed for the
 purposes stated therein.

Kenneth W. Kayser
 NOTARY PUBLIC

Kenneth W. Kayser
 An Attorney At Law of the State of New Jersey

Record and Return to:

CGP&H, LLC
 1249 South River Road, Suite 301
 Cranbury, NJ 08512-3633
 Attn: Dan Levin, PP, AICP

**BOARD OF ADJUSTMENT
OF
THE TOWNSHIP OF WEST ORANGE**

RESOLUTION ZB-18-09

555 Northfield Avenue, LLC (“West Village”

WHEREAS, 555 Northfield Avenue, LLC, (hereinafter referred as the Applicant), owner of the property located at 555 Northfield Avenue, West Orange, New Jersey, 07052, being Block 168, Lot 26 and Lot 28 on the Tax Map of the Township of West Orange and located in the B-2 zone, applied to the West Orange Zoning Board of Adjustment (“the Board”) for Preliminary and Final Site Plan Approval with the following variances: ¹ (1) a “d” 6 height variance for 62.8 feet when 35 feet is the maximum height permitted (2) a “c” variance for 5 stories when only 2 ½ stories are permitted; (3) a “c” variance for a 2.56 foot front yard setback when a 30 foot setback is required; (4) a “c” variance for 49% building coverage when 40% is the maximum allowed; (5) a “c” variance for lot coverage of 77.43% when 60% is the maximum allowed; (6) a “c” variance for a 1 foot setback of an accessory structure from the property line when a 5 foot setback is required; (7) a “c” variance for an accessory use in the parking areas in the front and side yards which is not permitted; (8) a “c” variance for a five foot setback of an accessory structure and a parking area to a residential zone when a 10 foot setback is required; (9) a “c” variance for a six foot PVC privacy fence in a front yard which is not permitted; (10) a “c” variance for five signs when only one is permitted; (11) a “c” variance for a 1.6 foot projection of a façade sign when 1 foot is the maximum projection allowed; and (12) a “c”

¹ The Applicant submitted several design changes to the requested buildings during the Application process, which changed several aspects of the “c” variances sought. The particulars of the variances that follow are the last reiteration presented by the Applicant, and those that were voted upon by the Board.

variance for a five foot setback of a monument sign from the property line when a 10 foot setback is required, all to build a mixed use apartment building, retail space and childcare center; and the Applicant having also requested a waiver of the filing of an Environmental Impact Statement and from sections 28 and 31 of the checklist requirements for Site Plan Approval; and

WHEREAS, the Applicant presented proof that adequate Notice of the Hearing on the said Application was published in the West Orange Chronicle, one of the official newspapers of the Board; and

WHEREAS, the Applicant submitted proof of service of the Hearing on the Application upon all property owners within two (200) hundred feet of the property; and

WHEREAS, the Application was heard by the Board at hearings dated May 16, 2019, June 20, 2019, July 25, 2019, August 15, 2019 and September 18, 2019; and

WHEREAS, the Applicant was represented by Robert C. Williams, Esq.; and

WHEREAS, the Applicant presented testimony of Michael Lanzafama, a licensed Professional Engineer and Land Surveyor of the State of New Jersey, who was recognized by the Board as an expert in the fields of civil engineering and land surveying, Mr. Lanzafama testified about the engineering and site plan aspects of the Application including a height study of structures in the vicinity of the subject property, which showed a nursing home at 48.44 feet, the Codey Arena at 56 feet, the parking deck at the Codey Arena at 56.23 feet and the St. Cloud Elementary School at 410 feet, noting that the subject Application seeks a height variance for 62 feet 10 inches, he further testified about existing and proposed building coverage and impervious coverage, and the parking requirements and proposed parking that will be compliant with the Township Ordinance requirements,

that the setbacks of the proposed Application are less deviant from the Township Zoning Ordinance requirements than the present structure of the Turtle Back Inn but still require variances, he discussed turning ratios in the parking lot for fire and garbage truck access; Mr. Lanzafama was re-called to testify about the new site plan presented by the Applicant during the course of the proceedings that turned the day care center building to face towards Northfield, and also relocated the playground to the rear of the building, and the re-design of the apartment building reduces the appearance of the mass of building, which resulted in an additional parking space, and then reviewed the Township Engineer's comments letters dated April 1, 2019 and September 13, 2019 and testified the Applicant will comply with all requests in the Design Comments and Plat Details (Section C) in the September 13, 2019 report of John Hess of Certified Municipal Engineers "CME", the Township Consulting Engineers, with the exception of number 7, which request was withdrawn by the Township Engineer Mr. Hess; and

WHEREAS, the Applicant presented testimony of Mark Pavey, 136 Cove Avenue, Golf Shores Alabama, a licensed Professional Architect of the State of New Jersey, who was recognized by the Board as such, Mr. Pavey testified his practice is emphasized in the area of childcare structures and that he has designed several such structures for Primrose Schools and Kindercare, Mr. Pavey presented the architectural plans for the childcare center which will contain 12 classrooms, comply with all State requirements for childcare centers, the building will include a warming kitchen, that the building is designed for a maximum occupancy student population of 194 students, which would call for 22-24 employees, and 2 administrative staff; and

WHEREAS, the Applicant presented the testimony of Brian Conway, a licensed professional landscape architect of the State of New Jersey, who was recognized by the Board as such, Mr. Conway presented the lighting plan, with fixtures that will match the ones used across the street at the Turtle Back Zoo, the Applicant was then granted a design waiver for reduced lighting levels, Mr. Conway further testified about the landscaping plan, that the Applicant is adding landscaping to the riparian buffer of the Brook at the rear of the property, and will agree to clean up the area around the Brook of the current debris and litter, and that the Applicant will address all concerns addressed by Township Forrester, John Linson, to his satisfaction, as well as the Township Engineer Mr. Hess' request for a shrub planting detail and a change from Green Vase Zeikova trees to a species on the West Orange approved species list, and indicated he will attempt to keep the corner landscaping as is; Mr. Conway further presented a shade study dated March 6, 2019, setting forth how adjoining properties will be impacted by sun and shade after the proposed project has been built, as measured at the summer and winter solstices; and

WHEREAS, the Applicant presented the testimony of Laurence Appel, a licensed professional architect of the State of New Jersey, who was recognized by the Board as such, Mr. Appel presented the architectural plans for the apartment building, describing it as a luxury apartment building, he also presented the planned exterior materials, he further presented artist's renderings of the buildings from several angles, which were done to scale imposed on photographs of the surrounding areas to demonstrate how the building will actually appear in its setting, he described the retail space at 1,900 square feet and that the building will have 70 apartment units, including 11 affordable units, 71 covered parking spaces, with a minimum of one assigned space per unit, and the additional surface parking,

he highlighted the outdoor and indoor amenity space for residents, that amenity space will only be for the use of the tenants and their guests and will not be available for rent by members of the public, he stated that the architectural details will appear on all four sides of the building, detailed the signage, discussed the den in some units, that without a door or a closet it is not intended to be used as a bedroom; Mr. Appel further testified about the new architectural plans modified during the hearing process that reduce the appearance of the building height by scaling back the upper story, and then detailed the changes that were made to the floor plans to accommodate this change which makes the building appear less tall, but while keeping the height the same; and

WHEREAS, the Applicant presented testimony of Harold Maltz, a licensed Professional Engineer of the State of New Jersey with an emphasis in traffic engineering, who was recognized by the Board as an expert in the field of traffic engineering, he began his testimony by stating that despite the plan changes that had been presented during the course of the Application, the numbers and level of service set forth in his report of 11/5/18, with a revision date of 2/11/19 and his parking evaluation report of 2/12/19 remain applicable, he testified as to the adequacy of parking and about the traffic pattern for drop off of children to the day care center, and that he agrees with the design change to bar left hand turns out of the St. Cloud Avenue exit driveway; and

WHEREAS, the Applicant presented the testimony of Phillip Abramson, a licensed Professional Planner of the State of New Jersey who was recognized by the Board as such, and Mr. Abramson outlined the Application from a planning prospective, noting that the location is ideal for this project because Northfield Avenue at that location is over 70 feet wide and is more like a state road than a county highway, that the availability of

the New York express busses across the street will allow dual income couples to live at the site with only one car; that the presence of Stagg field to the rear of the property adds an additional buffer to the single family homes, separated by the Rahway River and the other business on Northfield Avenue, such as a strip center, Dunkin Donuts, McDonald's and a gas station further remove this site from any single family residential homes; he further testified that he concurs with Mr. Grygiel's assessment of the variance required as outlined in Mr. Grygiel's report of September 16, 2019, he emphasized that all of the uses proposed are permitted in this B-2 zone, the only variance requested with a higher burden of proof is the d(6) height variance, that in his opinion the site can accommodate the height without negative impact to the surrounding area, and that with the top floor scaled back it will reduce the perception of the height and existing trees will also help the building blend, that all the "c" variance are "c(2)" variances that can be granted because the design presents a better planning alternative, that the project includes an inherently beneficial use in the daycare center and the benefit of affordable units in the apartment building, that he does not see any negative impact and that adequate proofs have been established that the benefits outweigh the detriments for the grant of the requested d(6) and the "c(2) variances and that the Applicant has met the negative criteria in that the project will have little or no impact on surrounding area and will not be substantially detriment to the public good or Zone Plan; and

WHEREAS, the Applicant offered the following Exhibits:

A-1 Site Plan, Sheet 2, revision date 2/15/19;

A-2 Site plan, Sheet 4, revision date 2/15/19, colorized;

A-3 Map of Building heights dated 2/15/19;

A-4 Fire truck turning analysis dated 2/15/19;
A-5 Garbage truck turning analysis dated 2/15/19;
A-6 Drawing 5 of Landscape Plan, revision date 2/19/19;
A-7 Shade study dated 12/15/19;
A-8 Sheet A-4, Primrose School exterior elevations dated 11/15/18;
A-9 Sheet A-1.4, Primrose School floor plans dated 11/15/18;
A-10 Relocated Child care study 6/7/19;
A-12 Material Board
A-13 Artistic renderings (A-D);
A-13-E Artistic Rendering;
A-14 List of Projects completed by Harold Maltz, P.E.;
A-18 Modified Site Plan dated
A-19 8 pages of new architectural plans dated 9/4/19;
A-20 Artist's rendering, view F, dated 9/13/19;
A-22 aerial photographs prepared by Mr. Abramson;

WHEREAS, the Board considered the reports of Board Engineer, John Hess, PE, PP, CME, dated April 1, 2019, August 13, 2019 and September 13, 2019 and his testimony at the hearing on June 27, 2019 as well as the reports of Township Planner, Paul Grygiel dated March 6, 2019, August 12, 2019 and September 16, 2019. and his testimony at the hearing on June 27, 2019; and

WHEREAS, the Board Members questioned the witnesses; and

WHEREAS, the following persons questioned the Applicant's witnesses:

Harvey Grossman, West Orange Public Advocate questioned Mr. Lanzafama about whether excavation would be needed for the parking garage and could the Applicant consider dropping the parking structure down into a basement area to reduce the overall height of the building, to which Mr. Lanzafama replied that same was not possible due to flood plain levels in the rear of the property;

Sonia Cohenson, 322 St. Cloud Avenue, questioned Mr. Lanzafama;

Charlotte Wescott, 346 St. Cloud Avenue, asked about the planned pedestrian route for children entering and exiting the day care center, as well as how many children will be enrolled and whether there will be parking spaces reserved for the vehicles of persons dropping off children at the daycare center; Ms. Wescott questioned Mr. Pavey about the capacity of the playground; Ms. Wescott asked why traffic counts were not done in the summer when the Turtle Back Zoo attendance is at its peak, to which Mr. Maltz replied that the Zoo hours of 10:00 a.m. to 4:30 p.m. are outside the site's peak traffic hours of 7:45 to 8:45 a.m. and 5:00 to 6:00 p.m., and that the daycare center is closed on the weekends when the Zoo has its highest number of visitors;

Loren Svetivials, Prospect Avenue, asked about whether Stagg Field will be affected by shadows from the building;

Robert Rashkes, asked Mr. Lanzafama how school busses will pick up and drop off the children that will live in the apartment building, and whether any air quality studies had been done; Mr. Rashkes asked Mr. Pavey about emergency lights in the childcare building; Mr. Rashkes questioned Mr. Conway about the location of the eleven trees that are being removed from the site and how shade from the proposed building will affect the Stagg field parking lot ; Mr. Rashkes asked Mr. Appel to describe the roof top amenities; Mr. Rashkes

questioned Mr. Maltz about Mr. Maltz's opinion that the availability of the Park and Ride across the street will impact the car usage of the tenants and where will guests for any tenant parties park; Mr. Rashkes asked Mr. Appel if the new design presented by the Applicant would change the shade data and was told by Mr. Appel that it will not;

Claire Silvestri, 20 Grandview Avenue, asked if any studies had been done to predict how many children will live at the new apartment building, and whether the garage parking will be assigned; Ms. Silvestri also asked Mr. Maltz to consider that the left turn from St. Cloud Avenue and in the side driveway from Northfield Avenue eastbound may be the most popular entrance to the site, to which Mr. Maltz replied that will not be a problem as there is room for three cars to queue on Northfield to make that turn;

Soma Sinha, Schissel Court, questioned Mr. Pavey;

Joel Goldstein, 299 St. Cloud Avenue asked Mr. Conway asked if the playground would be lighted, to which Mr. Conway responded that it would not; Mr. Goldstein asked Mr. Conway about the projected height of the new tree plantings on Northfield Avenue, to which Mr. Conway replied that they will grow to thirty to forty feet in height; Mr. Goldstein asked Mr. Appel asked about the location of the HVAC units, and whether units will all have washers and dryers, to which Mr. Appel responded in the affirmative; Mr. Goldstein questioned Mr. Maltz about adequate parking for tenant guests, asked him if had he considered the impact of the school busses at St. Cloud and cars dropping off children at St. Cloud school, to which Maltz replied there will be no impact because vehicles leaving the Applicant's location will not be able to turn left onto St. Cloud Avenue, and further questioned Mr. Maltz on how the parking will accommodate all of the staff and drop-offs at the daycare center; Mr. Goldstein further requested that Mr. Maltz recommend that there

be a "Don't Block the Box" sign installed at St. Cloud and Northfield Avenue, to which Mr. Maltz indicated he would support; Mr. Goldstein also asked if the building will interfere with the cellular antennae located on Stagg field;

Ken Alper, Collamore Terrace, asked about the St. Cloud driveway which will be ingress only;

Lauren Koch, 19 Sheridan Avenue, asked if there will be parking rules for the daycare center, a restriction on use of the lot by commuters and otherwise asked Mr. Maltz the basis for his numbers of expected trips and needed parking for the site;

Andrea Schoenberger, 39 Oak Crest Road asked if the parking counts included providing for the day care center staff and indicated that she was concerned about an increased school population if Application is granted;

Christine Bosco, 4 Mason Place asked Mr. Maltz if Sheridan Avenue had been studied, to which Mr. Maltz replied it had been but that information is now moot because there will be no exit onto St. Cloud Avenue; Ms. Bosco asked Mr. Appel about the affordable units that will be provided in the apartment building, and asked Mr. Maltz about fire hydrants;

Scott Dias asked Mr. Appel about the height of the apartment building and asked Mr. Lanza fama about the driveways into and out of the site and asked if a wetlands assessment had been done;

Jean Goldstein, 299 St. Cloud Avenue questioned Mr. Maltz;

Harvey Montague, 29 Boland Drive asked about the materials to be used on the apartment house;

Beverly Reilly, 56 Lennox Terrace asked Mr. Abramson how this project could be seen as a benefit when there is already so much traffic in the morning on St. Cloud Avenue; and

WHEREAS, the following persons commented upon the Application:

Robert Rashkes, 35 Oak Crest Road, testified he was concerned about traffic, the fact that the Applicant had not detailed how school busses would pick up children living in the new apartment building , questioned whether the parking will be sufficient and about shade on Stagg Field; and

Joel Goldstein, 299 St. Cloud Avenue testified that no matter how attractive the building may be, it is too large for the area, and that he was also concerned about traffic and parking and that he does not believe that the assumptions made by the traffic expert about one car families, the time it will take for daycare drop off, and the amount of cars visiting the retail space were reasonable; and

Beverly Reilly 56 Lennox Terrace, testified the building height is excessive for the neighborhood, she is concerned with increased traffic, and what she believes will be inadequate parking for the daycare staff and the teachers at St. Cloud school, and believes the ingress and egress from the site may be dangerous; and

Jean Goldstein, 299 St. Cloud Avenue, testified the building is too much for the area, that there is nothing this large on Northfield Avenue, and that traffic impacts were not adequately addressed; and

Charlotte Wescott testified that St. Cloud school is overcrowded now, this project will make it worse and the traffic situation in the mornings and afternoons at the school will only become worse; and

Claire Silvestre, 20 Grandview Avenue, testified that she disagrees with the planner that the project will benefit the public, admitting that the hotel is not an attractive use but a dense mixed use with such lot coverage is not in the best interest of the community, that traffic expert's assumptions were not accurate concerning the duration of park cars during drop off times, which will affect the adequacy of parking, and that the building is too large for the space; and

Christine Bosco, 4 Mason Place, testified that this project will be detrimental to the St. Cloud area in terms of traffic and congestion, that the building is too large and will block the sun and view of the mountains to the neighborhood in the late afternoon, that the apartment building will add more children to the schools system, does not fit the character of the neighborhood and there are better uses for this property; and

Scott Dias, 272 St. Cloud Avenue testified that the scope and size of the building will hurt the fabric of the neighborhood, and that the Board should see the traffic on St. Cloud Avenue at the start and end of the school day; and

WHEREAS, all the facts and data contained in the submitted Application and all facts and testimony adduced at the public Hearing on said Application are incorporated herein as Findings of Facts of this Board as if set forth at length herein and made a part hereof; and

WHEREAS, THE BOARD HAVING MADE THE FOLLOWING SPECIFIC FINDINGS OF FACT AND CONCLUSIONS:

- A. The Applicant is the owner of 555 Northfield Avenue, West Orange, New Jersey, 07052, being Block 168, Lot 26 and Lot 28 on the Tax Map of the Township of West Orange and located in the B-2 zone.

- B. The Applicant seeks Preliminary and Final Site Plan approval and requires (1) a “d” 6 height variance for 62.8 feet when 35 feet is the maximum height permitted (2) a “c” variance for 5 stories when only 2 ½ stories are permitted; (3) a “c” variance for a 2.56 foot front yard setback when a 30 foot setback is required; (4) a “c” variance for 49% building coverage when 40% is the maximum allowed; (5) a “c” variance for lot coverage of 77.43% when 60% is the maximum allowed; (6) a “c” variance for a 1 foot setback of an accessory structure from the property line when a 5 foot setback is required; (7) a “c” variance for an accessory use in the parking areas in the front and side yards which is not permitted; (8) a “c” variance for a five foot setback of an accessory structure and a parking area to a residential zone when a 10 foot setback is required; (9) a “c” variance for a six foot PVC privacy fence in a front yard which is not permitted; (10) a “c” variance for five signs when only one is permitted; (11) a “c” variance for a 1.6 foot projection of a façade sign when 1 foot is the maximum projection allowed; and (12) a “c” variance for a five foot setback of a monument sign from the property line when a 10 foot setback is required, a waiver of the filing of an Environmental Impact Statement and a waiver from sections 28 and 31 of the checklist requirements for Site Plan Approval all to build a mixed use apartment building, retail space and childcare center.
- C. The Applicant accommodated the Board’s concern about building height and mass by scaling down the top floor and addressed the Board’s concern about the location of the daycare playground and re-oriented the daycare building.

- D. The project will replace a restaurant building that has been shuttered for years and a dated hotel that have been an eyesore for many years.
- E. The site presents natural buffers to the single family residential area.
- F. The Application meets or exceeds the parking requirements under the Township Ordinance.
- G. Each of the presented uses, apartment building, and retail space and daycare center are all permitted uses at the subject property.
- H. The Applicant's planner's testimony credibly established both positive and negative criteria for the granting of a "D(6)" Variance as well as establishing the positive and negative criteria for granting the "C" Variance.
- I. The Applicant provided testimony that a waiver of an Environmental Impact Statement or any other requirements of the Site Plan Checklist for Site Plan Approval should be granted since the site is fully developed.
- J. The purpose of the Municipal Land Use Law will be advanced by the granting of this Application and the Board specifically finds that the construction of a day care is an inherently beneficial use and that the Township of West Orange will also benefit from the affordable units to be offered in the apartment building.
- K. The Board finds that there is no negative impact as a result of the relief granted and the granting of the Application will not substantially impair the intend and purpose of the West Orange Zone Plan or Master Plan.
- L. The purpose of the Municipal Land Use will be advanced by the granting of this Application.

A Motion to grant the Applicant's request for an Preliminary and Final Site Plan Approval a "D(6) variance and 11 "c(2)" variances, waiver of the requirement for an EIS and items 28 and 31 on the checklist was made by Chairman Neuer and seconded by Ms. Gabry and voted upon as follows:

	Ayes	Nays	Abstentions
Eben	Yes		
Gabry	Yes		
Quentzel	Yes		
Redwine	Yes		
Schwarzbaum	Yes		
Weiss	Yes		
Neuer	Yes		

NOW THEREFORE IT BE RESOLVED that the Zoning Board of Adjustment of the Township of West Orange, based on the findings of fact and conclusions of foresaid and upon the Laws established in the State of New Jersey hereby grants 555 Northfield Avenue, LLC Preliminary and Final Site Plan Approval, and the following variances and waivers:

- (1) a "d" 6 height variance for 62.8 feet when 35 feet is the maximum height permitted (2) a "c" variance for 5 stories when only 2 ½ stories are permitted;
- (3) a "c" variance for a 2.56 foot front yard setback when a 30 foot setback is required;
- (4) a "c" variance for 49% building coverage when 40% is the maximum allowed;
- (5) a "c" variance for lot coverage of 77.43% when 60% is the maximum allowed;

- (6) a “c” variance for a 1 foot setback of an accessory structure from the property line when a 5 foot setback is required;
- (7) a “c” variance for an accessory use in the parking areas in the front and side yards which is not permitted;
- (8) a “c” variance for a five foot setback of an accessory structure and a parking area to a residential zone when a 10 foot setback is required;
- (9) a “c” variance for a six foot PVC privacy fence in a front yard which is not permitted;
- (10) a “c” variance for five signs when only one is permitted;
- (11) a “c” variance for a 1.6 foot projection of a façade sign when 1 foot is the maximum projection allowed; and
- (12) a “c” variance for a five foot setback of a monument sign from the property line when a 10 foot setback is required;
- (13) a waiver of the filing of an Environmental Impact Statement
- (14) a waiver from sections 28 and 31 of the checklist requirements for Site Plan Approval.

BE IT FURTHER RESOLVED that said approval is subject to the following conditions:

1. The Applicant is hereby bound by the evidence presented and the testimony of its witnesses without deviation or alteration.
2. No cellular or other similar antennae shall be permitted to be placed upon the roof of either the apartment building or child care structure.
3. There shall be no exit permitted out of the driveway onto St. Cloud Avenue.

4. The Applicant will submit a solid waste management plan to the reasonable satisfaction of the Township's Consulting Engineer before a certificate of occupancy for either building may be issued.
5. The hours of operation of the daycare center are limited to 6:30 a.m. to 6:30 p.m. The daycare center will not operate on Saturdays or Sundays.
6. Any landscaping changes will be subject to the Township Forrester's approval.
7. The Applicant or whoever will operate the apartment building will enforce the stated condition that none of the dens or other non-bedroom areas in any apartment may be converted into bedroom use.
8. There will be no other signs for the retail space other than the one already described on the plans on the Northfield façade of the building.
9. The location and access to the tenant mailboxes shall be subject to the West Orange United States Postmaster's approval.
10. No commuter parking shall be permitted anywhere on the site and the Applicant shall post signs with that information as well as grant, via letter, authority to the West Orange police to ticket and tow the car of any violator. .
11. The Applicant will install two bike racks on site.
12. The applicant will comply with all applicable regulations for the affordable units being offered, including the phasing requirement. In particular, all units shall include the required bedroom distribution, be governed by controls on affordability and be affirmatively marketed in conformance with the New Jersey Uniform Housing Affordability Controls (U.H.A.C.) 5:80-26.1, et seq., or any successor regulation, with the exception that in lieu of ten (10) percent of affordable units in

rental projects being required to be at thirty five (35) percent of median income, thirteen (13) percent of affordable units in rental projects shall be required to be at thirty (30) percent of median income. All affordable units shall be adaptable in conformance with N.J.S.A. 52:27D-311a and -311b and all other applicable laws. The applicant shall execute an agreement with the township of West Orange's Administrative Agent for affirmative marketing, income qualification and all other administrative requirements related to the affordable units.

13. The Applicant will comply with the fire official's letter of 1/15/19.
14. No flashing, animated or digital signs will be permitted on the property.
15. Before the issuance of a certificate of occupancy will be issued, the Applicant must run a camera inspection on the sewer line in the easement and present its findings to the Township Engineer. The Applicant will comply with any direction issued by the Township Engineer after his review of the camera inspection.
16. All architectural materials and details, including all materials presented, shall be left with the Board secretary and identical materials shall be installed in the finished project, as presented, without substitution.
17. The Applicant will not allow any public events or private gatherings or parties in the common areas except for those of tenants and their guests.
18. No left turn will be permitted out of either of the Northfield Avenue driveways.
19. The daycare center building is approved for use as a daycare center; no change of use is permitted without re-submission to the West Orange Zoning Board of Adjustment.

20. All conditions stated in this Resolution shall be listed on the page of the Final Site Plan drawings where the signature blocks appear.

MOVED BY: Chairman Neuer

SECONDED BY: Mr. Redwine

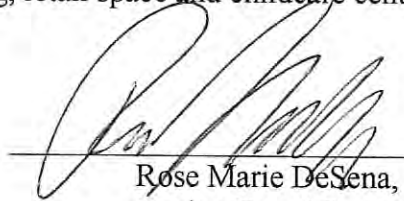
THOSE IN FAVOR: 3

THOSE OPPOSED: 0

ABSTENTIONS: 0

I hereby certify that the foregoing Resolution was adopted by the West Orange Board of Adjustments at its public meeting on October 17, 2019, memorializing the decision of the Board granting the application by a vote of 7 in favor and 0 against, all to build a mixed use apartment building, retail space and childcare center;

Adopted: October 17, 2019

 10/18/19

Rose Marie DeSena,
Zoning Board Secretary

APPENDIX N

172-174 Main Street Documentation

RESOLUTION

Township of West Orange

Planning Board

PB 24-14 172-174 Main Street LLC/172-174 Main Street

Block: 89 Lot: 6; Zone: B-1

Decided on July 2, 2025

Memorialized on July 16, 2025

Application for Conditional Use, Preliminary and Final Major Site Plan Approval with Bulk Variances to construct a third-floor addition to the existing two-story building and convert the building to a mixed-use development.

WHEREAS, 172-174 Main Street, LLC (Hereinafter the “Applicant”) has made an application for Conditional Use approval and Preliminary and Final Major Site Plan approval with Variances to construct a third-floor addition to the existing two-story commercial building and to convert the building to a mixed use development which is a permitted conditional use in the B-1 Zone located at 172-174 Main Street, also known as Block: 89; Lot 6 (the “Property”), in the B-1 Retail Business zone; and

WHEREAS, a properly noticed public hearing was conducted on February 5, 2025, April 2, 2025, May 7, 2025, and July 2, 2025; and

WHEREAS, the Applicant was represented by Tyler Zeberl, Esq.; and

WHEREAS, the Applicant provided testimony from Maurice Cox, Managing Member of 172-174 Main Street, LLC; Donna Bullock, P.E. of Morgan Engineering & Surveying, as a professional engineer; Patrick Downey, P.E. of Dynamic Traffic as a professional traffic engineer, John McDonough P.P., professional planner; and Jason Peist, AIA, of Jason Peist Architect, LLC as a professional architect; and

WHEREAS, the Applicant submitted the following documents to the Board in the form of the application package:

ITEM	SIGNED BY	DATE/REVISION
Preliminary & Final Major Site Plan (4 pages)	Donna M. Bullock, P.E.	1/21/2025 revised 6/17/2025
Property Survey	N.E. Breid & Company	3/13/1989
Architectural Plans (8 Pages)	Jason Peist, AIA	6/26/2024 revised 6/12/2025
Traffic Report	Corey Chase, P.E.	2/18/2025
Boundary and Topographic Survey	David J. Von Steenburg, P.L.S	June 12, 2025

WHEREAS, representatives of the public were provided with an opportunity to pose questions of the Witnesses and also had an opportunity to offer statements in regard to the Application, including testimony from Peter Steck, Professional Planner; Eric Buckley, AIA and

WHEREAS, the Board reviewed and considered the Application, and the documents submitted therewith, the testimony of the Witnesses and members of the public; and

WHEREAS, the Board also considered the testimony and filed review letters of its professionals at the hearing, including review memos dated August 13, 2024, from Phillip Scott,, P.E.C.M.E., Matrix New World (Township Engineer), a Planner's Report by Gerard M. Haizel, PP, AICP, Principal of Nishaune Group and addendum to the report by Gerald M. Haizel, PP, AICP dated April 2, 2025, Township Planning Consultant dated September 24, 2024, and Addendum to Matrix New World report dated April 1, 2025 by Phillip Scott, P.E., C.M.E. and Engineering Review No. 2 dated June 30, 2025 by Phillip Scott, P.E., C.M.E.;

NOW THEREFORE, the Board makes the following findings of fact, based upon the evidence presented at its public hearing, at which a record was made:

1. The Applicant is requesting approval for Preliminary and Final Major site plan approval with c variances to construct a third-floor addition to an existing two (2) story building and convert the building into a mixed-use building.
2. The proposed mixed-use building will contain 2,824 sq. ft. of office space on the first floor, which will be sub-divided into two (2) tenant spaces, and a total of seven (7) residential units on the 2nd and 3rd floors.
3. Twenty-five (25) on-site parking spaces will be provided.
4. Mixed-use development is permitted as a conditional use in the B-1 District if specific conditions are met.
5. The conditions required for a mixed-use development in a B-1 and B-2 District are:
(1) Permitted uses on the ground floor of a mixed-use development shall include the following permitted uses in the B-1 and B-2 Districts: retail store, personal service store or studio, office, business or vocational school, restaurant, bar, massage, bodywork or somatic therapy establishment, and fitness center/health club, (2) One or more dwelling units shall be permitted on the upper floor(s) above any of the permitted ground floor uses in §25-4.2b2()(1), (3) Access to upper floor uses shall be provided by means of a separate entrance than provided for ground floor uses, (4) Minimum lot area shall be 5,000 sq. ft., and the minimum frontage of such lot shall be 50 feet.
6. The proposed development meets all the conditional use requirements.
7. The site is a 15,176.6 square foot (.348 acre) lot located on the western side of Main Street, between Edsonia Terrace and Park Way.
8. The existing building is a two-story commercial building that is currently vacant and appears dilapidated.

9. The existing building is setback 125.7 feet from the eastern (front) property line on Main Street, 6.8 feet from the rear property line and 12.9 feet and 8.6 feet from the northern and southern property lines respectively.
10. No changes to the footprint of the existing building are proposed.
11. The area surrounding the subject property is a retail business district and to the rear are one-family residences.
12. Applicant presented testimony from its engineer, Donna Bullock, that of the six properties on either side of the property in question on Main Street, four were taller than the proposed building.
13. The front yard of the building is currently paved and striped with parking stalls- plans show the parking stalls arranged into two rows along the northern and southern sides of the front yard with 20 standard parking spaces, two (2) parking spaces and one ADA van-accessible space for a total parking space count of 25 spaces (which includes the EV credit).
14. There is a gradual decrease in grade from the rear to the front of the site and to accommodate this change in grade, there is an existing paved area around the front and side perimeter of the building.
15. The first floor will be subdivided into two separate office spaces, each with separate entrances. Applicant's representative, Maurice Cox, testified that one of the offices will house his medical business (True Allied) which is currently located at 105 Main Street and the other space will be dedicated office space.
16. The current building is dilapidated and is just a shell- Applicant seeks to rehabilitate the existing building to create a more aesthetically pleasing and useful building.

17. Applicant proposes to gut the existing interior of the building and to construct a new 3,229 sq. ft. third floor with a floor area of 2,950 sq. ft.
18. The entry to the residential units on the 2nd and 3rd floor will be accessible from the existing staircase that will extend to the new third floor. There are three (3) apartments proposed on the 2nd floor, including two(2) two-bedroom apartments measuring 1,034 square feet and 1,100 square feet and one studio apartment measuring 600 square feet. There are four (4) apartments proposed for the third floor, including two (2) one-bedrooms, each measuring 800 square feet, and two (2) studios each measuring 600 square feet.
19. In response to questions from the Board and public regarding emergency egress from the third floor, Applicant modified the plans to include fire escapes as required by Ordinance and which are Code compliant and do not require a variance.
20. Testimony from the Applicant's architect, Jason Peist, confirmed that the building did not require an elevator due as the building square footage does not exceed the requirements where an elevator would be required.
21. With the proposed third floor, the building's height will be 34.5 feet, which is within the allowable building height for the zone.
22. The exterior improvements include an updated façade with stone and wood for a clean and contemporary look.
23. In response to concerns from members of the public regarding privacy concerns, Applicant agreed to install privacy film on the third-floor rear windows.
24. The roof design includes a parapet wall to hide the HVAC equipment, and the Applicant modified the plans (dated June 17, 2025) to move the HVAC equipment to

be positioned closer to the front of the building with a sound insulation partition wall to minimize sound to the rear neighbors.

25. A mechanical lift for ADA accessibility will be provided in front of the building from the parking lot.
26. The proposed parking lot originally provided 22 standard parking spaces but was changed at the request of the Board to remove one space to allow for safer turning egress, one ADA space and two EV spaces (where one was originally proposed), therefore, 25 parking spaces are provided on site.
27. The Board Engineer, Phillip Scott, P.E., C.M.E. pointed out that the proposed ADA parking space would not have the required slope and therefore Applicant agreed to a condition that the parking lot would be re-graded to provide the required slope for the ADA parking space.
28. Applicant requested the following waivers from the Township Site Plan/Subdivision Checklist Items: 9 (certification blocks), 10 (monumentation), 11 (date of current survey), 13 (metes and bounds description), 14 (acreage), 18 (Location and dimensions of any existing or proposed streets), 20 (Copy and/or delineation of any existing or proposed deed restrictions), 23 (List of required regulatory approvals or permits), 30 (Topographical features of subject property from USGS map), 31 (Existing and proposed contour intervals based on U.G.S. & G.S. datum), 36 (Proposed utility infrastructure plans, including sanitary sewer, water, storm water management, telephone, electric and cable TV), 39 (Spot and finish elevations at all property corners), 40 (Construction details as required by Ordinance), 49 (Vehicular and

pedestrian circulation patterns), and 52 (Plans and legal documents for compliance with West Orange COAH).

29. Applicant's request for waivers of checklist Items 9 through 11 are not applicable because there is no subdivision associated with the application and 18, 23, 30, and 31, have either been satisfied by the Applicant or are not applicable as per the reports of Phillip Scott, P.E., C.M.E. dated April 1, 2025 and Gerard Haizel, P.P. dated April 2, 2025.

30. The Application requires the following variance relief from the Board:

SECTION/REQUIREMENT	PERMITTED/REQUIRED	PROPOSED
25.7.1 Maximum Building Height/Stories	2.5 Stories/35-feet	3-Stories/34.5-feet
25- 7.1 Minimum Rear Yard Setback	30-feet	6.8-feet (Existing Non-Conforming)
25-7.1 Maximum Lot Coverage	75%	87.2% (Existing Non-Conforming Condition)

31. N.J.S.A. 40:55D-46a. and b. and N.J.S.A. 40:55D-50a. govern the Board's review of the preliminary and final site plan application. N.J.S.A. 40:55D-46a provides that an "ordinance requiring site plan review and approval shall require the developer submit to the administrative officer a site plan and such other information as is reasonably necessary to make an informed decision as to whether the requirements necessary for preliminary site plan approval have been met." N.J.S.A. 40:55D-46a further provides that "The site plan and any engineering documents to be submitted shall be required in tentative form for discussion purposes for preliminary approval. If any architectural plans are required to be submitted for site plan approval, the preliminary plans and

elevations shall be sufficient.” N.J.S.A. 50:55D-46b provides that “if the planning board required any substantial amendment in the layout of improvements proposed by the developer that have been the subject of a hearing, an amended application for development shall be submitted and proceeded upon, as in the case of the original application for development” and “the planning board shall, if the proposed development complies with the ordinance and this act, grant preliminary site plan approval.” N.J.S.A. 40:55D-50a. provides that final site plan approval “shall” be granted if the detailed drawings, specifications, and estimates of the application conform to the standards of all applicable ordinances and the conditions of preliminary approval. As such if the applicant meets the standards set forth in the ordinances, the planning board lacks the authority to deny approval of the site plan and subdivision. N.J.S.A. 40:55D-50a; PRB Enters., Inc. v. S. Brunswick Planning Bd., 105 N.J. 1, 7 (1987); Dunkin' Donuts of N.J., Inc. v. Twp. of N. Brunswick Planning Bd., 193 N.J. Super. 513, 515 (App. Div. 1984).

Conversely, if the application does not comply with all ordinance requirements, the Board must deny approval. Cortesini v. Hamilton Planning Board, 417 N.J. Super. 201, 215 (App. Div. 2010). However, there are two exceptions: (1) The first exception is where an application does not comply with all ordinance requirements but the Board grants relief in terms of variances or exceptions. In that case, the Board then must review the application against all remaining ordinance requirements and grant approval if the application complies with all such remaining requirements.

32. N.J.S.A. 40:55D-60 permits a planning board to grant variances from the bulk regulations of a zoning ordinance and other zoning deviations that do not require a “d”

variance as part of site plan or subdivision review. The variance proofs are the same as for "c" variances as set forth in N.J.S.A. 40:55D-70. A c (2) variance may be granted when the purposes of zoning are advanced and the benefits of deviating from the ordinance requirements outweigh any detriments. The benefits derived from granting a "c (2)" variance must include benefits to the community as a whole, not just the applicant or property owner. A "c" variance must address the "negative criteria," and affirmatively demonstrate that the variance can be granted "without substantial detriment to the public good" and "without substantial impairment to the intent and purpose of the zone plan and zoning ordinance" of the municipality.

NOW, THEREFORE, based upon the foregoing findings of fact, the Board reaches the following conclusions of law:

1. The requested variances for rear lot setback and maximum lot coverage satisfy the c (1) criteria as these are pre-existing conditions that have existed since the building was constructed at a time when the Code permitted such conditions.
2. The variance for the third story satisfies the c (2) criteria because the project as a whole advances the purpose of the MLUL as the project presents special reasons under the MLUL N.J.S.A. 40:55D-2, specifically paragraphs a) advancing the general welfare because the building is being restored and renovated; g) provides sufficient space for a variety of residential and commercial uses with easy access to public amenities, is in a walkable location which creates less reliance on automobiles; i.) provides a desirable visual environment by bringing the building more into harmony with the surrounding area and providing aesthetic enhancements to both the building and parking area; and

m) promotes more efficient use of the land because restoration of the building, rather than fully demolishing the building, has a lesser negative effect.

3. The benefits of the project outweigh any negatives and present no substantial detriment to the public good.
4. Waivers for items number: 9 (certification blocks), 10 (monumentation), 11 (date of current survey), 13 (metes and bounds description), 14 (acreage), 18 (proposed streets), 21 (proposed easements), 22 (development stages), 23 (regulatory approvals), 30 (topographical features), 31(contour intervals), 32 (wooded areas), 34 (drainage area map), 39 (soil erosion and sediment control plan), 40 (construction details), 41 (road and paving cross-sections), 42 (proposed street names), and 43 (new block and lot numbers), are appropriate because the above items are not applicable to the proposed project. (Applicant's request for waiver of items 20 and 52 are denied as the project includes affordable housing.)
5. .

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Township of West Orange that approval for Preliminary and Final Major site plan with requested waivers of Items Numbered 9, 10, 11, 13, 14, 18, 21, 22, 23, 30, 31, 32, 34, 39, 40, 41, 42, 43, and 45, and with c variances is granted to; and

IT IS FURTHER RESOLVED that the approval granted to 172-174 Main Street, LLC, is subject to the following terms and conditions:

1. The Applicant shall comply with all applicable Township, County, State and Federal laws, ordinances, regulations, and directives, including without limitation, obtaining all applicable local, state, and federal approvals, or permits. If another governmental entity

or agency grants a waiver or a variance affecting the plans and/or exhibits submitted by the Applicant, this approval or the conditions attached to it, then the Applicant shall re-apply to this Board respecting the same and this Board shall have the right to view that issue as it relates to this approval and these conditions and modify and amend same, if appropriate.

2. In the event that any other required regulatory approval conflicts with the terms and conditions hereof, or materially alters the same, or the terms and conditions hereof are materially altered by any change in applicable law or regulation other than those municipal regulations for which change is prohibited by the Municipal Land Use Law (MLUL), or in the event Applicant or its successor or assigns construct or attempt to construct any improvement in conflict with or in violation of the terms of this approval, the Board hereby reserves the right to withdraw, amend or supplant the instant approval.
3. All construction, use and development of the property shall be in conformance with the plans approved herein, all representations of the Applicant and its witnesses during the public hearing, all exhibits introduced by the Applicant, and all terms and conditions of this resolution.
4. The Applicant shall pay all outstanding application fees and technical review fees, board attorney fees for preparation of the resolution, as well as any inspection fees that may be required hereunder. The Applicant shall pay any additional fees or escrow deposits which may be due and owing within thirty (30) days of the notification or this approval shall be deemed withdrawn.

5. All notes included in the approved plans, including notes required by this Resolution, shall be deemed conditions of approval having the same force and effect as conditions expressly set forth in this Resolution.
6. Applicant agrees to abide by all of the suggestions and directives set forth in the Matrix Report dated August 13, 2024, and April 1, 2025, and June 30, 2025, unless expressly modified by the terms of this Resolution.
7. Applicant will abide by the Township Tree Ordinance.
8. A white roof will be constructed.
9. The HVAC units on the roof of the building will be moved and consolidated at the front of the building (so to provide consideration to the neighbors behind the building.)
10. Applicant shall install and maintain a sound insulation partition wall to muffle the sound of the HVAC system on the roof.
11. No portion of the building may be used as an event space.
12. Applicant agrees to fully comply with the noise ordinance.
13. Applicant will mill, replace and restripe the entire parking lot.
14. The proposed lighting will not have any spillage onto neighboring properties.
15. Applicant agrees to clean out and confirm, to the satisfaction of the Township Engineer, that the existing storm water system is functioning as intended.
16. There shall be no exterior lights at the rear of the building.
17. All debris on site will be cleaned up and the site will be properly maintained free from debris.

18. The parking spaces will consist of 1 ADA space, 2 EV spaces, 21 standard spaces (so that one space at the front will be removed to allow better turning into and out of the site.)
19. Applicant will install and maintain car bumper stops to keep vehicles from overhanging onto the walkway.
20. Applicant will re-grade the slope for the ADA parking space and will submit plans showing that re-grading to the Township Engineer for approval.
21. Trench drain grates will be repaired or replaced to make sure they lay flat.
22. Applicant must replace the current wooden fence and replace the fence with a concrete or block wall.
23. Applicant will install a fence or some other control to prevent neighbors from parking in the parking lot.
24. Applicant must supply the lighting fixture table.
25. Applicant must supply the sewer calculations to the Township Engineer to demonstrate if there is sufficient sewer capacity and shall submit plans that show the connection point and that the lateral can handle the sewer connection (and any other calculations to satisfy 217 of the Matrix April 1, 2025 addendum report).
26. Applicant must change the sewer pipes from 8" to 12".
27. Applicant shall submit the grading plan for the driveway apron.
28. The Fire Sub Code Official shall evaluate the parking lot for fire lanes markings and Applicant shall abide by the direction of the Fire Code Official regarding that necessary striping.
29. Applicant shall submit a full-sized sheet demonstrating the sight triangle.

30. One unit shall be designated as an affordable housing unit and Applicant must designate and identify the specific unit, with a description as to the size of the unit and number of bedrooms to be filed in the form of a deed which shall be approved by the Township Attorney and Planning Board Attorney and shall be filed with the Registrar of Essex County.
31. Medical office use is limited to Unit 1 on the first floor (1436 sq. ft.) and there shall be no medical use in the second commercial space (1388 sq. ft.)
32. Applicant shall submit a shared parking plan for the medical office use and residential use.
33. Applicant will install and maintain privacy film on the rear third floor windows.
34. The Building Department and Fire Sub Code Official shall review the need for an elevator and additional means of egress and if either are required, Applicant must return to the Board regarding changes to the plan resulting from the addition of an elevator and/or an additional means of egress.
35. Applicant must make reasonable efforts to work with the rear neighbor for a one-time installation of trees and/or landscaping on the neighbor's property. (Should Applicant reach an agreement with neighbor to install landscaping it shall be the responsibility of the neighbor going forward to maintain that landscaping.)
36. No parking spaces may be leased to others (including trucks). Parking must be limited to patients, customers, residents and their guests of the building.
37. Applicant will work with Township Engineer to block access to the area behind the building from being accessible to the fire escape.

38. The Applicant shall list all conditions of approval onto a final site plan submission prior to the submission of the building permit.

The undersigned secretary certifies the decision set forth herein was made by this Board on July 2, 2025, and memorialized herein pursuant to N.J.S.A. 40:55D10(g) on July 16, 2025.



Jamilet Baquerizo Vite
Planning Board Secretary

Vote Action Taken by the Board on July 2, 2025:

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
K. Alper			X			
J. Guarino	X		X			
L. Klein						---
S. McCartney			X			
S. Scarpa				X		
C. Morgan						---
F. Noborine					---	
W. Wilkes						---
L. Kapferer			X			
J. Cardoza		X	X			
R. Bagoff			X			

Vote on Memorialization on July 16, 2025:

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
K. Alper			X			
J. Guarino	X		X			
L. Klein					----	
S. McCartney			X			
S. Scarpa					----	
C. Morgan						---
F. Noborine						---
W. Wilkes						---
L. Kapferer						---
J. Cardoza						---
R. Bagoff		X	X			

APPENDIX O

Existing Group Homes Documentation

RECORDING INFORMATION SHEET

ESSEX COUNTY REGISTER'S OFFICE
HALL OF RECORDS , ROOM 130
465 MARTIN LUTHER KING Jr. Blvd
NEWARK NJ 07102

INSTRUMENT NUMBER:

12082063

DOCUMENT TYPE :

DEED**Official Use Only**

PHILIP THIGPEN, REGISTER
ESSEX COUNTY, NJ

INSTRUMENT NUMBER
12082063

RECORDED ON
October 3, 2012 08:37 am
BOOK:12392 PAGE 7280

BB

CONSIDERATION (R) \$320,950.00

MAIL COPY _____

NO COPY _____

ENVELOPE _____

ADDITIONAL STAMPINGS _____

Return Address (for recorded documents)
KENNETH R. SAUTER, ESQ
BERMAN, SAUTER, RECORD & JARDIM

PO BOX 2249
MORRISTOWN NJ 07962

No. Of Pages (excluding Summary Sheet)

7

Recording Fee (excluding Transfer Tax)

\$100.00

Realty Transfer Tax

\$1,878.80

Amount Charged**(Check # 7295)**

\$1,978.80

Municipality

WEST ORANGE

Parcel Information**Block** 152.21**Lot** 1391***First Party Name**

DIANA (EXE) SEFCHIK

Second Party Name

ARC OF ESSEX COUNTY INC

Additional Information (Official Use Only)

***** DO NOT REMOVE THIS PAGE. *****
COVER SHEET (DOCUMENT SUMMARY FORM) IS PART OF ESSEX COUNTY FILING RECORD
***** RETAIN THIS PAGE FOR FUTURE REFERENCE. *****

DEED

This Deed is made on AUGUST 16, 2012.

BETWEEN

DIANA SEFCHIK, INDIVIDUALLY AND AS EXECUTRIX
OF THE WILL OF MILDRED D. CERRATO, whose address is
102 READINGTON ROAD, WHITEHOUSE STATION, NEW
JERSEY 08889, and CAROL DIVITTO, INDIVIDUALLY,
whose address is 232 GRANDVIEW AVENUE, NORTH
CALDWELL, NEW JERSEY 07006,

referred to as the Grantor,

AND

THE ARC OF ESSEX COUNTY, INC., whose address is 123
NAYLON AVENUE, LIVINGSTON, NEW JERSEY,
07039-1005

referred to as the Grantee.

The words "Grantor" and "Grantee" shall mean all Grantors and all Grantees listed above.

1. Transfer of Ownership. The Grantor grants and conveys (transfers ownership of) the property described below to the Grantee. This transfer is made for the sum of **THREE HUNDRED TWENTY THOUSAND NINE HUNDRED FIFTY DOLLARS (\$320,950.00)**. The Grantor acknowledges receipt of this money.

2. Tax Map Reference. (N.J.S.A. 46:15-1.1) Municipality of **WEST ORANGE** Block No. **152.21** Lot No. **1391 and 1392 (1393, 1394)** Account No.

3. Property. The property consists of the land and all the buildings and structures on the land in the **TOWNSHIP of WEST ORANGE**, County of **ESSEX** and State of New Jersey. The legal description is:

AS ATTACHED HERETO.

AS TO TAX LOT 1391, BLOCK 152.21:

BEING the same premises conveyed to Dominic Cerrato by Deed from The Town of West Orange, dated March 28, 1978, and recorded in the Office of the Essex County Register in Book 4600, Page 195, on April 5, 1978. The said Dominic Cerrato died on January 15, 2010, having been survived by his wife, Mildred Cerrato, and his children, Diana Sefchik and Carol DiVitto.

: Prepared by:

:  :
: MICHAEL S. WERNICK :
:

TITLE INSURANCE COMMITMENT

SCHEDULE A

NUMBER 4

(continued)

DESCRIPTION

ALL that certain lot, parcel or tract of land, situate and lying in the Township of West Orange, County of Essex, State of New Jersey, and being more particularly described as follows:

BEGINNING at a point in the Northwesternly sideline of Terrace Avenue said point being distant 435.01 feet as measured Northeasterly from the intersection of said sideline of Terrace Avenue with the Easterly sideline of Eagle Rock Avenue and running, thence

- (1) North 50 degrees 49 minutes 00 seconds West 219.89 feet to a point, thence
- (2) North 13 degrees 01 minutes 00 seconds East 27.70 feet to a point, thence
- (3) South 50 degrees 49 minutes 00 seconds East 93.50 feet to a point, thence
- (4) North 33 degrees 12 minutes East 25.00 feet to a point, thence
- (5) South 50 degrees 49 minutes 00 seconds East 36.00 feet to a point, thence
- (6) North 33 degrees 12 minutes 00 seconds East 50.00 feet to a point, thence
- (7) South 50 degrees 49 minutes 00 seconds East 100.00 feet to a point in the Northwesternly sideline of Terrace Avenue, thence
- (8) Along said sideline of Terrace Avenue South 33 degrees 12 minutes 00 seconds West 100.00 feet to the point and place of Beginning.

Being known as Lots 1391, 1392, 1393 and 1394 in Block 152-4 as shown on "Map of Eagle Rock terrace, West Orange, NJ Property of Henry N. Bowers, Esq." filed on May 16, 1907 in Case 53-C.

BEING in accordance with a survey prepared by Benjamin and Wizorek, Inc. dated May 11, 2012.

LOT 1391 & 1392 IN BLOCK 152.21 ON THE TAX MAP.
(Said Lot and Block reported for informational purposes only)

AS TO TAX LOT 1392 (1393, 1394), BLOCK 152.21;

BEING the same premises conveyed to Dominic Cerrato and Mildred Cerrato, his wife, by Deed from The Town of West Orange, a municipal corporation, dated April 8, 1959, and recorded in the Office of the Essex County Register in Book 3632, Page 195, on April 29, 1959.

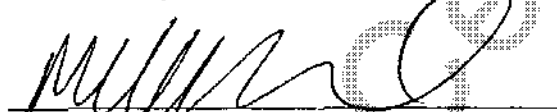
The said Dominic Cerrato predeceased his wife and died on January 15, 2010, thereby vesting full title in Mildred Cerrato, his wife, as Surviving Tenant by the Entirety. The said Mildred Cerrato died Testate on November 7, 2010, and her Last Will and Testament was admitted to probate on March 16, 2011, in the Office of the Essex County Surrogate as Docket No. 2011-0726. Letters Testamentary were issued to Diana Sefchik, who qualified as Executrix of the Estate of Mildred D. Cerrato, Deceased. The said Mildred Cerrato left her estate to her children, Diana Sefchik and Carol DiVitto, under Article Third (A) of her Will.

The street address of the Property is: 19 TERRACE AVENUE, WEST ORANGE, NEW JERSEY 07052.

4. Promises by Grantor. The Grantor promises that the Grantor has done no act to encumber the property. This promise is called a "covenant as to grantor's acts" (N.J.S.A. 46:4-6). This promise means that the Grantor has not allowed anyone else to obtain any legal rights which affect the property (such as by making a mortgage or allowing a judgment to be entered the Grantor).

5. Signatures. The Grantor signs this Deed as of the date at the top of the first page.

Witnessed By:


MICHAEL S. WERNICK


MICHAEL S. WERNICK


DIANA SEFCHIK, INDIVIDUALLY
AND AS EXECUTRIX OF THE WILL
OF MILDRED D. CERRATO


CAROL DIVITTO, INDIVIDUALLY

STATE OF NEW JERSEY

SS.:

COUNTY OF HUDSON

I CERTIFY that on AUGUST 16, 2012, DIANA SEFCHIK personally came before me and stated to my satisfaction that:

- (a) she was the maker of this Deed, both in her individual capacity as an heir of the Estate of Mildred D. Cerrato, Deceased, and as Executrix of the Will of Mildred D. Cerrato;
- (b) she executed this Deed as her own act, both individually and as Executrix of the Will of Mildred D. Cerrato; and
- (c) this Deed was made for **THREE HUNDRED TWENTY THOUSAND NINE HUNDRED FIFTY DOLLARS (\$320,950.00)** as the full and actual consideration paid or to be paid for the transfer of title. (Such consideration is defined in N.J.S.A. 46:15-5).


MICHAEL S. WERNICK
An Attorney at Law of the State
of New Jersey

STATE OF NEW JERSEY

SS.:

COUNTY OF HUDSON

I CERTIFY that on AUGUST 16, 2012, CAROL DIVITTO personally came before me and stated to my satisfaction that she:

- (a) was the maker of this Deed in her individual capacity as an heir of the Estate of Mildred D. Cerrato, Deceased;
- (b) executed this Deed as her own act; and,
- (c) made this Deed for **THREE HUNDRED TWENTY THOUSAND NINE HUNDRED FIFTY DOLLARS (\$320,950.00)** as the full and actual consideration paid or to be paid for the transfer of title. (Such consideration is defined in N.J.S.A. 46:15-5).


MICHAEL S. WERNICK
An Attorney at Law of the State
of New Jersey

:
: **RECORD and RETURN TO:**
: **KENNETH R. SAUTER, Esq.**
: **Berman, Sauter, Record & Jardim, PC**
: **P.O. Box 2249**
: **Morristown, NJ 07962**
:

State of New Jersey
SELLER'S RESIDENCY CERTIFICATION/EXEMPTION
(C.55, P.L. 2004)

(Please Print or Type)

SELLER(S) INFORMATION (See Instructions, Page 2)

Name(s)

ESTATE OF MILDRED CERRATO

Current Resident Address:

Street: 102 READINGTON ROAD

City, Town, Post Office

State

Zip Code

WHITEHOUSE STATION

NJ

08889

PROPERTY INFORMATION (Brief Property Description)

Block(s)

Lot(s)

Qualifier

152.21

1391 and 1392 (1393, 1394)

Street Address:

19 TERRACE AVENUE

City, Town, Post Office

State

Zip Code

WEST ORANGE

NJ

07052

Seller's Percentage of Ownership
98%Consideration
\$320,950.00

Closing Date

SELLER ASSURANCES (Check the Appropriate Box) (Boxes 2 through 8 apply to Residents and Non-Residents)

1. ☒ I am a resident taxpayer (individual, estate, or trust) of the State of New Jersey pursuant to N.J.S.A. 54A:1-1 et seq. and will file a resident gross income tax return and pay any applicable taxes on any gain or income from the disposition of this property.
2. ☐ The real property being sold or transferred is used exclusively as my principal residence within the meaning of section 121 of the federal Internal Revenue Code of 1986, 26 U.S.C. s. 121.
3. ☐ I am a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4. ☐ Seller, transferor or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5. ☐ Seller is not an individual, estate or trust and as such not required to make an estimated payment pursuant to N.J.S.A. 54A:1-1 et seq.
6. ☐ The total consideration for the property is \$1,000 or less and as such, the seller is not required to make an estimated payment pursuant to N.J.S.A. 54A:5-1-1 et seq.
7. ☐ The gain from the sale will not be recognized for Federal income tax purposes under I.R.C. Section 721, 1031, 1033 or is a cemetery plot. (CIRCLE THE APPLICABLE SECTION). If such section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale (see instructions).
- ☐ No non-like kind property received.
8. ☐ Transfer by an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this state.

SELLER(S) DECLARATION

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein could be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete. By checking this box ☐ I certify that the Power of Attorney to represent the seller(s) has been previously recorded or is being recorded simultaneously with the deed to which this form is attached.

8/16/12
DateDiana Sydnik, Exec.
Signature

(Seller) Please indicate if Power of Attorney or Attorney in Fact

Date

Signature

(Seller) Please indicate if Power of Attorney or Attorney in Fact

State of New Jersey
SELLER'S RESIDENCY CERTIFICATION/EXEMPTION
(C.55, P.L. 2004)

(Please Print or Type)

SELLER(S) INFORMATION (See Instructions, Page 2)

Names(s)

DIANA SEFCHIK

Current Resident Address:

Street: 102 READINGTON ROAD

City, Town, Post Office

WHITEHOUSE STATION

State

NJ

Zip Code

08889

PROPERTY INFORMATION (Brief Property Description)

Block(s)

152.21

Lot(s)

1391 and 1392 (1393,1394)

Qualifier

Street Address:

19 TERRACE AVENUE

City, Town, Post Office

WEST ORANGE

State

NJ

Zip Code

07052

Seller's Percentage of Ownership

1%

Consideration

\$320,950.00

Closing Date

SELLER ASSURANCES (Check the Appropriate Box) - (Boxes 2 through 10 apply to Residents and Non-Residents)

1. ☒ I am a resident taxpayer (individual, estate, or trust) of the State of New Jersey pursuant to N.J.S.A. 54A:1-1 et seq. and will file a resident gross income tax return and pay any applicable taxes on any gain or income from the disposition of this property.
2. ☐ The real property being sold or transferred is used exclusively as my principal residence within the meaning of section 121 of the federal Internal Revenue Code of 1986, 26 U.S.C. s. 121.
3. ☐ I am a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4. ☐ Seller, transferor or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5. ☐ Seller is not an individual, estate or trust and as such not required to make an estimated payment pursuant to N.J.S.A. 54A:1-1 et seq.
6. ☐ The total consideration for the property is \$1,000 or less and as such, the seller is not required to make an estimated payment pursuant to N.J.S.A. 54A:5-1-1 et seq.
7. ☐ The gain from the sale will not be recognized for Federal income tax purposes under I.R.C. Section 721, 1031, 1033 or is a cemetery plot. (CIRCLE THE APPLICABLE SECTION). If such section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale (see instructions).
☐ No non-like kind property received.
8. ☐ Transfer by an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this state.
9. ☐ The property being sold is subject to a short sale instituted by the mortgagee, whereby the seller has agreed not to receive any proceeds from the sale and the mortgagee will receive all proceeds paying off an agreed amount of the mortgage.
10. ☐ The deed being recorded is a deed dated prior to the effective date of P.L. 2004, c. 55 (August 1, 2004), and was previously unrecorded.

SELLER(S) DECLARATION

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein could be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete. By checking this box ☐ I certify that the Power of Attorney to represent the seller(s) has been previously recorded or is being recorded simultaneously with the deed to which this form is attached.

Date

Date

Signature

Signature

(Seller) Please indicate if Power of Attorney or Attorney in Fact

(Seller) Please indicate if Power of Attorney or Attorney in Fact

State of New Jersey
SELLER'S RESIDENCY CERTIFICATION/EXEMPTION
(C.55, P.L. 2004)

(Please Print or Type)

SELLER(S) INFORMATION (See Instructions, Page 2)

Name(s)

CAROL DIVITTO

Current Resident Address:

Street: 232 GRANDVIEW AVENUE

City, Town, Post Office

NORTH CALDWELL

State

NJ

Zip Code

07006

PROPERTY INFORMATION (Brief Property Description)

Block(s)

152.21

Lot(s)

1391 and 1392 (1393,1394)

Qualifier

Street Address:

19 TERRACE AVENUE

City, Town, Post Office

WEST ORANGE

State

NJ

Zip Code

07052

Seller's Percentage of Ownership

1%

Consideration

\$320,950.00

Closing Date

SELLER ASSURANCES (Check the Appropriate Box) (Boxes 2 through 10 apply to Residents and Non-Residents)

1. ☒ I am a resident taxpayer (individual, estate, or trust) of the State of New Jersey pursuant to N.J.S.A. 54A:1-1 et seq. and will file a resident gross income tax return and pay any applicable taxes on any gain or income from the disposition of this property.
2. ☐ The real property being sold or transferred is used exclusively as my principal residence within the meaning of section 121 of the federal Internal Revenue Code of 1986, 26 U.S.C. s. 121.
3. ☐ I am a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4. ☐ Seller, transferor or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5. ☐ Seller is not an individual, estate or trust and as such not required to make an estimated payment pursuant to N.J.S.A. 54A:1-1 et seq.
6. ☐ The total consideration for the property is \$1,000 or less and as such, the seller is not required to make an estimated payment pursuant to N.J.S.A. 54A:5-1 et seq.
7. ☐ The gain from the sale will not be recognized for Federal income tax purposes under I.R.C. Section 721, 1031, 1033 or is a cemetery plot. (CIRCLE THE APPLICABLE SECTION). If such section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale (see instructions).
☐ No non-like kind property received.
8. ☐ Transfer by an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this state.
9. ☐ The property being sold is subject to a short sale instituted by the mortgagee, whereby the seller has agreed not to receive any proceeds from the sale and the mortgagee will receive all proceeds paying off an agreed amount of the mortgage.
10. ☐ The deed being recorded is a deed dated prior to the effective date of P.L. 2004, c. 55 (August 1, 2004), and was previously unrecorded.

SELLER(S) DECLARATION

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein could be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete. By checking this box ☐ I certify that the Power of Attorney to represent the seller(s) has been previously recorded or is being recorded simultaneously with the deed to which this form is attached.

Date

Date

Signature

Signature

(Seller) Please indicate if Power of Attorney or Attorney in Fact

(Seller) Please indicate if Power of Attorney or Attorney in Fact

RECORDING INFORMATION SHEET

ESSEX COUNTY REGISTER'S OFFICE
HALL OF RECORDS , ROOM 130
465 MARTIN LUTHER KING Jr. Blvd
NEWARK NJ 07102

INSTRUMENT NUMBER:

8060148

DOCUMENT TYPE :

DEED**Official Use Only**

CAROLE A. GRAVES, REGISTER
ESSEX COUNTY, NJ

INSTRUMENT NUMBER
8060148
RECORDED ON
July 1, 2008 01:43 pm
BOOK:12144 PAGE:5545

CC

CONSIDERATION (R) \$437,000.00

MAIL COPY _____
NO COPY _____
ENVELOPE _____

ADDITIONAL STAMPINGS _____

Return Address (for recorded documents)

CENTURY INTER COUNTY TITLE
AGENCY INC
18 HOOK MOUNTAIN ROAD
PINE BROOK NJ 07058

No. Of Pages (excluding Summary Sheet)

5

Recording Fee (excluding Transfer Tax)

\$70.00

Realty Transfer Tax

\$3,570.20

Amount Charged (Check # 5898)

\$3,640.20

Municipality

WEST ORANGE

Parcel Information

Block 161
Lot 27

First Party Name

RICHARD S ZACKIN

Second Party Name

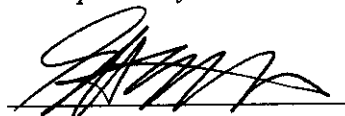
CPNJ WEST ORANGE RESIDENCE II

Additional Information (Official Use Only)

***** DO NOT REMOVE THIS PAGE. *****
COVER SHEET (DOCUMENT SUMMARY FORM) IS PART OF ESSEX COUNTY FILING RECORD
***** RETAIN THIS PAGE FOR FUTURE REFERENCE. *****

DEED

Prepared by: (Print signer's name below signature)



Nancy A. Lottinville, Esq.

This Deed is made on June 10, 2008,

BETWEEN

RICHARD S. ZACKIN, AND JACK M. ZACKIN, Co-Executors of the Estate of Dena H. Zackin, whose post office addresses are 31 Longview Road, New Jersey 08833 and 57 Oak Avenue, West Orange, New Jersey 07052 ("Grantor"),

AND

CPNJ WEST ORANGE RESIDENCE II, INC., who is about to reside at 23 Oak Avenue, West Orange, New Jersey 07052 ("Grantee").

The words "Grantor" and "Grantee" shall mean all Grantors and all Grantees listed above.

Transfer of Ownership. Grantor grants and conveys (transfers ownership of) the property described below to Grantee. This transfer is made for the sum of FOUR HUNDRED THIRTY SEVEN THOUSAND (\$437,000.00) and 00/100 Dollars. The Grantor acknowledges receipt of this money.

Tax Map Reference. (N.J.S.A. 46:15-1.1) Municipality of West Orange, Block No. 161, Lot No. 27, Account No.

☐ No property tax identification number is available on the date of this Deed. (Check box if applicable)

Property. The property consists of the land and all the buildings and structures on the land in the Township of West Orange, County of Essex and State of New Jersey. The legal Description is:

ALL that certain lot, parcel or tract of land, situate and lying in the Township of West Orange, County of Essex, State of New Jersey, and being more particularly described as follows:

BEING known and designated as Lot 27 in Block 161 as shown on a certain map entitled, "Map of Oak Avenue Estates, Section One, situated in the Town of West Orange, Essex County, N.J." which map was filed on November 8, 1968 in the Essex County Clerk's Office as Map No. 3060.

BEGINNING at a point on the northwesterly line of Oak Avenue distant 400.00 feet northeasterly from the point formed by the intersection of the northwesterly line of Oak Avenue with the northeasterly line of Hillcrest Avenue extended and running; thence

- (1) Along the northwesterly line of Oak Avenue, North 29 degrees 35 minutes 00 seconds East, a distance of 100.00 feet; thence
- (2) North 60 degrees 25 minutes 00 seconds West, a distance of 101.99 feet; thence
- (3) South 30 degrees 05 minutes 00 seconds West, a distance of 100.01 feet; thence
- (4) South 60 degrees 25 minutes 00 seconds East, a distance of 102.87 feet to the northwesterly line of Oak Avenue and the point and place of **BEGINNING**.

The above description is drawn in accordance with a survey made by Jack L. Held, LS, William Held Associates, Inc., dated May 5, 2008 and last revised June 2, 2008.

Being the same premises conveyed to Sidney H. Zackin and Dena H. Zackin, his wife under Deed from Arlene L. Daddio, dated June 19, 1974 and recorded July 3, 1974, in the Register's Office of the County of Essex, New Jersey in Deed Book 4479, Page 406; premises further vested in Sidney H. Zackin and Dena H. Zackin, as joint tenants with the right of survivorship under Deed from Sidney H. Zackin and Dena H. Zackin, his wife, dated July 20, 1990 and recorded August 24, 1990 in the in the Register's Office of the County of Essex, New Jersey in Deed Book 5137, Page 83;

Sidney H. Zackin died June 11, 2001 (Essex County Surrogates Office Docket No. 2001-3391) leaving his wife Dena H. Zackin surviving tenant by the entirety.
Dena H. Zackin died on February 8, 2008 (Essex County Surrogates Office Docket No. 2008-0628). Said Will appoints Richard S. Zackin and Jack M. Zackin, Co-Executors of said Estate. Letters of Testamentary were issued to Richard S. Zackin and Jack M. Zackin on March 13, 2008.

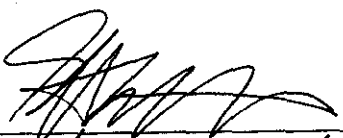
The street address of the Property is: 23 Oak Avenue, West Orange, New Jersey 07052

Promises by Grantor. The Grantor promises that the Grantor has done no act to encumber the property. This promise is called a "covenant as to grantor's acts" (N.J.S.A. 46:4-6). This promise means that the Grantor has not allowed anyone else to obtain any legal rights which affect the property (such as by making a mortgage or allowing a judgment to be entered against the Grantor).

Signatures. The Grantor signed this Deed as of the date at the top of the first page.

Witnessed By:

GRANTOR:



Nancy A. Lottinville, ESC

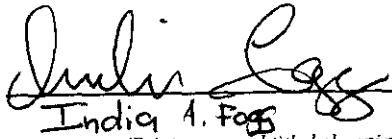
By: 

Richard S. Zackin, Co-Executor of the
Estate of Dena H. Zackin

STATE OF NEW JERSEY, COUNTY OF ESSEX
I CERTIFY that on June 10, 2008,

Richard S. Zackin, Co-Executor, came before me and stated to my satisfaction that this person (or if more than one, each person):

- (a) was the maker of this Deed;
- (b) executed this Deed as his or her own act; and
- (c) made this Deed for \$437,000.00 as the full and actual consideration paid or to be paid for the transfer of title. (Such consideration is defined in N.J.S.A. 46:15-5).



India A. Fogg
(Print name and title below signature)
INDIA A. FOGG
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 12/31/2008

Witnessed By:

Nancy A. Lathinville, Esq.

GRANTOR:

By:

Jack M. Zackin, Co-Executor of the
Estate of Dena H. Zackin

STATE OF NEW JERSEY, COUNTY OF ESSEX
I CERTIFY that on June 10, 2008,

Jack M. Zackin, Co-Executor, came before me and stated to my satisfaction that this person (or if more than one, each person):

- (a) was the maker of this Deed;
- (b) executed this Deed as his or her own act; and
- (c) made this Deed for \$437,000.00 as the full and actual consideration paid or to be paid for the transfer of title. (Such consideration is defined in N.J.S.A. 46:15-5).

India A. Fogg

(Print name and title below signature)

INDIA A. FOGG
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 12/31/2008

DEED

**RICHARD S. ZACKIN AND JACK M.
ZACKIN , Co-Executors of the Estate of
Dena H. Zackin**

Grantor,

TO

**CPNJ WEST ORANGE RESIDENCE H,
INC.**

Grantee.

Dated: **June 10** , 2008.

Record and return to:

Century/InterCounty Title Agency
18 Hook Mountain Road
P.O.Box 607
Pine Brook, NJ 07058

State of New Jersey
SELLER'S RESIDENCY CERTIFICATION/EXEMPTION
(C.55, P.L. 2004)

(Please Print or Type)

SELLER(S) INFORMATION (See Instructions, Page 2)

Name(s)

RICHARD S. ZACKIN AND JACK M. ZACKIN, CO-EXECUTORS OF THE ESTATE OF DENA H. ZACKIN

Current Resident Address:

Street: 31 Longview Road / 57 Oak Avenue

City, Town, Post Office

State

Zip Code

Lebanon / West Orange

NJ

08833 / 07052

PROPERTY INFORMATION (Brief Property Description)

Block(s)

Lot(s)

Qualifier

161

27

Street Address:

23 Oak Avenue

City, Town, Post Office

State

Zip Code

West Orange

NJ

07052

Seller's Percentage of Ownership

Consideration

Closing Date

100%

\$437,000.00

6/10/08

SELLER ASSURANCES (Check the Appropriate Box) (Boxes 2 through 8 apply to NON-residents)

1. ☒ I am a resident taxpayer (individual, estate, or trust) of the State of New Jersey pursuant to N.J.S.A. 54A:1-1 et seq. and will file a resident gross income tax return and pay any applicable taxes on any gain or income from the disposition of this property.
2. ☐ The real property being sold or transferred is used exclusively as my principal residence within the meaning of section 121 of the federal Internal Revenue Code of 1986, 26 U.S.C. s. 121.
3. ☐ I am a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4. ☐ Seller, transferor or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5. ☐ Seller is not an individual, estate or trust and as such not required to make an estimated payment pursuant to N.J.S.A. 54A:1-1 et seq.
6. ☐ The total consideration for the property is \$1,000 or less and as such, the seller is not required to make an estimated payment pursuant to N.J.S.A. 54A:5-1-1 et seq.
7. ☐ The gain from the sale will not be recognized for Federal income tax purposes under I.R.C. Section 721, 1031, 1033 or is a cemetery plot. (CIRCLE THE APPLICABLE SECTION). If such section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale (see instructions).
- ☐ No non-like kind property received.
8. ☐ Transfer by an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this state.

SELLER(S) DECLARATION

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein could be punished by fine, imprisonment, or both. I further declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete.

Date

Richard S. Zackin, Co-Executor of the Estate of
Dena H. Zackin

Signature

(Seller) Please indicate if Power of Attorney or Attorney in Fact

Date

Jack M. Zackin, Co-Executor of the Estate of
Dena H. Zackin

Signature

(Seller) Please indicate if Power of Attorney or Attorney in Fact

RECORDING INFORMATION SHEET

ESSEX COUNTY REGISTER'S OFFICE
HALL OF RECORDS , ROOM 130
465 MARTIN LUTHER KING Jr. Blvd
NEWARK NJ 07102

INSTRUMENT NUMBER:
10066446

DOCUMENT TYPE :
MORTGAGE

Official Use Only

PHILIP THIGPEN, REGISTER
ESSEX COUNTY, NJ

INSTRUMENT NUMBER
10066446
RECORDED ON
September 10, 2010 01:02 pm
BOOK:12271 PAGE:1497

RG

Return Address (for recorded documents)
ACRES LAND TITLE AGENCY, INC
P.O. BOX 769

55 ESSEX STREET
MILLBURN NJ 07041

No. Of Pages (excluding Summary Sheet) 25

Recording Fee (excluding Transfer Tax) \$280.00

Realty Transfer Tax \$0.00

Amount Charged (Charge) \$280.00

Municipality WEST ORANGE

Parcel Information
Block 166.15
Lot 5

First Party Name JEWISH SERVICE FOR THE DEVELOP

Second Party Name NEW JERSEY HOUS & MTG FIN AGCY

Additional Information (Official Use Only)

MAIL COPY _____
NO COPY _____
ENVELOPE _____

ADDITIONAL STAMPINGS _____

***** DO NOT REMOVE THIS PAGE. *****
COVER SHEET (DOCUMENT SUMMARY FORM) IS PART OF ESSEX COUNTY FILING RECORD
***** RETAIN THIS PAGE FOR FUTURE REFERENCE. *****

Record & Return to:
Beverly Harding, Paralegal
New Jersey Housing and Mortgage
Finance Agency
637 South Clinton Avenue
P.O. Box 18550
Trenton, New Jersey 08650-2085

R/R TO
ACRES LAND TITLE AGENCY, LLC
PO Box 789
55 Essex St.
Millburn, NJ 07041

West Orange Supportive Housing
HMFA #2468, SNHTF #230, DDHP #23

Case No. _____

278731

FINANCING, DEED RESTRICTION AND REGULATORY AGREEMENT

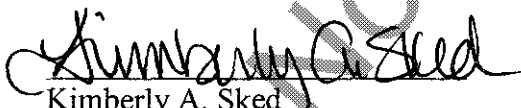
Between

NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY

And

**JEWISH SERVICE FOR THE DEVELOPMENTALLY
DISABLED OF METROWEST, INC.**

Prepared by:


Kimberly A. Sked
Deputy Attorney General

Special Needs Housing Trust Fund
Second Mortgage Loan
Construction and Permanent Financing

THIS FINANCING, DEED RESTRICTION AND REGULATORY AGREEMENT (this "Agreement"), made and entered into as of this 25th day of August, 2010, by and between the **NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY** (the "Agency" or "Lender"), a body politic and corporate and an instrumentality exercising public and essential governmental functions of the State of New Jersey (the "State") and **JEWISH SERVICE FOR THE DEVELOPMENTALLY DISABLED OF METROWEST, INC.** ("Owner" or "Borrower"), a non-profit corporation organized and existing pursuant to the laws of the State of New Jersey and duly authorized to transact business in the State of New Jersey.

W I T N E S S E T H

In consideration of the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Agency and the Owner hereby agree as follows:

Section 1. Definitions and Interpretation. The following terms shall have the respective meanings set forth below:

"**Act**" means the New Jersey Housing and Mortgage Finance Agency Law of 1983, as amended from time to time, P.L. 1983, c. 530, N.J.S.A. 55:14K-1 et seq., and the regulations promulgated thereunder.

"**Agency Financing**" means the Second Mortgage Loan and Third Mortgage Loan.

"**Agency Regulations**" means the regulations promulgated by the Agency pursuant to the Act and any policies, procedures or guidelines issued by the Agency with respect to the housing projects financed by the Agency under the Act, all of the foregoing as they may be amended from time to time, if applicable.

"**Architect's Contract**" means the agreement between the Owner and Sincox Associates Architects dated May 1, 2010, or any other agreement executed by the Owner and approved by the Agency, for the design and construction oversight of the Project in accordance with the plans and specifications for the Project approved by the Agency, if applicable.

"**Assignment of Leases**" means the Assignment of Leases by and between the Owner and Lender of even date herewith.

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Construction Contract**" means the agreement between the Owner and Bruno's Home Improvements or any other agreement executed by the Owner and approved by the Agency, for the construction of the Project in accordance with the plans and specifications for the Project approved

by the Agency.

"Construction Period" means the period of time as required to substantially complete the construction of the Project. The Project Construction Period is estimated to be three (3) months from the date of execution of this Agreement, if applicable.

"Day" or "Days," whether or not the word is a capitalized term, shall mean calendar day or day(s) unless otherwise specified.

"DDD" means the New Jersey Department of Human Services, Division of Developmental Disabilities, or its successors and assigns, if applicable.

"DMHS" means the New Jersey Department of Human Services, Division of Mental Health Services, or its successors or assigns, if applicable.

"Environmental Laws" shall mean and include any federal, State, or local statute, law, ordinance, code, rule, regulation, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic, or dangerous waste, substance, element, compound, mixture or material, as now or at any time hereafter in effect including, without limitation, the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended, 42 U.S.C. Sections 9601 et seq., the Federal Hazardous Materials Transportation Act, as amended 42 U.S.C. Sections 1801 et seq., the Federal Resource Conservation and Recovery Act as amended, 42 U.S.C. Sections 6901 et seq., the Superfund Amendments and Reauthorization Act, 42 U.S.C. Sections 9601 et seq., the Federal Toxic Substances Control Act, 15 U.S.C. Sections 2601 et seq., the Federal Hazardous Material Transportation Act, 49 U.S.C. Sections 1801 et seq., the Federal Clean Air Act, 42 U.S.C. Sections 7401 et seq., the Federal Water Pollution Control Act, 33 U.S.C. Sections 1251 et seq., the Rivers and Harbors Act of 1899, 33 U.S.C. Sections 401 et seq., the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. Section 4852d, the New Jersey Environmental Cleanup Responsibility Act, as amended, N.J.S.A. 13:1K-6 et seq., the New Jersey Industrial Site Recovery Act, N.J.S.A. 13:1K-6 et seq., the Spill Compensation and Control Act, as amended, N.J.S.A. 58:10-23.11 et seq., the New Jersey Tank Registration Act, N.J.S.A. 58:10A-21 et seq., the New Jersey Water Pollution Control Act, as amended, N.J.S.A. 58:10A-1 et seq., and all rules and regulations adopted and publications promulgated thereto, or any other so-called "Superfund" or "Superlien" laws, or any other federal, State or local environmental law, ordinance, code, rule, or regulation, order or decree as any of the foregoing have been, or are hereafter amended.

"Environmental Report" means the Phase I Environmental Site Assessment prepared by Salem Environmental LLC dated August 11, 2009.

"Event of Default" means any of the events set forth in Section 31 of this Agreement.

"Hazardous Materials" shall mean and include those elements, materials, compounds, mixtures or substances that are contained in any list of hazardous substances adopted by the United States Environmental Protection Agency (the "EPA") or any list of toxic pollutants designated by Congress, the EPA, or the New Jersey Department of Environmental Protection ("NJDEP"), or that

are defined as hazardous, toxic, pollutant, infectious, flammable or radioactive by any of the Environmental Laws, and, whether or not included in such lists, shall be deemed to include all products or substances containing petroleum, asbestos, lead, and polychlorinated biphenyls.

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

"Improvements" means the building together with all fixtures and utility improvements, easements and rights of way that are owned by the Owner and located on the Land.

"IRS Regulations" means the regulations promulgated or proposed by the United States Department of the Treasury or the Internal Revenue Service pursuant to the Code, and to the extent applicable, pursuant to the Internal Revenue Code of 1954, as both may be amended from time to time, including all rules, rulings, policies, and official statements issued by the United States Department of the Treasury or the Internal Revenue Service.

"Land" means the real property described in Exhibit A attached hereto, on which the Project is located.

"Loan Documents" means and includes this Agreement, the Mortgage Note, the Mortgage and Security Agreement, the UCC-1 Financing Statement, and Assignment of Leases.

"Loan" means the Mortgage Loan or Second Mortgage Loan.

"Low Income" means a gross annual household income equal to 50% or less of the median gross annual household income for the same size within the relevant housing region.

"Mortgage" or "Second Mortgage" means the mortgage of even date herewith that constitutes a second lien on a fee simple interest in the Project and Land, given by the Owner to the Agency to secure the Mortgage Loan.

"Mortgage Loan" or "Second Mortgage Loan" means the loan made to the Owner by the Agency to finance a portion of the cost of the development and/or rehabilitation of the Project that will be located on the real property described in Exhibit A attached hereto, as evidenced by the Mortgage Note and secured by the Mortgage.

"Mortgage Note" or "Note" or "Second Mortgage Note" means the interest bearing non-recourse promissory note that contains the promise of the Owner to pay the sum of money stated therein at the times stated therein and that evidences the obligation of the Owner to repay the Mortgage Loan.

"Permitted Encumbrances" means any

(i) Utility, access and other easements and rights of way, restrictions and exceptions that do not, individually or in the aggregate, materially impair the utility or value of the Project or Land for the purposes for which it is intended;

(ii) Liens that are being contested in good faith and for which the Owner has provided security satisfactory to the Agency;

(iii) Liens subordinate to the Mortgage Loan arising due to any monies loaned in connection with the Project or other monies loaned to the Owner, provided such liens are disclosed to and approved by the Agency in writing; and

(iv) Any other encumbrances approved by the Agency in writing.

"Plans" means all construction, Architect's and design contracts and all Architect's design plans and specifications.

"Program" means the Special Needs Housing Trust Fund pursuant to the Special Needs Housing Trust Fund Act, P.L. 2005, c.163.

"Program Guidelines" means the guidelines promulgated by the Agency pursuant to the Program and any policies or procedures issued by the Agency with respect to the housing projects financed by the Agency, all of the foregoing as they may be amended from time to time.

"Project" means the Improvements located on the Land that together with the Land is financed, in part, with the proceeds of the Loan.

"Project Construction Period" means the period of time required to substantially complete construction of the Project. The Project Construction Period is estimated to be three (3) months from the date of execution of this Agreement.

"Regulations" means the regulations promulgated or proposed by the United States Department of Housing and Urban Development.

"Rehabilitation Period" means the period of time as required to substantially complete the rehabilitation of the Project. The Project Rehabilitation Period is estimated to be three (3) months from the date of execution of this Agreement, if applicable.

"Repair and Replacement Reserve" means the escrow account established pursuant to Section 21 of this Agreement.

"Servicing Fee" if applicable, means the servicing fee that is due from the Owner to the Agency as set forth in the Mortgage Note.

"Special Needs Project Escrow" means the escrow account established pursuant to Section 21 of this Agreement.

"State" means the State of New Jersey.

"Tax Credits" means low income housing tax credits that the Project may receive pursuant to the Code.

"Third Mortgage Loan" means the loan in the principal amount of \$77,787 of even date herewith, made to the Owner by the Agency from the New Jersey Community Housing Program that constitutes a valid third lien on the Project and Land.

"UCC-1" means the UCC-1 Financing Statement(s) of even date herewith.

Unless the context clearly requires otherwise, as used in this Agreement, words of the masculine, feminine or neuter gender shall be construed to include any other gender when appropriate and words of the singular number shall be construed to include the plural number, and vice-versa, when appropriate. This Agreement and all the terms and provisions thereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

The titles and headings of the sections of this Agreement have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this Agreement or any provisions hereof or in ascertaining intent, if any question of intent shall arise.

Section 2. Background and Purpose. The Owner proposes to acquire or owns the Land, construct, and operate a Project to be located on the Land. The Project will carry a construction and permanent loan of Two Hundred Thirty-Nine Thousand Nine Hundred Twenty-Two Dollars (\$239,922) at an interest rate of zero percent per annum during the mortgage term of thirty (30) years. To obtain financing for the Project, the Owner has applied to the Agency for the Agency Financing pursuant to the provisions of the Program. The Agency will hold a second mortgage lien on the Project during the term of the Mortgage Loan. Financing for the Project is derived in part from the Agency's Program funds, and, in addition to the Second Mortgage Loan, the Owner has obtained and the Agency has approved funding for the Project as follows:

- (a) The Agency is providing a Third Mortgage Loan to the project in the principal amount of \$77,787 of even date herewith; and
- (b) The Owner received a loan from the County of Essex from their HOME Program in the amount of \$270,213.

In connection with the Mortgage, the Owner and the Agency have entered into this Agreement.

In connection with its application for the Loan, the Owner has furnished to the Agency various details as to the Project, including the description of Land on which it is to be situated, plans and specifications for the construction/rehabilitation of the Project, the tenant population that shall be housed in the Project, the number of units of each type to be included therein, the estimated costs of providing the Project, details as to the Project income and expenses of the Project once constructed and/or rehabilitated and placed in operation and arrangements for any tax abatement for the Project.

Section 3. Residential Rental Property. The Owner hereby represents, covenants, warrants and agrees that:

(a) The proposed project is located in the Township of West Orange in the County of Essex, in a residential neighborhood. The project involves the acquisition and renovation of a three-bedroom condominium home.

(b) The Project is to be utilized at all times in accordance with the types of use as permitted by the Act and the Program and as may be approved by the Agency. The Project shall be subject to use and occupancy and/or lease agreements between the Owner and the residents.

Section 4. Low Income Tenants. The Owner hereby represents, warrants and covenants that all of the units shall be occupied or available for occupancy by Low Income Tenants for a period of thirty (30) years from the date hereof.

Section 5. Additional Representations, Covenants and Warranties of the Owner. The Owner represents, warrants and covenants that:

(a) The Owner (i) is a non-profit corporation, duly organized, validly existing and in good standing under the laws of the State and duly authorized to transact business in the State; (ii) has filed with the Agency a true and complete copy of its Certificate of Incorporation with all amendments, if any, thereto; (iii) has the power and authority to own or lease its properties and assets, including the Project and the Land, and to carry on its business as now being conducted (and as now contemplated), and to borrow the proceeds of the Loans; and (iii) has the power to execute and perform all the undertakings of this Agreement and the other Loan Documents.

(b) All necessary legal action has been taken to authorize the execution, delivery and performance of the Loan Documents by the Owner.

(c) The Loan Documents have been duly executed and delivered by the Owner and constitute the valid and legally binding obligations of the Owner, enforceable against the Owner in accordance with their respective terms.

(d) To the best of the Owner's knowledge after due and diligent inquiry, the execution and performance of this Agreement, the Loan Documents and other instruments required pursuant to this Agreement by the Owner, (i) will not violate or, as applicable, have not violated, any provision of law, rule or regulations, any order of any court or other agency or government or any provision of any document to which the Owner is a party, and (ii) will not violate or, as applicable, have not violated, any provision of any indenture, agreement or other instrument to which the Owner is a party, or result in the creation or imposition of any lien, charge or encumbrance of any nature other than the Permitted Encumbrances.

(e) The Owner will, at the time of execution of this Agreement or at the time of the closing of the Loan and subject only to such exceptions as have been disclosed in writing to the Agency and which will not materially interfere with or impact the beneficial use of the Project and Land for purposes of the Project; have good and marketable title to fee simple interest in the premises

constituting the Land and the Project free and clear of any lien or encumbrance (subject to Permitted Encumbrances and encumbrances created or contemplated pursuant to this Agreement).

(f) There is, after due and diligent inquiry, no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would materially impair its right to carry on business substantially as now conducted, or as contemplated to be conducted under this Agreement, or would materially adversely affect its financial condition.

(g) To the best of the Owner's knowledge after due and diligent inquiry, the operation of the Project in the manner presently contemplated and as described in this Agreement will not conflict with any zoning, water or air pollution or other ordinance, order, law or regulation applicable thereto. The Owner has caused the Project to be designed in accordance with all applicable federal, state and local laws or ordinances (including rules and regulations) relating to zoning, building, safety and environmental quality and will proceed with due diligence to rehabilitate the Project pursuant to the Architect's Contract.

Further, the Owner has received or shall obtain all necessary governmental approvals and building permits for construction, rehabilitation and operation of the Project in accordance with the plans and specifications and the Architect's Contract, and shall obtain in a timely manner any and all required extensions of governmental approvals, including, but not limited to, site plan approval. The Owner will continue to retain ownership of the Project and Land during the term of the Mortgage, subject to the terms of this Agreement and the other Loan Documents, the Act, Agency Regulations, the Program, the Program Guidelines, and, if applicable, the Code.

(h) The Owner has filed, caused to be filed by it, or shall file all federal, state and local tax returns which are required to be filed by it, if any, and has paid or caused to be paid all taxes as shown on said return or on any assessment received by it, to the extent that such taxes have become due.

(i) To the best of the Owner's knowledge, after due and diligent inquiry, the Owner is not in material default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any material agreement or instrument to which it is a party that may materially affect this Project.

(j) The information contained in the Project description provided in the applications for the Loan is accurate in all material respects and does not contain any untrue statements of a material fact or omit to state a material fact necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading.

(k) Except for Leases contemplated by the Project and Section 17 of this Agreement, the Owner shall not during the term of this Agreement sell, transfer or exchange, the Project or the Land (or any part thereof or any interest therein) at any time except in accordance with the terms of the Mortgage, this Agreement, the Act and the Agency Regulations promulgated pursuant to the Act, and the Program Guidelines and unless such sale, transfer or exchange shall have been approved by the Agency. The Owner shall notify in writing and obtain the agreement in writing of any buyer or successor or other person acquiring the Project or Land or any interest therein, in a form acceptable

to the Agency that such acquisition is subject to the requirements of this Agreement. This provision shall not act to waive any other restriction on such sale, transfer or exchange.

(l) The Owner has not and will not execute any other agreement with provisions contradictory to, or in opposition to, the provisions hereof and the Mortgage, and in any event, the requirements of this Agreement and the Mortgage are paramount and controlling as to the rights and obligations herein and in the Mortgage and such requirements shall supersede any other requirements in conflict herewith and therewith.

(m) All statements contained in all applications, correspondence or other materials delivered to the Agency by the Owner in connection with its consideration of the Loan to the Owner or relating to the Project are materially true and correct.

(n) The representations, covenants and warranties of the Owner contained in this Agreement on the date of its execution are true and shall continue to be true at all times during the term of this Agreement.

(o) No event has occurred and no condition exists which constitutes an Event of Default under this Agreement or the Mortgage or which, but for a requirement of notice or lapse of time, or both, would constitute such an Event of Default.

(p) As of the date of this Agreement, the Architect's Contract is in full force and effect and no default has occurred thereunder, and a true copy of the entire Architect's Contract with all modifications and addenda to date has been filed with the Agency.

Section 6. Covenants to Run With the Land. The covenants, reservations and restrictions set forth herein shall be deemed covenants running with the Land and, except as provided in Section 5 hereof, shall pass to and be binding upon the Owner's assigns and successors in title to the Land or the Project; provided, however, that upon the termination of this Agreement in accordance with the terms hereof said covenants, reservations and restrictions shall expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Land or the Project or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments. If a portion or portions of the Land or Project are conveyed, all of such covenants, reservations and restrictions shall run to each portion of the Project and Land.

Section 7. Term. This Agreement shall remain in full force and effect until all indebtedness from the Owner to the Agency in respect to the Project shall have been paid in full in accordance with the provisions of this Agreement, the Mortgage Note and the other Loan Documents.

Section 8. Construction or Rehabilitation of Project. The Owner covenants and agrees to comply with all the provisions of the Architect's Contract and/or Construction Contract, as applicable. The Owner covenants and agrees diligently to pursue the construction or rehabilitation of the Project to completion in accordance with the plans and specifications set forth in the Owner's application for the Loan and the Architect's Contract and as approved by the Agency.

The Owner shall not approve or allow to occur any material change in the scope of plans and specifications for the Project without the express approval of the Agency. Construction or rehabilitation shall at all times be subject to the discretionary inspection, discretionary review, regulation and approval of the Agency and its duly authorized representatives. Any such inspection, regulation, review or approval of the Agency shall be solely for its benefit for the purpose of assuring that the programs and goals of the Project are being fulfilled.

The Owner shall not knowingly do any act which would cause the release, in whole or in part, of the surety bond or bonds issued in connection with the Architect's Contract or Construction Contract, as applicable, including, without limitation, deviation from the payment schedule, waiver of any material requirements imposed on the architect or any contractor or subcontractor under the Architect's Contract or Construction Contract, as applicable, or consent to any major change in the in the scope of plans and specifications or scope of the work, unless such act would not cause any release because the surety has consented thereto.

Section 9. Funding and Conditions Precedent to Advance.

A. Funding of Construction or Rehabilitation:

Upon and subject to the terms and conditions of this Agreement, the Mortgage and Mortgage Note, the Agency agrees to advance and disburse the principal sum of \$239,922 as follows:

The balance of the Principal Sum of \$239,922 remaining after disbursement of acquisition costs shall be made only after the Agency has received and approved, subject to its sole discretion, all items required for closing on the Agency Document Checklist for Construction and Permanent Financing.

B. Conditions Precedent to Advance:

The Agency's obligations to make the other disbursement under the Mortgage shall be subject to the satisfaction of the following conditions precedent, any of which may be waived in whole or part by the Agency.

1. Each of the Owner's covenants, agreements, representations and warranties contained in this Agreement shall continue to be true and shall not be breached.
2. If applicable, the full amount of the previous advance shall have been expended for Land acquisition, costs and discharge of any related lien.
3. All work performed and material furnished for the Project shall be in accordance with the plans and specifications for the Project and all work shall have been properly performed to the satisfaction of the Agency.
4. No event shall have occurred and no conditions shall exist that would prevent the advance from becoming a valid second mortgage lien on the Project and the Land or secured by a

prior protected security interest on any other collateral mentioned in the Mortgage. If the Agency shall deem it necessary or desirable, all or part of the advance may be disbursed in escrow to a title insurance company licensed to do business in the State of New Jersey for the purpose of discharging any construction or other lien on the Project and Land or any other security mentioned in the Mortgage; and the Owner agrees to certify in writing that the foregoing conditions have been satisfied.

Section 10. Insurance; Condemnation.

During the term of the Agency Financing, the Owner shall cause all the buildings on the premises and the fixtures and articles of personal property covered by the Loan Documents to be insured against loss by fire and against loss by such other hazards as may be required by the Agency for the benefit of the Agency including, but not by way of limitation, flood insurance if any part of the Project is located in an area designated by or on behalf of the federal government as having specific flood hazard. Such insurance shall be written by companies, in forms as are satisfactory to the Agency, and in amounts not less than the full replacement value of the Project. The Owner shall assign and deliver the policies to the Agency. All such insurance policies which are obtained by the Owner during the term of the loan shall fully comply with all Agency requirements for property and liability insurance, including but not limited to the Agency requirement that the insurer must meet certain rating standards. The Agency shall be listed as mortgagee, loss payee and additional insured under such policies. Such policies shall provide that the insurer may not cancel the policy and will not refuse to renew the policy except after thirty (30) days written notice to the Agency. If the Owner does not provide the Agency with the evidence of insurance as required herein, the Agency may (but shall not be required to) obtain such coverage. The Owner shall reimburse the Agency on demand for any premiums paid for insurance procured by the Agency, and until so reimbursed, the amount of such premiums shall be added to the principal sum of the Mortgage Note and shall bear interest at the same interest rate as in the Mortgage Note.

In the event of substantial damage to the Project by the occurrence of an insured casualty or the taking of a substantial portion of the Project by condemnation, if, in the sole judgment of the Agency (which judgment shall be conclusive): (a) the Project can be replaced or restored in whole or in part, and (b) the Project as so replaced will produce sufficient income to meet the obligations of the Owner under the Loan Documents, the proceeds of insurance or condemnation, together with any other money available for such purpose, if sufficient, shall be made available to the Owner, subject to the approval of the Agency. To the extent the Project is not replaced or restored, the balance of such proceeds shall be applied to the indebtedness secured thereby. Nothing in this Section shall affect the lien of this Agreement and the obligation of the Owner under the Loan Documents to pay the entire balance of the Loan.

The Owner shall maintain continuously in effect such other insurance coverage of the types and in the amounts specified by the Agency, including workers' compensation insurance and other insurance required by law with respect to employees of the Owner, and liability insurance, protecting the Owner and the Agency against any loss or liability or damage for personal injury or property damage with respect to the Project. Owner shall also maintain use and occupancy insurance covering loss of revenues derived from the Project by reason of interruption, total or partial, of the use of the Project resulting from loss or physical damage thereto in an amount not less than one year's gross

rental income. The Owner shall carry fidelity bond insurance covering all employees of the Owner authorized to handle the revenues derived from the Project in an amount equal to one-half times the maximum monthly rent roll.

Section 11. Taxes or Payments in Lieu of Taxes. Unless the Owner has received a full tax exemption for the taxes on the Project at the time the Owner takes title to the Project, the Owner covenants and agrees to pay any valid municipal taxes, payments in lieu of taxes, charges, assessments, water charges and/or sewer charges, and in default thereof the Agency may pay the same. Any such sum or sums so paid by the Agency shall be added to the principal sum secured by the Mortgage, as determined by the Agency, and shall bear interest at the then current rate being received by the Agency on its investment as determined in good faith by the Agency.

Section 12. Liens. The Owner covenants and agrees to maintain its right, title and interest in the Project and Land and all items enumerated in Section 7 of the Mortgage free and clear of all liens and security interests, except Permitted Encumbrances, those exceptions identified and set forth in title insurance commitments and title insurance commitment number 278731 issued by Chicago Title Insurance Company dated March 1, 2010, and continued to the date of this Agreement, as accepted by the Agency. Except with the written consent of the Agency, the Owner will not install any item of tangible personal property as part of the fixtures or furnishings of the Project, which is subject to a purchase money lien or security interest.

The Agency may, at its sole option, pay the amount necessary to discharge any such lien, and the Owner shall promptly reimburse the Agency for any amounts so paid. Until reimbursement of the Agency of any amounts so paid, such amount shall be added to the Principal Sum as defined in and secured by the Mortgage, as determined by the Agency, and shall bear interest at the then current rate being received by the Agency on its investments as determined in good faith by the Agency.

Section 13. Encumbrances - Sale of Project. The Owner covenants and agrees not to sell, lease or otherwise encumber the Project or the Land, or any part thereof, or the rents or revenues thereof without prior written consent of the Agency, except by leasing to eligible residential tenants as provided by the Mortgage and this Agreement.

Section 14. Maintenance, Repair and Replacement. The Owner covenants and agrees to maintain the Project and the appurtenant equipment and grounds in good repair and condition so as to provide decent, safe and sanitary housing accommodations.

Following completion of construction or rehabilitation, the Owner will not make any substantial alteration in the Project without the consent of the Agency, nor will the Owner permit the removal of any fixtures or articles of personal property except in connection with the replacement thereof with appropriate property of at least equal value and free of all liens or claims.

The Owner will not permit any waste with respect to the Project or any of its real or personal property without the consent of the Agency, or make any alteration which will increase the hazard of fire or other casualty.

Section 15. Advance Amortization Payments. The Owner shall not make any advance principal repayment except as allowed by the Program and Program Guidelines.

Section 16. Compliance with the Program, the Act, Agency's Regulations and Any Federal or State Subsidy Source. The Owner covenants and agrees to comply with the Program, the Act and any regulations promulgated pursuant thereto, and with any amendments or supplements to the Program, the Act or regulations. Throughout the term of this Agreement, the Owner further covenants and agrees to comply with any and all requirements imposed upon it as a condition of any federal or state grant, subsidy or loan.

Section 17. Use of Project - Leasing. Except as otherwise expressly provided in Section 3 and 4 of this Agreement or as otherwise agreed to in writing by the Agency, and except for facilities approved by the Agency as normally appurtenant to residential projects for non-transients (such as laundry facilities), the Project shall be used solely (or as otherwise may be approved by the Agency) to provide affordable housing units for a special needs population(s) under the Agency's Program.

Section 18. Consideration for Lease. The Owner covenants and agrees not to require as a condition of the occupancy or leasing of any dwelling unit in the Project and not to accept or allow any employee or agent to accept any consideration other than the prepayment of the first month's rent, plus a security deposit not in excess of one (1) month's rent to guarantee the performance of the covenants of the rent agreement or lease.

Section 19. Security Deposit The Owner covenants and agrees to deposit all moneys paid to the Owner by any resident, if any, as a security deposit for the payment of rent or other allowable charges under any use and occupancy agreement and/or lease in a separate interest bearing bank account held and maintained in accordance with applicable law.

Section 20. Account for Project Revenues/Operating Account. The Owner covenants and agrees to establish an account for Project Revenues specific to the Project. "Project Revenues" shall mean all rents and other revenues of any type whatsoever received in respect of the Project or the Owner, except for Loan disbursements. Project Revenues shall be deposited in such account and all operating expenses should be paid from this account.

Section 21. Reserve and Escrow Payments.

On the date of the execution of this Agreement, the Owner will deposit with the Agency the following amounts as shown on the closing budget for the Project ("Form 10") which will serve as a reserve against late payments and be available to pay expenses when due or be available to assist with project expenses. These amounts will comprise the Special Needs Project Escrow:

- (a) an amount equal to twelve (12) months of the estimated annual insurance payments; and
- (b) an amount equal to twelve (12) months of the estimated annual tax payments; and
- (c) an amount(s) as stated on the Form 10 for a project escrow.

Additionally, the Owner will deposit an amount as agreed upon between the Borrower and the Agency for the Project as a reserve for repairs and replacement of items at the Project and initial project costs, excluding social service and/or operating costs. Additionally, the repair and replacement reserve will be funded quarterly by the Borrower with an amount equal to three (3) months repair and replacement reserve as shown on the Project's Form 10. This reserve will be separate from the Special Needs Project Escrow and will be known as the Repair and Replacement Reserve.

All reserve and escrow payments required pursuant to this Section shall be held in accounts under the sole control of the Agency and shall be paid out for the benefit of the Project as needed on request of the Owner or on the Agency's own initiative. Any interest which may be earned on such reserves shall remain in the escrow account and shall be used for similar purposes unless the Owner and Agency mutually agree to apply the funds to some other Project purpose.

If the Agency determines that the payments specified herein are insufficient to ensure prompt payment of taxes, payments in lieu of taxes, insurance premiums, or to properly fund painting, decorating, repair and replacement needs with respect to the Project, then the Agency may require an increase in the minimum required escrow amounts necessary to assure proper funding.

Section 22. Inspection of Premises. The Owner covenants and agrees to permit the Agency, its agents or representatives, to inspect the Project at any and all reasonable times with or without notice, pursuant to the provisions of the Act and the Program.

Section 23. Books and Records. The Owner covenants and agrees to maintain adequate books and records of its transactions, including the social services provided to the Project's residents, with respect to the Project in the Owner's standard form. Such books and records shall be available for inspection and audit by the Agency or its agents at any time during business hours, with notice, pursuant to the provisions of the Act and the Program. The Owner further covenants and agrees to cause the financial affairs with respect to the Project to be audited by independent certified public accountants and shall furnish the Agency with its audit report of such accountants as may from time to time be required by the Agency.

The Owner shall furnish to the Agency such other information and reports respecting the Project as may from time to time be required by the Agency.

Section 24. Management Contract. The Owner may, and if the Agency so elects, shall contract for the services of a firm experienced in real estate management to act as the managing agent for the Project. The selection of any such managing agent, the scope of the agent's duties and the basis of the agent's compensation shall be the subject of a consultation between the Agency and the Owner and any contract for the employment of any managing agent shall provide that such contract may be terminated by the Agency at any time by notice of such determination by the Agency given to the Owner and managing agent.

Section 25. Prohibited Actions. Except with the express approval of the Agency, which approval shall not be unreasonably withheld, the Owner shall not with Project Revenues (as defined in Section 20 hereof), Loan disbursements or grant advances:

1. incur any liabilities, except in connection with the acquisition, rehabilitation and rental of the Project and its operation and maintenance;
2. engage in any business activity except the ownership and operation of the Project;
3. pay more than fair market value thereof for goods or services; and
4. pay compensation to any officer, director or partner in such capacity or make any cash distribution to any of the foregoing.

Section 26. Transfers of Ownership Interests. The Owner shall not transfer or sell any interest in the Project, except in accordance with the Agency's regulations governing such transfers.

Section 27. Statutory Powers and Restrictions. The Mortgage shall be subject to the restrictions in the Act and the Program, and in connection therewith, the Agency shall have the powers set forth in the Act, the Program and the regulations now or hereafter promulgated pursuant to the Act and the Program and the Owner hereby consents to such restrictions and agrees to be bound thereby. Such powers and restrictions shall be in addition to and not in limitation of the rights of the Agency expressly set forth in this Agreement.

Section 28. Accounting in Event of Default; Estoppel. Upon the occurrence of an Event of Default and within ten (10) business days of demand therefore by the Agency, and otherwise within ten (10) business days of written demand by the Agency, the Owner will furnish to the Agency in writing a statement of the principal amount remaining due on the Loan, together with a statement of any known defenses which may exist as to any liability of the Owner on the Notes or otherwise thereunder.

Section 29. Financing Statements. The Owner hereby irrevocably authorizes the Agency to execute on its behalf one or more financing statements or renewals thereof in respect to any of the security interests granted by the Mortgage.

Section 30. Assignment by Agency. The Owner hereby consents to any assignment of any Loan Document by the Agency.

Section 31. Defaults. Each of the following shall be an Event of Default:

(a) failure by the Owner to pay more than thirty (30) calendar days after the due date any installment of principal or interest on the Loan or any other payment required by the Owner to the Agency or any other person pursuant to the terms of this Agreement, the Mortgage or the other Loan Documents; provided, however, that interest shall accrue on any payment made beyond its due date;

(b) commission by the Owner of any act prohibited by the terms of this Agreement, the Mortgage or any other Loan Document, failure by the Owner to perform or observe in a timely fashion any action or covenant required by any of the terms of this Agreement, the Mortgage or any

other Loan Document, or failure by the Owner to produce satisfactory evidence of compliance therewith;

(c) the filing by the Owner under any federal or state bankruptcy or insolvency law or other similar law of any petition in bankruptcy or for reorganization or composition with creditors or the making of an assignment for the benefit of creditors;

(d) the filing against the Owner of a petition seeking its adjudication as a bankrupt or the appointment of a receiver for the benefit of its creditors which shall not have been dismissed within sixty (60) calendar days of the filing thereof, or the adjudication of the Owner as a bankrupt or the appointment of a receiver for the benefit of its creditors; or the appointment by court order of a custodian (such as a receiver, liquidator or trustee) of the Owner or of any of its property or the taking of possession of the Owner or any of its property for the benefit of its creditors and such order remains in effect or such possession continues for more than sixty (60) calendar days;

(e) the occurrence of substantial destruction of the Project by an uninsured casualty or the inability to replace or restore the Project in accordance with Section 11, or failure to maintain insurance that fully complies with the Agency insurance requirements set forth at Section 11 or in Agency insurance specifications minimum requirements, or failure to provide, immediately or no later than 30 days from notice, replacement insurance to meet Agency insurance requirements as set forth in Section 11 during the term of the Mortgage Loan;

(f) any representation in conjunction with the Loan and the Project by or on behalf of the Owner that is knowingly false or misleading in any respect or warranty of the Owner that is breached;

(g) any breach by the Owner of its obligations or any failure to observe its covenants under this Agreement, and the other Loan Documents; and

(h) failure to complete the Project.

(i) failure or refusal to acquire, rehabilitate, operate and/or maintain the Project in accordance with the Program.

The events set forth in the subsections (b) and (g) of this Section shall not constitute Events of Default until the prohibited acts, failure to perform or observe, or breaches shall remain uncured for a period of thirty (30) calendar days after the Agency's written notice to the Owner, specifying such prohibited act, failure or breach and requesting that it be remedied, unless the Agency shall agree in writing to an extension of such time prior to its expiration; provided, however, that after the Rehabilitation Period only, if the prohibited act, failure, or breach stated in each notice is correctable, but cannot be corrected within the 30-day period, the Agency may not unreasonably withhold its consent to an extension of up to 120 calendar days from the delivery of the written notice referred to herein if corrective action is instituted by the Owner, within the initial 30-day period and diligently pursued.

The failure of the Owner to comply with any of the provisions of Section 25 or 31 of this Agreement shall not be deemed an Event of Default hereunder unless such failure has not been corrected within a period of 60 calendar days, have actual or constructive knowledge of such failure or after the Agency's written notice to the owner, whichever is earlier.

Section 32. Remedies. Upon the occurrence of any Event of Default, the Agency may at its option take any one or more of the following actions or remedies and no failure to exercise any remedy or take any action enumerated shall constitute a waiver of such right or preclude a subsequent exercise by the Agency of any such remedy:

(a) declare the entire principal sum of the Mortgage together with all other liabilities of the Owner under the Note to be immediately due and payable;

(b) cease making disbursements to the Owner of any funds under the Loan or from reserves held by the Agency;

(c) apply any reserves held by the Agency or the balance in the accounts for Project disbursements and revenues, or any combination of these monies, to the payment of the Owner's liabilities hereunder;

(d) foreclose the lien of the Mortgage on the Project and Land or a portion thereof, including without limitation all Improvements existing or hereafter placed in or on the Project and Land. In any action to foreclose, the Agency shall be entitled to the appointment of a receiver of the rents and profits of the Project as a matter of right and without notice, with power to collect the rents, uses and profits of said Project, due and becoming due during the pendency of such foreclosure suit, such rents and profits being hereby expressly assigned and pledged as additional security for the payment of the indebtedness secured by the Mortgage without regard to the value of the Project or the solvency of any person or persons liable for payment of the mortgaged indebtedness. The Owner for itself and any such subsequent owner hereby waives any and all defenses to the application for a receiver as above and hereby specifically consents to such appointment without notice, but nothing herein contained is to be construed to deprive the holder of the Mortgage of any other right, remedy or privilege it may now have under the law to have a receiver appointed. The provisions for the appointment of a receiver of the rents and profits and the assignment of such rents and profits, is made an express condition upon which the Loan hereby secured are made. Upon such foreclosure the Agency shall have the right to have a receiver appointed for the Project and the rent from the Project;

(e) pursuant to its rights under the Act and the Program, remove the Project Manager(s) after consultation with the Owner, or, if the Agency, after consultation with the Owner, decides, it is in the best interest of the Project and Clients, hereinafter defined, the Owner shall deed the Project and Land to the Agency;

(f) take possession of the Project and Land or a portion thereof;

(g) without judicial process, collect all rents and other revenue including federal and State subsidies as the agent of the Owner (which upon the occurrence of any Event of Default the Agency

is deemed to have been irrevocably appointed by the Owner), and apply the same at the Agency's option either to the operation and maintenance of the Project or to the liabilities of the Owner under the Mortgage;

(h) act as landlord of the Project and rent or lease the same on any terms approved by it, or dispossess by summary proceedings or other available means any tenant defaulting under the terms of the lease of a dwelling unit;

(i) take possession of equipment, appliances or other tangible personal property in which a security interest has been granted by this Agreement or the Mortgage and dispose of the same in any commercially reasonable manner. The Agency shall have the option to dispose of any such equipment and personal property either separately from the Project and Land or in conjunction with a sale of the Project and Land, and the Owner agrees that either method of disposition shall be commercially reasonable;

(j) make effective an assignment of the Architect's Contract by the Owner to the Agency, in which event the Agency is specifically empowered by the Owner to exercise any and all rights of the Owner under the Architect's Contract, and at the option of the Agency to proceed with the rehabilitation of the Project, in which event all payments by the Owner made with respect to the Architect's Contract shall be treated as disbursements on the Loan;

(k) subject to Section 40 hereof, sue the Owner for a mandatory injunction or other equitable relief requiring performance by the Owner of any of its obligations under this Agreement or the Mortgage or the other Loan Documents. The Owner agrees with the Agency that the Agency's remedy at law for the violation or nonperformance of the Owner's obligations under the Mortgage or this Agreement or the other Loan Documents is not adequate by reason, among other things, of the Agency's public purpose to provide adequate, safe and sanitary dwelling units;

(l) after consultation with the Owner, sue under the Architect's Contract or on a warranty to recover any amount payable to the Owner pursuant to the Architect's Contract or payable to the Owner pursuant to any such warranty and to settle any such claim or liability and release the same and apply the proceeds of any such suit, settlement or release to the liabilities of the Owner under this Agreement or the Mortgage;

(m) if the Owner commits a breach or threatens to commit a breach of any of the provisions of the Mortgages or other Loan Documents, the Agency shall have the right, without posting bond or other security, to seek injunctive relief or specific performance, it being acknowledged and agreed that any such breach, or threatened breach, will cause irreparable injury to the Agency and that money damages will not provide an adequate remedy; and/or

(n) to undertake reasonable maintenance and make reasonable repairs to the Project and to add the cost thereof to the principal balance of the Mortgages.

(o) notwithstanding the above enumeration of remedies, the Agency shall have available to it all other remedies provided at law or in equity or any other action permitted by law subject to the provisions of Section 40 of this Agreement;

Section 33. Expenses Due to Default. All expenses (including reasonable attorneys' fees and costs and allowances) incurred in connection with an action to foreclose the Mortgage or in exercising any other remedy provided by the Mortgage or this Agreement or the other Loan Documents, including the curing of any Event of Default, shall be paid by the Owner, together with interest at the then current rate being received by the Agency on its investments as determined in good faith by the Agency. Any such sum or sums and the interest thereon shall be a further lien on the Project, Land and Improvements, and shall be secured by this Agreement and the Mortgage.

Section 34. Burden and Benefit. The Agency and the Owner hereby declare their understanding and intent that the burden of the covenants set forth herein touch and concern the Land in that the Owner's legal interest in the Land and the Project is rendered less valuable thereby. The Agency and the Owner hereby further declare their understanding and intent that the benefit of such covenants touch and concern the Land by enhancing and increasing the enjoyment and use of the Land and part of the Project as housing for persons with developmental disabilities.

Section 35. Uniformity; Common Plan. The covenants, reservations and restrictions hereof shall apply uniformly to the entire Project and Land.

Section 36. Remedies; Enforceability. The provisions hereof are imposed upon and made applicable to the Land and shall run with the Land and shall be enforceable against the Owner or any other person or entity that has or had an ownership interest in the Project at the time of such violation or attempted violation. No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage or waive the right of any party entitled to enforce the provisions hereof or to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation hereof at any later time or times.

Section 37. Amendments; Notices; Waivers. This Agreement and the Mortgage may be amended only by an instrument in writing executed and acknowledged on behalf of the Agency and the Owner in such manner that the instrument may be recorded.

No waiver by the Agency in any particular instance of any Event of Default or required performance by the Owner and no course of conduct of the parties or failure by the Agency to enforce or insist upon performance of any of the obligations of the Owner under this Agreement, the Mortgage, or under the other Loan Documents at any time shall preclude enforcement of any of the terms of this Agreement, the Mortgage, the Note, or the other Loan documents thereafter.

Any provisions of this Agreement, the Mortgage or other Loan Documents requiring the consent or approval of the Agency for the taking of any action or the omission of any action requires such consent by the Agency in writing signed by a duly authorized officer of the Agency. Any such consent or approval, unless it expressly states otherwise, is limited to the particular action or omission referred to therein and does not apply to subsequent similar actions or omissions.

Notice provided for under this Agreement shall be given in writing signed by a duly authorized officer and any notice required to be given hereunder shall be given by recognized private carrier with acknowledgment of delivery or by confirmed facsimile, with a hard copy sent by

certified mail, return receipt requested, or by certified or registered mail, postage prepaid, return receipt requested, at the addresses specified below, or at such other addresses as may be specified in writing by the parties hereto.

Agency: Executive Director
New Jersey Housing and Mortgage Finance Agency
637 South Clinton Avenue, CN 18550
Trenton, NJ 08650-2085

Owner: Jewish Services for the Developmentally Disabled of MetroWest, Inc.
270 Pleasant Valley Way
West Orange, NJ 07052
Attention: Executive Director

All notices shall be deemed given when received.

Section 38. Severability. The invalidity of any part or provision hereof shall not affect the validity, legality and enforceability of the remaining portions hereof, and to this end the provisions of this Agreement shall be severable.

Section 39. Successors and Assigns. This Agreement and all rights, duties, obligations and interests arising hereunder shall bind and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns.

Section 40. Personal Liability. Notwithstanding any other provision contained in this Agreement, the other loan documents or any other document or instrument executed by the owner in connection herewith or therewith, the Agency agrees, on behalf of itself and any future holder of the Note, that the liability of the Owner, any general or limited partner, member or shareholder of the Owner, if applicable, and its respective heirs, representatives, successors and assigns, for the payment of its obligations hereunder and under the other loan documents, including, without limitation, the payment of principal, interest and other charges due hereunder and thereunder, shall be limited to the collateral pledged under the mortgage and the other loan documents, and that the Agency shall have no right to seek a personal judgment against the Owner, any general or limited partner, member or shareholder of the Owner, if applicable and its respective heirs, representatives, successors and assigns, individually, except to the extent necessary to subject the collateral (including the Project and Land) pledged under the Mortgage and the other loan documents to the satisfaction of the Mortgage debt, and provided, however, that the Agency shall retain the right to exercise any and all remedies granted to it under the Mortgage, this Agreement and the other loan documents, including without limitation the right to sue for injunctive or other equitable relief. The foregoing limitation of liability shall not apply to any party to the extent such party has committed fraudulent, criminal or other unlawful acts and shall not apply to such amounts due to the Lender pursuant to Sections 10, 11, 12, 15, and 33 of this Agreement.

Section 41. Reserved.

Section 42. Disclaimer of Warranties, Liability; Indemnification/Defense.

A. The Owner acknowledges and agrees that (i) the Agency has not heretofore and does not make any warranty or representation, either express or implied, as to the value, condition, or fitness for particular purposes of the Project or any portions thereof or any other warranty or representation with respect thereto; (ii) in no event shall the Agency or its agents or employees be liable or responsible for any incidental, indirect, special or consequential damages in connection with or arising out of this Agreement or any of the other Loan Documents or the development of the Project or the existence, functioning or use of the Project or any items or services provided for in this Agreement or the other Loan Documents; and (iii) during the term of this Agreement and the other Loan Documents and to the fullest extent permitted by law, the Owner shall indemnify, defend and hold the Agency harmless against, damage, claims, judgments or expenses of any and all kinds or nature and however arising, imposed by law, which the Owner and the Agency including reasonable attorneys' fees and costs, may sustain, be subject to, or be caused to incur by reason of any claim, suit or action based upon personal injury, death or damage to property, whether real, personal or mixed, or upon or arising out of contract entered into by the Owner, or arising out of the Owner's ownership of the Project or out of the construction, rehabilitation, operation or management of the Project.

B. It is mutually agreed by the Owner and the Agency that the Agency and its directors, officers, agents, servants and employees shall not be liable for any action performed under this Agreement, and that the Owner shall hold them harmless from any claim or suit of whatever nature.

C. Any claims asserted against the Agency shall be subject to the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq. While this statute may not be applicable by its terms to claims arising under contracts with the Agency, the Owner agrees that it shall be applicable to any claims arising under the Loan Documents. It is acknowledged by the parties that the Agency is a public entity covered by the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq.

Section 43. Recording. This Agreement shall be duly recorded in the Office of the Clerk for the county in which the Land is located within ten (10) days following its execution.

Section 44. Governing Law. This Agreement shall be governed by the laws of the State of New Jersey. The parties agree that any cause of action that may arise under this Agreement or the Loan Documents shall have jurisdiction and venue only in the Courts of the State of New Jersey in and for the County of Mercer.

Section 45. Equal Opportunity and Non-Discrimination. The Owner covenants and agrees that it will comply with the Agency guidelines with respect to equal opportunity and non-discrimination in its purchase of goods and services for the operation and maintenance of the Project throughout the term of this Agreement.

Section 46. Counterparts

This Agreement may be executed in multiple counterparts, all of which shall constitute one and the same instrument, and each of which shall be deemed to be an original. A fax copy of a signature on this Agreement shall have the same effect as an original provided that an original is received by the other party hereto within two business days thereafter.

Section 47. Investment Funding.

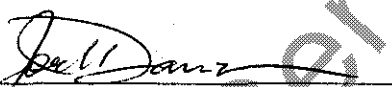
The Owner agrees to make an investment in the Project and Land in an amount which is not less than 20% of the total Project cost as determined by the Agency pursuant to the Act and the Program. In the event the principal sum set forth in the Agency Financing that is advanced to the Owner is determined by the Agency to exceed 80% of the total Project cost, the Owner shall reimburse the Agency an amount that would reduce the Agency Financing to 80% of the total Project cost.

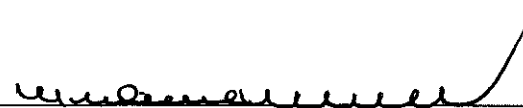
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

WITNESS/ATTEST

OWNER:

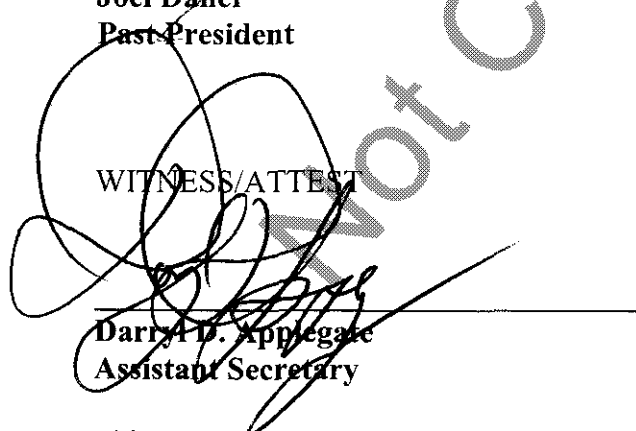
**JEWISH SERVICES FOR THE
DEVELOPMENTALLY DISABLED OF
METROWEST, INC.**


Joel Daner
Past President

By: 

Michael Miller
Vice President

WITNESS/ATTEST


Darryl D. Applegate
Assistant Secretary

LENDER:

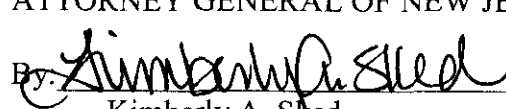
**NEW JERSEY HOUSING AND
MORTGAGE FINANCE AGENCY**

By: 

Leslie S. Lefkowitz
Chief of Legal and Regulatory Affairs

This Agreement is approved as to form:

ATTORNEY GENERAL OF NEW JERSEY

By: 

Kimberly A. Sted
Deputy Attorney General

CORPORATE ACKNOWLEDGMENT

STATE OF NEW JERSEY)

) SS:

COUNTY OF MERCER)

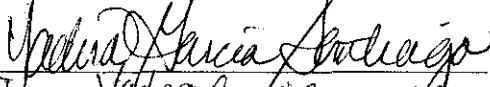
BE IT REMEMBERED, that on this 25th day of August, 2010, before me, the subscriber, a Notary Public of New Jersey, personally appeared Joel Daner, who, being by me duly sworn on his oath, acknowledges and makes proof to my satisfaction that **JEWISH SERVICE FOR THE DEVELOPMENTALLY DISABLED OF METROWEST, INC.**, is the entity named in the within Instrument; that Michael Miller is the Vice President of said non-profit corporation; that the execution, as well as the making of this Instrument, has been duly authorized by a proper resolution of the members of the said non-profit corporation, and that the seal affixed to said Instrument is the proper seal and was thereto affixed and said Instrument signed and delivered by said members of the non-profit corporation as and for the voluntary act and deed of said non-profit corporation, in the presence of deponent, who there upon subscribed his name thereto as attesting witness.

Sworn to and subscribed before me
on the date aforesaid.

Yadira Garcia Santiago
Name: *Yadira Garcia Santiago*
Notary Public of New Jersey
My Commission Expires: *11/20/2012*

STATE OF NEW JERSEY, COUNTY OF MERCER SS:

I CERTIFY that on August 25, 2010, **Leslie S. Lefkowitz** personally came before me, a Notary Public of the State of New Jersey, and acknowledged under oath to my satisfaction that a) he is the **Chief of Legal and Regulatory Affairs of NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY**, the Agency named in this document, and b) he executed and delivered this document as the voluntary act of the Agency, duly authorized by a proper resolution of its members, on behalf of the Agency.


Name: Yedra Garcia Santiago
Notary Public of New Jersey
My Commission Expires: 11/20/2012

Revised for SNHTF Feb. 2006

**SCHEDULE A
PROPERTY DESCRIPTION**

All that certain Lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Township of West Orange, County of Essex, State of New Jersey

Being all that certain real property subject to the provisions of the State of New Jersey Condominium Act, N.J.S.A. 46:8B-1 et seq, its amendments and supplements and situate, lying and being in the Township of West Orange, County of Essex, State of New Jersey, more particularly described as Unit 60 situate in Briar Hill Villas, a New Jersey Condominium, together with an aggregate 1/42 percent undivided interest in the Common Elements of said Condominium appurtenant to the aforesaid Unit, in accordance with and subject to the terms, limitations, conditions, covenants, restrictions, easements, agreements and other provisions set forth in the Master Deed for Briar Hill Villas, dated August 22, 1978, recorded September 19, 1979 in the Essex County Register's Office in Deed Book 4618 page 281, and any further amendments thereto.

NOTE FOR INFORMATIONAL PURPOSES ONLY: Being known and designated as Lot 5 C0060, Block 166.15 on the Tax Map in the Township of West Orange, County of Essex, State of New Jersey

Not Certified Copy

RECORDING INFORMATION SHEET

ESSEX COUNTY REGISTER'S OFFICE
HALL OF RECORDS, ROOM 130
465 MARTIN LUTHER KING Jr. Blvd
NEWARK NJ 07102

INSTRUMENT NUMBER:

8110483

DOCUMENT TYPE :

DEED**Official Use Only**

CAROLE A. GRAVES, REGISTER
ESSEX COUNTY, NJ

INSTRUMENT NUMBER
8110483
RECORDED ON
December 17, 2008 11:39 am
BOOK:12170 PAGE:8657

[]

CONSIDERATION (F) \$1.00

MAIL COPY _____

NO COPY _____

ENVELOPE _____

ADDITIONAL STAMPINGS _____

Return Address (for recorded documents)

KUSCHNER, JEFFREY R

ATTORNEY AT LAW

180 GLENRIDGE AVENUE

MONTCLAIR NJ 07042

No. Of Pages (excluding Summary Sheet)

5

Recording Fee (excluding Transfer Tax)

\$80.00

Realty Transfer Tax

\$0.00

Amount Charged (Check # 3166)

\$80.00

Municipality

WEST ORANGE

Parcel Information**Block** 159.06**Lot** 38**First Party Name**

PROJECT LIVE INC

Second Party Name

PROJECT LIVE INC

Additional Information (Official Use Only)

***** DO NOT REMOVE THIS PAGE. *****
COVER SHEET (DOCUMENT SUMMARY FORM) IS PART OF ESSEX COUNTY FILING RECORD
***** RETAIN THIS PAGE FOR FUTURE REFERENCE. *****

Deed

This Deed is made on **December 12, 2008**
BETWEEN
PROJECT LIVE, INC.

a corporation of the state of **New Jersey**
having its principal office at
465-475 Broadway
Newark, NJ 07104

referred to as the Grantor,
AND
Project Live, Inc.

whose post office address is
465-475 Broadway
Newark, NJ 07104

referred to as the Grantee.
The words "Grantor" and "Grantee" shall mean all Grantors and all Grantees listed above.

1. Transfer of Ownership. The Grantor grants and conveys (transfers ownership of) the property (called the "Property") described below to the Grantee. This transfer is made for the sum of **\$1.00**
One Dollars and No Cents
The Grantor acknowledges receipt of this money.

2. Tax Map Reference. (N.J.S.A. 46:15-1.1) Municipality of **West Orange**
Block No. **159.06** Lot No. **38** Qualifier No. Account No.
☐ No lot and block or account number is available on the date of this Deed. (Check box if applicable.)

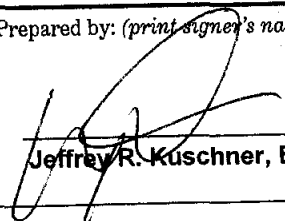
3. Property. The Property consists of the land and all the buildings and structures on the land in the **Township**
of **West Orange** County of **Essex** and State of New Jersey. The legal
description is:

☒ Please see attached Legal Description annexed hereto and made a part hereof. (Check box if applicable.)

Being the same premises conveyed to the grantor herein by Deed from Kenneth De Vos and Anne Marie De Vos dated October 23, 1997 and recorded November 25, 1997 in the Essex County Register's Office in Deed Book 5507, Page 94.

The grantee hereunder does acknowledge that the cost of acquisition of the property has been satisfied out of part of the proceeds of a certain loan from the County of Essex under the Federal HOME program and that the premises to be constructed shall be subject to the affordability requirements contained in 24 Code of Federal Regulation, Part 92. The provisions thereof may be enforced by the County of Essex by an action for specific performance filed in a Court having jurisdiction. The premises to be constructed shall be subject to the specific provisions for affordability contained in 24 CFR 92.504 for a period of twenty years from the date of completion of the project as evidenced by the issuance of a Certificate of Occupancy for the use of the premises.

Prepared by: (print signer's name below signature)


Jeffrey R. Kushner, Esquire

(For Recorder's Use Only)

Commitment Number: ST-21912

SCHEDULE C

LEGAL DESCRIPTION

ALL that certain lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Municipality of Township of West Orange, in the County of Essex, State of NJ:

BEGINNING at a point in the westerly line of Edgewood Avenue, distant 215.13 feet northerly from the intersection of the westerly line of edgewood Avenue with the northerly line of Rock Spring Avenue; thence

- 1) along the westerly line of Edgewood Avenue, North 60 degrees 01 minutes East 100 feet to the land of Elsie R. Thompson; thence
- 2) along Thompson's southerly line and lands of Ruth Schuch and Philip Lutz and wife, at right angles to Edgewood Avenue, North 29 degrees 59 minutes West, distant 195 feet to the rear line of lots facing Rock Spring Avenue; thence
- 3) along the same, South 38 degrees 20 minutes West, distant 107.61 feet to lands of S. Alexander Elchler and wife; thence
- 4) along Elchler's northerly line and parallel to the second course hereinabove, South 29 degrees 59 minutes East, distant 155.25 feet to the westerly line of Edgewood Avenue and the point and place of BEGINNING.

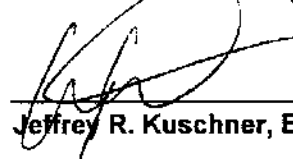
FOR INFORMATION PURPOSES ONLY: BEING known as 97 Edgewood Avenue, Tax Lot 38, Tax Block 159.06 on the Official Tax Map of Township of West Orange, NJ.

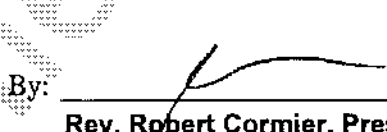
The street address of the Property is:
97 Edgewood Avenue, West Orange, New Jersey 07052

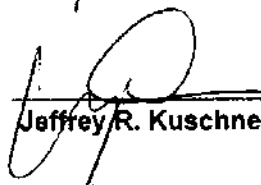
4. Promises by Grantor. The Grantor promises that the Grantor has done no act to encumber the Property. This promise is called a "Covenant as to grantor's acts" (N.J.S.A. 46:4-6). This promise means that the Grantor has not allowed anyone else to obtain any legal rights which affect the Property (such as by making a mortgage or allowing a judgment to be entered against the Grantor).

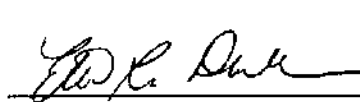
5. Signatures. This Deed is signed and attested to by the Grantor's proper corporate officers as of the date at the top of the first page. (Print name below each signature.)

Witnessed or Attested by:


Jeffrey R. Kushner, Esquire

By: 
Rev. Robert Cormier, President


Jeffrey R. Kushner, Esquire


Etta R. Denk, Treasurer

STATE OF NEW JERSEY, COUNTY OF ESSEX
I CERTIFY that on **December 12, 2008**

SS:

Rev. Robert Cormier and Etta R. Denk

personally came before me and stated to my satisfaction that this person (or if more than one, each person):

(a) was the maker of the attached Deed;

(b) was authorized to and did execute this Deed as **President and Treasurer**
of **Project Live, Inc.**

the entity named in this Deed;

(c) made this Deed for \$ \$ **1.00**

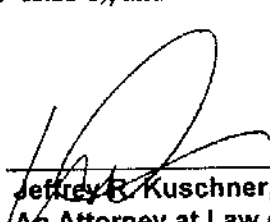
as the full and actual consideration paid or to be paid for the

transfer of title. (Such consideration is defined in N.J.S.A. 46:15-5); and

(d) executed this Deed as the act of the entity.

RECORD AND RETURN TO:

Jeffrey R. Kushner
Attorney at Law
180 Glenridge Avenue
Montclair, NJ 07042


Jeffrey R. Kushner, Esquire
An Attorney at Law of the State of New Jersey
Print name and title below signature

STATE OF NEW JERSEY

AFFIDAVIT OF CONSIDERATION FOR USE BY SELLER

(Chapter 49, P.L. 1968, as amended through Chapter 33, P.L. 2006) (N.J.S.A. 46:15-5 et seq.)

BEFORE COMPLETING THIS AFFIDAVIT, PLEASE READ THE INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM.

STATE OF NEW JERSEY

COUNTY OF **ESSEX**

County Municipal
Code

0722

Municipality of Property Location: **West Orange**

FOR RECORDER'S USE ONLY

Consideration \$ **1.00**

RTF paid by seller \$ **0**

Date **12/17/08**

By **RC**

† Use symbol "C" to indicate that fee is exclusively for county use.

(1) PARTY OR LEGAL REPRESENTATIVE

(See Instructions 3 and 4 attached)

Deponent, **Rev. Robert Cormier**

(Name)

, being duly sworn according to law upon his/her oath deposes

and says that he/she is the

President and Grantor

in a deed dated **12/12/08**

(Grantor, Grantee, Legal Representative, Corporate Officer, Officer of Title Co., Lending Institution, etc.)

transferring real property identified as Block No. **159.06**

Lot No. **38**

located at

97 Edgewood Avenue, West Orange, New Jersey 07052

and annexed thereto.

(Street Address, Town)

(2) CONSIDERATION: \$1.00

(See Instructions 1 and 5)

(3) Property transferred is Class 4A 4B 4C (circle one). If Class 4A, calculation in Section 3A is required.

(3A) REQUIRED CALCULATION OF EQUALIZED VALUATION FOR ALL CLASS 4A COMMERCIAL PROPERTY TRANSACTIONS: (see Instructions 5A and 7)

Total Assessed Valuation ÷ Director's Ratio = Equalized Assessed Valuation

\$ _____ ÷ _____ % = \$ _____

If Director's Ratio is less than 100%, the equalized valuation will be an amount greater than the assessed value. If Director's Ratio is equal to or in excess of 100%, the assessed value will be equal to the equalized value.

(4) FULL EXEMPTION FROM FEE: (see Instruction 8)

Deponent states that this deed transaction is fully exempt from the Realty Transfer Fee imposed by C. 49, P.L. 1968, as amended through C. 66, P.L. 2004, for the following reason(s). Mere reference to the exemption symbol is insufficient. Explain in detail. **(a) For a consideration of less than \$100.00**

(5) PARTIAL EXEMPTION FROM FEE: (see Instruction 9) NOTE: All boxes below apply to grantor(s) only.

ALL BOXES IN APPROPRIATE CATEGORY MUST BE CHECKED. Failure to do so will void claim for partial exemption.

Deponent claims that this deed transaction is exempt from the State's portion of the Basic Fee, Supplemental Fee and General Purpose Fee, as applicable, imposed by C. 176, P.L. 1975; C. 113, P.L. 2004 and C. 66, P.L. 2004 for the following reason(s):

A. SENIOR CITIZEN (see Instruction 9)

- ☐ Grantor(s) 62 years of age or over.*
☐ One- or two-family residential premises.
☐ Resident of the State of New Jersey.

- ☐ Owned and occupied by grantor(s) at time of sale.
☐ Owners as joint tenants must all qualify.

B. BLIND (see Instruction 9)

- ☐ Grantor(s) legally blind.*
☐ One- or two-family residential premises.
☐ Owned and occupied by grantor(s) at time of sale.
☐ Owners as joint tenants must all qualify.
☐ Resident of the State of New Jersey.

DISABLED (see Instruction 9)

- ☐ Grantor(s) permanently and totally disabled.*
☐ Receiving disability payments.*
☐ Not gainfully employed.*
☐ One- or two-family residential premises.
☐ Owned and occupied by grantor(s) at time of sale.
☐ Owners as joint tenants must all qualify.
☐ Resident of the State of New Jersey.

* IN THE CASE OF HUSBAND AND WIFE, PARTNERS IN A CIVIL UNION COUPLE, ONLY ONE GRANTOR NEEDS TO QUALIFY IF OWNED AS TENANTS BY THE ENTIRETY.

C. LOW AND MODERATE INCOME HOUSING (see Instruction 9)

- ☒ Affordable according to HUD standards.
☒ Meets income requirements of region.

- ☒ Reserved for occupancy.
☒ Subject to resale controls.

(6) NEW CONSTRUCTION (see Instructions 2, 10 and 12)

- ☐ Entirely new improvement.
☐ Not previously used for any purpose.

- ☐ Not previously occupied.
☐ "NEW CONSTRUCTION" printed clearly at the top of the first page of the deed.

(7) Deponent makes this Affidavit to induce the County Clerk or Register of Deeds to record the deed and accept the fee submitted herewith in accordance with the provisions of Chapter 49, P.L. 1968, as amended through Chapter 33, P.L. 2006.

Subscribed and sworn to before me
this **Twelfth**
day of **December**, 20 **08**

Jeffrey R. Kushner, Esquire
Notary Public

St. Rosa Lima Church
11 Gray Street, Newark, NJ

Deponent Address

XXX-XX-X

Last 3 digits in Grantor's Social Security No.

Rev. Robert Cormier

Grantor Name

Grantor Address at Time of Sale

Jeffrey R. Kushner, Esquire

Name/Company of Settlement Officer

This form is prescribed by the Director, Division of Taxation in the Department of the Treasury, as required by law, and may not be altered or amended without the prior approval of the Director. For information on the Realty Transfer Fee or to print a copy of this Affidavit, visit the Division of Taxation website at www.state.nj.us/treasury/taxation/lpt/localtax.htm.

FOR OFFICIAL USE ONLY

Instrument Number **8110483**

County **Essex**

Deed Number

Book **12170**

Page **8657**

Deed Dated **12/12/08**

Date Recorded **12/17/08**

County Recording Officers shall forward one copy of each Affidavit of Consideration for Use by Seller when Section 3A is completed.
State of New Jersey – Division of Taxation, P.O. Box 251, Trenton, NJ 08695-0251, Attention: Realty Transfer Fee Unit

State of New Jersey

Seller's Residency Certification/Exemption

(C.55, P.L. 2004)

(Please Print or Type)

SELLER(S) INFORMATION (see Instructions, page 2):Name(s) **Project Live, Inc.**Current Resident Address **465-475 Broadway**City, Town, Post Office **Newark**State **NJ**Zip Code **07104****PROPERTY INFORMATION (Brief Property Description):**Block(s) **159.06**Lot(s) **38**

Qualifier

Street Address **97 Edgewood Avenue**City, Town, Post Office **West Orange**State **NJ**Zip Code **07052**Seller's Percentage of Ownership **100%** Consideration **\$1.00**Closing Date **December 12, 2008****SELLER'S ASSURANCES (Check the Appropriate Box) (Boxes 2 through 8 apply to NON-residents):**

1. ☐ I am a resident taxpayer (individual, estate or trust) of the State of New Jersey pursuant to N.J.S.A. 54A:1-1 et seq. and will file a resident gross income tax return and pay any applicable taxes on any gain or income from the disposition of this property.
2. ☐ The real property being sold or transferred is used exclusively as my principal residence within the meaning of section 121 of the federal Internal Revenue Code of 1986, 26 U.S.C. s. 121.
3. ☐ I am a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4. ☐ Seller, transferor or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5. ☒ Seller is not an individual, estate or trust and as such not required to make an estimated payment pursuant to N.J.S.A.54A:5-1-1 et seq.
6. ☒ The total consideration for the property is \$1,000 or less and as such, the seller is not required to make an estimated payment pursuant to N.J.S.A. 54A:5-1-1 et seq.
7. ☐ The gain from the sale will not be recognized for Federal income tax purposes under I.R.C. Section 721, 1031, 1033 or is a cemetery plot. (CIRCLE THE APPLICABLE SECTION.) If such section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale (see instructions).
- ☐ No non-like kind property received.
8. ☐ Transfer by an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this state.

SELLER(S) DECLARATION:

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein could be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete.

December 12, 2008

Date

Project Live, Inc.

Signature

(Seller) Please indicate if Power of Attorney or Attorney in Fact

Date

Signature

(Seller) Please indicate if Power of Attorney or Attorney in Fact

RECORDING INFORMATION SHEET

ESSEX COUNTY REGISTER'S OFFICE
HALL OF RECORDS , ROOM 130
465 MARTIN LUTHER KING Jr. Blvd
NEWARK NJ 07102

INSTRUMENT NUMBER:

9002055

DOCUMENT TYPE :

DEED**Official Use Only**

CAROLE A. GRAVES, REGISTER
ESSEX COUNTY, NJ

INSTRUMENT NUMBER
9002055

RECORDED ON
January 16, 2009 02:24 pm
BOOK:12174 PAGE:6180

MC

Return Address (for recorded documents)

WELLS, JAWORSKI & LIEBMAN, PC

12 ROUTE 17 NORTH

P.O.BOX 1827

PARAMUS NJ 07653-1827

No. Of Pages (excluding Summary Sheet)

9

Recording Fee (excluding Transfer Tax)

\$120.00

Realty Transfer Tax

\$0.00

Amount Charged (Check # 6080)

\$120.00

Municipality

WEST ORANGE

Parcel Information**Block** 179.14**Lot** 13.03**First Party Name**

BEATRICE CESARIO

Second Party Name

CHILDRENS AID AND FAMILY SERVI

Additional Information (Official Use Only)CONSIDERATION (E) \$630,000.00

MAIL COPY _____

NO COPY _____

ENVELOPE _____

ADDITIONAL STAMPINGS _____

***** DO NOT REMOVE THIS PAGE. *****
COVER SHEET (DOCUMENT SUMMARY FORM) IS PART OF ESSEX COUNTY FILING RECORD
***** RETAIN THIS PAGE FOR FUTURE REFERENCE. *****

RECORDING INFORMATION SHEET

ESSEX COUNTY REGISTER'S OFFICE
HALL OF RECORDS, ROOM 130
465 MARTIN LUTHER KING Jr. Blvd
NEWARK NJ 07102

INSTRUMENT NUMBER:

8102063

DOCUMENT TYPE:

DEED**Official Use Only**

CAROLE A. GRAVES, REGISTER
ESSEX COUNTY, NJ

INSTRUMENT NUMBER
8102063
RECORDED ON
November 12, 2008 11:36 am
BOOK:12166 PAGE:5253

LJ

CONSIDERATION (R) \$630,000.00

MAIL COPY _____
NO COPY _____
ENVELOPE _____

ADDITIONAL STAMPINGS _____

Return Address (for recorded documents)

WELLS JAWORSKI & LIEBMAN

12 ROUTE 17 NORTH

P.O. BOX 1827

PARAMUS NJ 07653-1827

No. Of Pages (excluding Summary Sheet)

7

Recording Fee (excluding Transfer Tax)

\$100.00

Realty Transfer Tax

\$5,503.00

Amount Charged (Check # 4138)

\$5,603.00

Municipality

WEST ORANGE

Parcel Information**Block** 179.14**Lot** 13.03**First Party Name**

BEATRICE CESARIO

Second Party Name

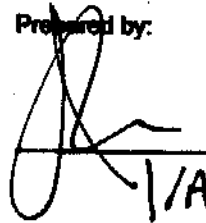
CHILDRENS AID & FAMILY SERVICE

Additional Information (Official Use Only)

***** DO NOT REMOVE THIS PAGE. *****
COVER SHEET (DOCUMENT SUMMARY FORM) IS PART OF ESSEX COUNTY FILING RECORD
***** RETAIN THIS PAGE FOR FUTURE REFERENCE. *****

Prepared by:

DEED

 I/A Kaplan.

This Deed is made on Oct. 28, 2008

BETWEEN Beatrice Casario, unmarried whose post office address is 167 Pleasant Valley Way aka 161 Pleasant Valley Way, West Orange, New Jersey referred to as the "Grantor",

AND Children's Aid and Family Services, Inc., whose post office address is about to be 167 Pleasant Valley Way aka 161 Pleasant Valley Way, West Orange, New Jersey referred to as the "Grantee".

The words "Grantor" and "Grantee" shall mean all Grantors and all Grantees listed above.

Transfer of Ownership. The Grantor grants and conveys (transfers ownership of) the property described below to the Grantee. This transfer is made for the sum of Six Hundred and Thirty Thousand Dollars and 0/100. \$630,000.00. The Grantor acknowledges receipt of this money.

Tax Map Reference. (N.J.S.A. 46:15-1.1) Municipality of West Orange Block No. 179.14 Lot No 13.03

Property. The property consists of the land and all the buildings and structures on the land in the Municipality of West Orange and the County of Essex and State of New Jersey. The legal description is:

 X Please see attached Legal Description annexed hereto and made a part hereof.

The street address of the Property is 167 Pleasant Valley Way aka 161 Pleasant Valley Way, West Orange, New Jersey.

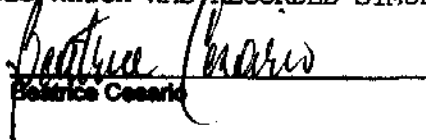
Promise of Grantor. The Grantor promises that the Grantor has done no act to encumber the property. This promise is called a "covenant as to grantor's acts." (N.J.S.A. 46:4-8). This promise means that the Grantor has not allowed anyone else to obtain any legal rights which affect the Property (such as by making a mortgage or allowing a judgment to be entered against the Grantor).

Being the same premises conveyed to Beatrice Casario by Deed from Rita Casario dated January 2, 2008 recorded January 17, 2008 in Essex County, deed book 12112, page 5630 and by Deed from Herbert Tutour, individually, and Executor under the Last Will and Testament of Sylvia Tutour which deed is being simultaneously recorded herewith.

Signatures. The Grantor signs this Deed as of the date at the top of the first page. If the Grantor is a corporation, this Deed is signed and attested to by its proper corporate officers and its corporation seal is affixed.

THIS DEED IS BEING RE-RECORDED TO CORRECT THE LEGAL DESCRIPTION. IN DEED BOOK 12166, page 5223, WHICH WAS RECORDED SIMULTANEOUSLY. Witnessed by:

 Harold R. Watkins

 Beatrice Casario

First American Title Insurance Company

1 First American Way - Santa Ana, CA 92707

Issuing Agent

First Jersey Title Services, Inc.

P.O. Box 2525 (25-00 Broadway) Fair Lawn, New Jersey 07410

(201) 791-4200 Fax (201) 791-9050

www.firstjerseytitle.com

File Number: **08- 76406**

SCHEDULE C REVISED-1 Legal Description

All that certain lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the
TOWNSHIP of WEST ORANGE County of ESSEX State of New Jersey:

TRACT I

BEGINNING at a point in the Northwestern line of Pleasant Valley Way, said point being distant 250.52 feet Southwestwardly from the intersection of the aforesaid Northwestern line of Pleasant Valley Way, if extended with the Northeasterly line of Mayfair Drive, if extended, and commencing thence

- 1) North 52°29'00"West a distance of 250.00 feet to a point; thence
- 2) North 35°45'00"East a distance of 105.00 feet to a point; thence
- 3) South 52°29'00"East a distance of 250.00 feet to a point in the Northwestern line of Pleasant Valley Way; thence
- 4) South 35°45'00"West, along said line of Pleasant Valley Way, a distance of 105.00 feet to the point and place of **BEGINNING**.

TRACT II

BEGINNING at a point in the Northwesternly sideline of Pleasant Valley Way, as established by deed, said point being distant 241.62 feet measured Northeasterly along the above-mentioned sideline from the Northerly sideline of Mayfair Drive, if both sidelines are extended to an intersection; thence

* (continued) *

First American Title Insurance Company

Page - 2

File Number: 08- 76406

SCHEDULE C
REVISED-1
Legal Description
(continued)

- 1) North 35°45'00"East, along the said sideline of Pleasant Valley Way, 9 feet to a point in the line of lands now or formerly of Slifkin; thence
- 2) North 52°29'00"West, along the line of lands now or formerly of Slifkin, 250.00 feet to a point; thence
- 3) North 35°45'00"East, continuing along the line of lands now or formerly of Slifkin, 105.00 feet to a point in the line of lands now or formerly of Maynard; thence
- 4) North 52°29'00"West, along the line of lands now or formerly of Maynard, 47.87 feet to a point in the line of lands now or formerly of Slifkin; thence
- 5) South 35°45'00"West, along the line of lands now or formerly of Slifkin, 114.00 feet to a point; thence
- 6) South 52°29'00"East, 297.87 feet to the point and place of BEGINNING.

THE above two tracts taken together, are more particularly described in accordance with a Survey made by Jeffrey H. Kleine, P.L.S., dated October 1, 2008 as follows:

BEGINNING at a point in the Northwesterly line of Pleasant Valley Way, distant 325.39 feet Southwesterly from the intersection formed by the said line of Pleasant Valley Way and the Southwesterly line of Rosemont Terrace, and running thence:

- 1) Along the Northwesterly line of Pleasant Valley Way, South 35°45'00" West, 114.00 feet; thence
- 2) North 52°29'00" West, 297.86 feet; thence
- 3) North 35°45'00" East, 114.00 feet; thence

* (continued) *

First American Title Insurance Company

Page - 3

File Number: 08- 76406

SCHEDULE C
REVISED-1
Legal Description
(continued)

4) South 52°29'00" East, 297.86 feet to a point in the Northwesterly line of Pleasant Valley Way,
which is the point and place of BEGINNING.

COMMONLY known as: 167 PLEASANT VALLEY WAY,
WEST ORANGE, NEW JERSEY

IN COMPLIANCE with Chapter 157, Laws of 1977, premises herein are Block 179.14 Lot 13.03
on the tax map of the above municipality.

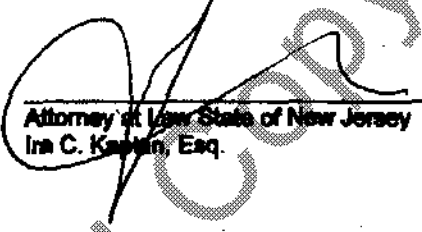
Not Certified Copy

Essex

STATE OF NEW JERSEY, COUNTY OF BERGEN, SS.:

I CERTIFY that on October 23 2008, Beatrice Cesario personally came before me and stated to my satisfaction that this person:

- (a) was the maker of the attached deed;
- (b) executed this deed as his or her own act; and,
- (c) made this Deed for \$630,000.00 as the full and actual consideration paid or to be paid for the transfer of title. (Such consideration is defined in N.J.S.A. 46:15-5.)


Attorney at Law State of New Jersey
Ira C. Kassin, Esq.

RECORD & RETURN TO:
Wells, Jaworski & Liebman, LLP
12 Route 17 North
P.O. Box 1827
Paramus, NJ 07653-1827

State Of New Jersey
SELLER'S RESIDENCY CERTIFICATION/EXEMPTION
(C.55, P.L. 2004)

GTR/REP-3
(12/07)

Name(s) Beatrice Caserio

Current Resident Address:

Street:

345 Webster Avenue, Apt. 2M

City, Town, Post Office

State

Zip Code

Brooklyn

NY

11230

Home Phone

Business Phone

()

Block(s) 179.14

Lot(s) 13.03 Qualifier

Street Address:

167 Pleasant Valley Way aka 161 Pleasant Valley Way

City, Town Post Office

State

Zip Code

West Orange

New Jersey

Seller's percentage of Ownership

Consideration

Closing Date

100%

\$630,000.00

10/28/08

1. ☒ (X) I am resident taxpayer of the State of New Jersey pursuant to N.J.S.A. 54A:1-1 et seq. and will file a resident gross income tax return and pay any applicable taxes on any gain or income from the disposition of this property.
2. ☐ () The real property being sold or transferred is used exclusively as my principal residence within the meaning of section 121 of the Federal Internal Revenue Code of 1986, 26 U.S.C. § 121.
3. ☐ () I am a mortgagee conveying the mortgage property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4. ☐ () Seller, transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5. ☐ () Seller is not individual, estate or trust and as such not required to make an estimated payment pursuant to N.J.S.A. 54A:1-1 et seq.
6. ☐ () The total consideration for the property is \$1,000 or less and as such, the seller is not required to make an estimated payment pursuant to N.J.S.A. 54A:1-1 et seq.
7. The gain from the sale will not be recognized for Federal income tax purposes under IRC Section 721, 1031, 1035 or is a currency plot. (CIRCLE THE APPLICABLE SECTION). If such section does not ultimately apply to this transaction the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale (see instructions).
8. ☐ () No non-tax property received.
9. ☐ () Transfer by executor or administrator of a decedent to a decedee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this State.

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein could be punished by fine, imprisonment, or both. I further declare that I have examined this declaration and to the best of my knowledge and belief, it is true, correct and complete.

Date 10/23/08

Beatrice Caserio

(Seller) Please indicate if Power of Attorney or Attorney in Fact

STATE OF NEW JERSEY

COUNTY

MUNICIPALITY OF PROPERTY LOCATION

SS. County Municipal Code

FOR RECORDER'S USE ONLY

Consideration \$

RTF paid by seller \$

Date By

*Use symbol "C" to indicate that fee is exclusively for county use.

(1) PARTY OR LEGAL REPRESENTATIVE (See Instructions #3 and #4 on reverse side)

Deponent, IRA C KAPLAN being duly sworn according to law upon his/her oath,(Name) Legal Rep in a deed dated Oct 28, 2008 transferring
(Grantor, Legal Representative, Corporate Officer, Officer of Title Company, Lending Institution, etc.)real property identified as Block number 179.14 Lot number 1303 located at
161 PLEASANT VALLEY RD. #167 PLEASANT VALLEY RD and annexed thereto.
(Street Address, Town)(2) CONSIDERATION \$ 630,000 (See Instructions #1 and #5 on reverse side)

(3) Property transferred is Class 4A 4B 4C (circle one). If property transferred is Class 4A, calculation in Section 3A below is required.

(3A) REQUIRED CALCULATION OF EQUALIZED VALUATION FOR ALL CLASS 4A COMMERCIAL PROPERTY TRANSACTIONS:

(See Instructions #5A and #7 on reverse side)

Total Assessed Valuation + Director's Ratio = Equalized Assessed Valuation

\$ + % = \$

If Director's Ratio is less than 100%, the equalized valuation will be an amount greater than the assessed value. If Director's Ratio is equal to or in excess of 100%, the assessed value will be equal to the equalized valuation.

(4) FULL EXEMPTION FROM FEE (See Instruction #8 on reverse side)

Deponent states that this deed transaction is fully exempt from the Realty Transfer Fee imposed by C. 49, P.L. 1968, as amended through C. 66, P.L. 2004, for the following reason(s). Mere reference to exemption symbol is insufficient. Explain in detail.

(5) PARTIAL EXEMPTION FROM FEE (See Instruction #9 on reverse side)

NOTE: All boxes below apply to grantor(s) only. ALL BOXES IN APPROPRIATE CATEGORY MUST BE CHECKED. Failure to do so will void claim for partial exemption. Deponent claims that this deed transaction is exempt from State portions of the Basic Fee, Supplemental Fee, and General Purpose Fee, as applicable, imposed by C. 176, P.L. 1975, C. 113, P.L. 2004, and C. 66, P.L. 2004 for the following reason(s):

- A. SENIOR CITIZEN Grantor(s) ☐ 62 years of age or over. * (See Instruction #9 on reverse side for A or B)
- B. { BLIND PERSON Grantor(s) ☐ legally blind or; *
- DISABLED PERSON Grantor(s) ☐ permanently and totally disabled ☐ Receiving disability payments ☐ Not gainfully employed*

Senior citizens, blind persons, or disabled persons must also meet all of the following criteria:

- ☐ Owned and occupied by grantor(s) at time of sale. ☐ Resident of State of New Jersey.
- ☐ One or two-family residential premises. ☐ Owners as joint tenants must all qualify.

*IN THE CASE OF HUSBAND AND WIFE/CIVIL UNION PARTNERS, ONLY ONE GRANTOR NEEDS TO QUALIFY IF TENANTS BY THE ENTIRETY.

C. LOW AND MODERATE INCOME HOUSING (See Instruction #9 on reverse side)

- ☐ Affordable according to H.U.D. standards. ☐ Reserved for occupancy.
- ☐ Meets income requirements of region. ☐ Subject to resale controls.

(6) NEW CONSTRUCTION (See Instructions #2, #10 and #12 on reverse side)

- ☐ Entirely new improvement. ☐ Not previously occupied.
- ☐ Not previously used for any purpose. ☐ "NEW CONSTRUCTION" printed clearly at the top of the first page of the deed.

(7) Deponent makes this Affidavit to induce county clerk or register of deeds to record the deed and accept the fee submitted herewith in accordance with the provisions of Chapter 49, P.L. 1968, as amended through Chapter 33, P.L. 2006.

Subscribed and sworn to before me
this 23 day of October, 2008

Signature of Deponent

IRVING MOORE ST

Deponent Address

HADDONFIELD NJXXX-XX-X 976

Last 3 digits in Grantor's Social Security Number

Grantor Name

161 PLEASANT VALLEY RD

Grantor Address at Time of Sale

WEST ORANGE NJ

Name/Company of Settlement Officer

Cynthia Zurek
CYNTHIA ZUREK

NOTARY PUBLIC OF NEW JERSEY

MY COMMISSION EXPIRES MAY 2, 2011

FOR OFFICIAL USE ONLY

Instrument Number _____ County _____
Deed Number _____ Book _____ Page _____
Deed Dated 10.28.08 Date Recorded _____

County Recording Officers shall forward one copy of each Affidavit of Consideration for Use by Seller when Section 3A is completed.

STATE OF NEW JERSEY - DIVISION OF TAXATION

PO BOX 251

TRENTON, NJ 08695-0251

ATTENTION: REALTY TRANSFER FEE UNIT

The Director of the Division of Taxation in the Department of the Treasury has prescribed this form as required by law, and may not be altered or amended without prior approval of the Director. For information on the Realty Transfer Fee or to print a copy of this Affidavit, visit the Division of Taxation website at:

www.state.nj.us/treasury/taxation/lpt/localtax.htm

STATE OF NEW JERSEY
AFFIDAVIT OF CONSIDERATION FOR USE BY SELLER

(Chapter 49, P.L. 1968, as amended through Chapter 33, P.L. 2006) (N.J.S.A. 46:15-5 et seq.)

BEFORE COMPLETING THIS AFFIDAVIT, PLEASE READ THE INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM.

STATE OF NEW JERSEY

COUNTY

BERGEN

} SS. County Municipal Code
0722

MUNICIPALITY OF PROPERTY LOCATION West Orange

FOR RECORDER'S USE ONLY

Consideration \$ 630,000.00
RTF paid by seller \$ 0.00
Date 1-16-09 By CA

*Use symbol "C" to indicate that fee is exclusively for county use.

(1) PARTY OR LEGAL REPRESENTATIVE (See Instructions #3 and #4 on reverse side)

Deponent, James J. Delia, Esq., being duly sworn according to law upon his/her oath,
(Name)
deposes and says that he/she is the Legal Representative in a deed dated 10/28/2008 transferring
(Grantor, Legal Representative, Corporate Officer, Officer of Title Company, Lending Institution, etc.)
real property identified as Block number 179.14 Lot number 1303 located at
161 a/k/a 167 Pleasant Valley Road, West Orange and annexed thereto.
(Street Address, Town)

(2) CONSIDERATION \$ 0.00 (See Instructions #1 and #5 on reverse side)

(3) Property transferred is Class 4A 4B 4C (circle one). If property transferred is Class 4A, calculation in Section 3A below is required.

(3A) REQUIRED CALCULATION OF EQUALIZED VALUATION FOR ALL CLASS 4A COMMERCIAL PROPERTY TRANSACTIONS:
(See Instructions #5A and #7 on reverse side)

Total Assessed Valuation + Director's Ratio = Equalized Assessed Valuation

\$ _____ + _____ % = \$ _____

If Director's Ratio is less than 100%, the equalized valuation will be an amount greater than the assessed value. If Director's Ratio is equal to or in excess of 100%, the assessed value will be equal to the equalized valuation.

(4) FULL EXEMPTION FROM FEE (See Instruction #8 on reverse side)

Deponent states that this deed transaction is fully exempt from the Realty Transfer Fee imposed by C. 49, P.L. 1968, as amended through C. 66, P.L. 2004, for the following reason(s). Mere reference to exemption symbol is insufficient. Explain in detail.

This Deed is being re-recorded to correct the legal description.

(5) PARTIAL EXEMPTION FROM FEE (See Instruction #9 on reverse side)

NOTE: All boxes below apply to grantor(s) only. ALL BOXES IN APPROPRIATE CATEGORY MUST BE CHECKED. Failure to do so will void claim for partial exemption. Deponent claims that this deed transaction is exempt from State portions of the Basic Fee, Supplemental Fee, and General Purpose Fee, as applicable, imposed by C. 176, P.L. 1975, C. 113, P.L. 2004, and C. 66, P.L. 2004 for the following reason(s):

- A. SENIOR CITIZEN Grantor(s) ☐ 62 years of age or over. * (See Instruction #9 on reverse side for A or B)
B. { BLIND PERSON Grantor(s) ☐ legally blind or *
DISABLED PERSON Grantor(s) ☐ permanently and totally disabled ☐ Receiving disability payments ☐ Not gainfully employed*

Senior citizens, blind persons, or disabled persons must also meet all of the following criteria:

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- ☐ Affordable according to H.U.D. standards. ☐ Reserved for occupancy.
☐ Meets income requirements of region. ☐ Subject to resale controls.

(6) NEW CONSTRUCTION (See Instructions #2, #10 and #12 on reverse side)

- ☐ Entirely new improvement. ☐ Not previously occupied.
☐ Not previously used for any purpose. ☐ "NEW CONSTRUCTION" printed clearly at the top of the first page of the deed.

(7) Deponent makes this Affidavit to induce county clerk or register of deeds to record the deed and accept the fee submitted herewith in accordance with the provisions of Chapter 49, P.L. 1968, as amended through Chapter 33, P.L. 2006.

Subscribed and sworn to before me
this 12 day of January, 20 09

Signature of Deponent

Beatrice Cesario

Grantor Name

12 Rt. 17 No., Paramus, NJ

161 Pleasant Valley Rd., W. Orange

Deponent Address

Grantor Address at Time of Sale

xxx-xxx-976

Last 3 digits in Grantor's Social Security Number

Name/Company of Settlement Officer

KATHLEEN A. ZAMPINI

A Notary Public of New Jersey

My Commission Expires December 18, 2010

FOR OFFICIAL USE ONLY
Instrument Number 9002053 County ESSEX
Deed Number 12174 Book 6180
Deed Dated 10-28-08 Date Recorded 1-16-09

County Recording Officers shall forward one copy of each Affidavit of Consideration for Use by Seller when Section 3A is completed.

STATE OF NEW JERSEY- DIVISION OF TAXATION

PO BOX 281

TRENTON, NJ 08646-0281

ATTENTION: REALTY TRANSFER FEE UNIT

The Director of the Division of Taxation in the Department of the Treasury has prescribed this form as required by law, and may not be altered or amended without prior approval of the Director. For information on the Realty Transfer Fee or to print a copy of this Affidavit, visit the Division of Taxation website at:

www.state.nj.us/treasury/taxation/lpt/localtax.htm

JUAN M. RIVERA, JR
ESSEX COUNTY REGISTER OF DEEDS & MORTGAGES



Hall of Records
465 Martin Luther King Jr Blvd
Room 130
Newark, NJ 07102
(973) 621-4960

***RETURN DOCUMENT TO:**

ESSEX COUNTY DIVISION OF HOUSING &
COMMUNITY DEVELOPMENT
20 CRESTMOUNT ROAD
VERONA, NJ 07044
ATTN: ESTHER MARTINEZ

Instrument Number - 2021062261

Recorded On 5/17/2021 At 3:12:06 PM

* Instrument Type - DEED

Invoice Number - 476902

User ID: JU

***Total Pages - 8**

* Grantor - CHILDREN'S AID AND FAMILY SERVICES, INC.

* Grantee - ESSEX,COUNTY OF DEPARTMENT OF ECONOMIC DEVELOPMENT, TRAINING AND EMP

* PARCEL IDENTIFICATION NUMBER

Block: 179.14 Lot: 13.03 - WEST ORANGE

*** FEES**

NJ PRESERVATION ACCOUNT	\$45.00
REGISTER RECORDING FEE	\$55.00
HOMELESSNESS TRUST FUND	\$3.00
TOTAL PAID	\$103.00

I hereby CERTIFY that this document is
Recorded in the Register of Deeds & Mortgages Office
of Essex County, New Jersey

Juan M. Rivera, Jr
Register of Deeds & Mortgages

THIS IS A CERTIFICATION PAGE

Do Not Detach

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

* - Information denoted by an asterisk may change during the verification process and may not be reflected on this page.

INSTRUMENT NUMBER - 2021062261



Essex County Recording Data Page Honorable Dana Rone Essex County Register		Official Use Only	
			
Official Use Only:			
Date of Document: 1/12/2021		Type of Document: Deed Restriction	
First Party Name: Children's Aid and Family Services, Inc.		Second Party Name: County of Essex, Department of Economic Development, Training & Employment, Division of Housing & Community Development	
Additional Parties:			
THE FOLLOWING SECTION IS REQUIRED FOR DEEDS ONLY			
Block: 179.14		Lot: 13.03	Qualifier:
Municipality: Town of West Orange			
Consideration: \$100,000.00			
Mailing Address of Grantee: 161 Pleasant Valley Way, West Orange, NJ 07052			
THE FOLLOWING SECTION IS FOR ORIGINAL MORTGAGE BOOKING & PAGING INFORMATION ASSIGNMENTS, RELEASES, SATISFACTIONS, DISCHARGES & OTHER ORIGINAL MORTGAGE AGREEMENTS ONLY			
Original Book:		Original Page:	
ESSEX COUNTY RECORDING DATA PAGE Please do not detach this page from the original document as it contains important recording information and is part of the permanent record.			

DEED RESTRICTION COVENANT

This Deed Restriction Covenant is made on January 12, 2021

BETWEEN

CHILDREN'S AID AND FAMILY SERVICES, INC., a New Jersey Not for Profit corporation,

whose address is: **200 Robin Road, Paramus, New Jersey, 07652,**

referred to as the Grantor,

AND

COUNTY OF ESSEX, Department of Economic Development, Training and Employment, Division of Housing and Community Development, having an address of 20 Crestmont Road, Verona, New Jersey 07044

referred to as the Grantee.

1. Grantor is the owner of the property consisting of land and all the buildings, improvements and structures on the land located at 161 Pleasant Valley Way, Block 179.14, Lot 13.03, in the Township of West Orange, County of Essex and the State of New Jersey. The legal description is:

SEE SCHEDULE A ATTACHED HERETO AND MADE A PART HEREOF

2. Grantee, concurrently herewith, has provided Grantor with certain HOME loan funding in the amount of \$100,000 (the "Loan"). In consideration of the funding, Grantor subjects the Property to the following restrictions:

County of Essex HOME Loan Restrictive Covenants. The Grantor hereunder does acknowledge that the cost of the Rehabilitation of the Property has been satisfied in part out of the proceeds of a certain loan in the amount of \$100,000 from the County of Essex ("Lender") under the Federal HOME Program pursuant to a certain Loan Agreement ("Loan Agreement") dated January 12, 2021 and the Developer's Written Agreement dated September 16, 2020 ("Developer's Written Agreement"), and that the Property shall be subject to the affordability requirements contained in 24 Code of Federal Regulation, Part 92. Capitalized terms used herein but not defined herein shall have those meanings ascribed to them in the Developer's Written Agreement. The Affordability Period will be fifteen (15) years, and will be enforced through this Deed Restriction that runs with the land. The Affordability Period will not commence until a Certificate of Occupancy and a project completion report has been submitted to Lender, and the Project has met the requirements for Project Completion outlined in 24 CFR 92.2, which will require that construction be complete; all HOME funds have been disbursed by the Lender and drawn from the U.S. Treasury; and required completion data has been entered in HUD's Integrated Disbursement Information System (IDIS). The Grantor will notify the

Lender when the Grantor has satisfied the requirements for completion, and submit the necessary support documentation, including a Certificate of Occupancy. Upon its approval, the Lender will notify Grantor of the actual date of completion and the exact date of the expiration of the affordability period, which shall be calculated based on the date of completion. If necessary, the Grantor shall execute an amendment to this Deed or execute a corrective deed that extends the affordability restrictions of 24 CFR 92.252 to the exact date of expiration of the affordability period. The affordability period shall remain enforced despite any prepayment of this Loan. The HOME assisted Group Home unit must be occupied by an Income Eligible Household tenant within 18 months of the Project Completion date. If a unit does not achieve initial occupancy within the 18month deadline, then the Grantor must reimburse the funds invested in that unit to Lender. If the HOME-Assisted Unit is vacant six (6) months after Project Completion, the Grantor shall provide Lender with a report on current marketing efforts and, if requested by the Lender, a plan for enhanced marketing of the HOME-Assisted Group Home Unit.

The provisions hereof may be enforced by the County of Essex by an action under the Mortgage in foreclosure, Mortgage Note, Developer's Written Agreement, or the Loan Agreement for acceleration of the loan as provided in paragraph 4 of the Loan Agreement.

The Grantor will provide a single Group Home with five (5) bedroom units and shared living, kitchen, dining and sanitary facilities. All tenants will be extremely low income persons (<30% Area Median Income). The maximum rent that may be collected for the property is based on the Fair Market rate (FMR) for a 5 bedroom home. Each tenant will pay a proportionate share of rent. There is no LOW HOME Rent requirement for a Group Home.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.
SIGNATURE PAGE FOLLOWS.

Signature. The Grantor signs this Deed Restriction Covenant as of the date at the top of the first page.

WITNESSED BY:

Gloria Duly

GRANTOR:

CHILDREN'S AID AND FAMILY SERVICES, INC

By:


Benita R. Miller, President

Date:

1/12/21

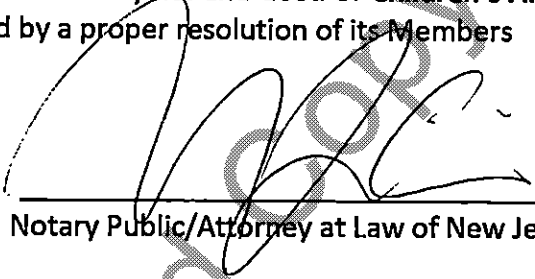
Not Certified Copy

STATE OF NEW JERSEY, COUNTY OF ESSEX

SS:

I CERTIFY that on January 12, 2021, Benita R. Miller personally came before me, and acknowledged under oath, to my satisfaction, that:

- (a) she is the person who signed and delivered the foregoing instrument in her capacity as the President of **Children's Aid and Family Services, Inc.**, a not for profit corporation of the State of New Jersey that is named in this document; and
- (b) the foregoing instrument is the voluntary act and deed of **Children's Aid And Family Services, Inc.** as duly authorized by a proper resolution of its Members



Notary Public/Attorney at Law of New Jersey

DEED RESTRICTION COVENANT

CHILDREN'S AID AND FAMILY SERVICES, INC.

Grantor,

TO

COUNTY OF ESSEX

Grantee.

Dated: 1/12/2021

Record and return to:

Essex County Division of Housing &
Community Development
Attn: Esther Martinez
20 Crestmont Road
Verona, NJ 07044

Legal Description

ALL that certain lot, parcel or tract of land, situate and lying in the Town of West Orange, County of Essex, State of New Jersey, and being more particularly described as follows:

TRACT I

BEGINNING at a point in the Northwestern line of Pleasant Valley Way, said point being distant 250.52 feet Southwestwardly from the intersection of the aforesaid Northwestern line of Pleasant Valley Way, if extended with the Northeasterly line of Mayfair Drive, if extended, and commencing thence

- 1) North 52°29'00"West a distance of 250.00 feet to a point; thence
- 2) North 35°45'00"East a distance of 105.00 feet to a point; thence
- 3) South 52°29'00"East a distance of 250.00 feet to a point in the Northwestern line of Pleasant Valley Way; thence
- 4) South 35°45'00"West, along said line of Pleasant Valley Way, a distance of 105.00 feet to the point and place of BEGINNING.

TRACT II

BEGINNING at a point in the Northwestern sideline of Pleasant Valley Way, as established by deed, said point being distant 241.62 feet measured Northeasterly along the above-mentioned sideline from the Northerly sideline of Mayfair Drive, if both sidelines are extended to an intersection; thence

- 1) North 35°45'00"East, along the said sideline of Pleasant Valley Way, 9 feet to a point in the line of lands now or formerly of Slifkin; thence
- 2) North 52°29'00"West, along the line of lands now or formerly of Slifkin, 250.00 feet to a point; thence
- 3) North 35°45'00"East, continuing along the line of lands now or formerly of Slifkin, 105.00 feet to a point in the line of lands now or formerly of Maynard; thence
- 4) North 52°29'00"West, along the line of lands now or formerly of Maynard, 47.87 feet to a point in the line of lands now or formerly of Slifkin; thence
- 5) South 35°45'00"West, along the line of lands now or formerly of Slifkin, 114.00 feet to a point; thence
- 6) South 52°29'00"East, 297.87 feet to the point and place of BEGINNING.

THE above two tracts taken together, are more particularly described as follows:

BEGINNING at a point in the Northwestern line of Pleasant Valley Way, distant 325.39 feet Southwestwardly from the intersection formed by the said line of Pleasant Valley Way and the Southwestwardly line of Rosemont Terrace, and running thence:

- 1) Along the Northwestern line of Pleasant Valley Way, South 35°45'00" West, 114.00 feet; thence
- 2) North 52°29'00" West, 297.86 feet; thence
- 3) North 35°45'00" East, 114.00 feet; thence
- 4) South 52°29'00" East, 297.86 feet to a point in the Northwestern line of Pleasant Valley Way, which is the point and place of BEGINNING.

FOR INFORMATIONAL PURPOSES ONLY: Also known as Lot 13.03 in Block 179.14 on the Town of West Orange Tax Map.

RECORDING INFORMATION SHEETESSEX COUNTY REGISTER'S OFFICE
HALL OF RECORDS , ROOM 130
465 MARTIN LUTHER KING Jr. Blvd
NEWARK NJ 07102

INSTRUMENT NUMBER:

13093392

DOCUMENT TYPE :

DEED**Official Use Only**PHILIP THIGPEN, REGISTER
ESSEX COUNTY, NJINSTRUMENT NUMBER
13093392
RECORDED ON
October 21, 2013 11:18 am
BOOK:12464 PAGE:556

LJ

Return Address (for recorded documents)HILL WALLACK LLP
89 HEADQUARTERS PLAZASUITE 1428
MORRISTOWN NJ 07960**No. Of Pages (excluding Summary Sheet)**

4

Recording Fee (excluding Transfer Tax)

\$70.00

Realty Transfer Tax

\$1,169.00

Amount Charged (Check # 2020)

\$1,239.00

Municipality

WEST ORANGE

Parcel Information**Block** 155**Lot** 27***First Party Name**

JEANNETTE WHALEY

Second Party Name

ARC OF ESSEX COUNTY INC

Additional Information (Official Use Only)CONSIDERATION (R) \$229,900.00

MAIL COPY _____

NO COPY _____

ENVELOPE _____

ADDITIONAL STAMPINGS _____

***** DO NOT REMOVE THIS PAGE. *****
COVER SHEET (DOCUMENT SUMMARY FORM) IS PART OF ESSEX COUNTY FILING RECORD
***** RETAIN THIS PAGE FOR FUTURE REFERENCE. *****

DEED

Prepared by: (Print signer's name below signature)

This Deed is made on August 29, 2013

Roger A. Serruto, Esq.

BETWEEN

JEANNETTE WHALEY and MARK WHALEY, married,

whose address is 54 Summit Drive, Basking Ridge, New Jersey 07920,

referred to as the Grantors,

AND

THE ARC OF ESSEX COUNTY, INC.

whose address is about to be 177 Marion Drive, West Orange, New Jersey 07052,

referred to as the Grantee.

The words "Grantor" and "Grantee" shall mean all Grantors and all Grantees listed above.

Transfer of Ownership. The Grantor grants and conveys (transfers ownership of) the property described below to the Grantee. This transfer is made for the sum of **TWO HUNDRED TWENTY-NINE THOUSAND NINE HUNDRED AND 00/100'S (\$229,900.00) DOLLARS-----**.

The Grantor acknowledges receipt of this money.

Tax Map Reference (N.J.S.A. 46:15-1.1) Municipality of **WEST ORANGE**,
Block No. **155** Lot No. **27 C0177** Account No.

☐ No property tax identification number is available on the date of this Deed. (Check box if applicable).

Property. The property consists of the land and all the buildings and structures on the land in the **Township of West Orange, County of ESSEX and State of NEW JERSEY**. The legal description is:

SEE LEGAL DESCRIPTION ATTACHED

BEING the same premises conveyed to Jeannette and Mark Whaley, married, by the following Deed:

(1) Mark Whaley and Jeannette Whaley, husband and wife by deed from In Suk Seo, married and Christina Seo, unmarried, his daughter TO Mark Whaley and Jeannette Whaley, husband and wife (tenants by the entirety) as Joint Tenants with the right of survivorship with Salley Weintal, unmarried, dated September 29, 1999, recorded October 7, 1999, in the Register's Office of the County of Essex, New Jersey, in Deed Book 5647, page 592. Note: Salley Weintal died on November 15, 2012.

Being premises known as 177 Marion Drive, West Orange, New Jersey 07052

(2) The grantee hereunder does acknowledge that the cost of the acquisition of the property has been satisfied out of the proceeds of a certain loan from the County of Essex under the Federal HOME Program and that the premises shall be subject to the affordability requirements contained in 24 Code of Federal Regulation, Part 92. The HOME-assisted units must meet the affordability requirements for not less than the applicable period ("Affordability Period"). The affordability period

will be fifteen (15) years, and will be enforced through a Developer's Written Agreement, Loan Agreement, Mortgage Agreement, Mortgage Note and Deed Restriction that runs with the land to be executed by the Borrower. The Affordability Period will not commence until a Certificate of Occupancy (C of O) and a project completion report has been submitted to Lender, and the Project has met the requirements for Project Completions outlined in 24 CFR 92.2, which will require that construction be complete; all HOME funds have been disbursed by the County and drawn from the U.S. Treasury, the project site is fully leased up, and required completion data has been entered in HUD's Integrated Disbursement Information System (IDIS). Borrower will notify the County when the Borrower has satisfied the requirements for completion, and submit the necessary support documentation. Upon its approval, the County will notify Borrower of the actual date of completion and the exact date of the expiration of the affordability period, which shall be calculated based on the date of completion. The Borrower shall execute an amendment to the deed or execute a corrective deed that extends the affordability restrictions of 24 CFR 92.252 to the exact date of expiration of the affordability period. The affordability period shall remain in force despite any prepayment of this Loan. **Two** units will be HOME-assisted and will be designated as Low HOME Rent Fixed Units throughout the affordability period. The provisions thereof may be enforced by the County of Essex by an action under the mortgage in foreclosure, Mortgage Note, Developer's Written Agreement or a period of Fifteen (15) years after the commencement of the Affordability Period, the incomes of the tenant of each unit assisted with HOME Program Funds ("HOME Funds") shall meet the requirements of 24 CFR 92.252 and 24 CFR 92.203. Repayment of the funds will be required if the housing does not meet the affordability period requirement. **Two** units will be HOME-assisted and will be designated as Low HOME Rent Fixed United throughout the affordability period.

SUBJECT to easements and restrictions of record, if any, and such state of facts as an accurate survey may disclose.

Promises by Grantor. The Grantor promises that the Grantor has done no act to encumber the property. This promise is called a "covenant as to grantor's acts" (N.J.S.A. 46:4-6). This promise means that the Grantor has not allowed anyone else to obtain any legal rights which affect the property (such as by making a mortgage or allowing a judgment to be entered against the Grantor).

Signatures. The Grantor signs this Deed as of the date at the top of the first page.

Witnessed by:


JEANNETTE WHALEY


ROGER A. SERRUTO


MARK WHALEY

STATE OF New Jersey, COUNTY OF Essex SS.:
I CERTIFY that on Aug. 29, 2013

Jeannette Whaley and Mark Whaley, personally came before me and stated to my satisfaction that this person (or if more than one, each person):

- (a) was the maker of the attached deed;
- (b) executed this deed as his or her own act; and

(c) made this Deed for **\$229,900.00** as the full and actual consideration paid or to be paid for the transfer of title. (Such consideration is defined in N.J.S.A. 46:15-5.)

Suzanne Oneto

SUZANNE M. ONETO
A NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES OCTOBER 15, 2013

DEED

**Jeannette Whaley, and
Mark Whaley, Grantors**

TO

**The ARC of Essex
County, Inc., Grantees**

Dated: *Aug. 29*, 2013

Record and return to:

Hill Wallack LLP
89 Headquarters Plaza
Suite 1428
Morristown, NJ 07960

KRS

Not Certified Copy



State of New Jersey
SELLER'S RESIDENCY CERTIFICATION/EXEMPTION
(C.55, P.L. 2004)

(Please Print or Type)

SELLER(S) INFORMATION (See Instructions, Page 2)

Names(s)

Jeannette Whaley and Mark Whaley

Current Resident Address:

Street: 54 Summit Drive

City, Town, Post Office

Basking Ridge

State

NJ

Zip Code

07920

PROPERTY INFORMATION (Brief Property Description)

Block(s)

155

Lot(s)

27 C0177

Qualifier

Street Address:

177 Marion Drive

City, Town, Post Office

West Orange

State

NJ

Zip Code

07052

Seller's Percentage of Ownership

Consideration

229,900.00

Closing Date

SELLER ASSURANCES (Check the Appropriate Box) (Boxes 2 through 10 apply to Residents and Non-residents)

1. ☒ I am a resident taxpayer (individual, estate, or trust) of the State of New Jersey pursuant to N.J.S.A. 54A:1-1 et seq. and will file a resident gross income tax return and pay any applicable taxes on any gain or income from the disposition of this property.
2. ☐ The real property being sold or transferred is used exclusively as my principal residence within the meaning of section 121 of the federal Internal Revenue Code of 1986, 26 U.S.C. s. 121.
3. ☐ I am a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4. ☐ Seller, transferor or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5. ☐ Seller is not an individual, estate or trust and as such not required to make an estimated payment pursuant to N.J.S.A. 54A:1-1 et seq.
6. ☐ The total consideration for the property is \$1,000 or less and as such, the seller is not required to make an estimated payment pursuant to N.J.S.A. 54A:5-1-1 et seq.
7. ☐ The gain from the sale will not be recognized for Federal income tax purposes under I.R.C. Section 721, 1031, 1033 or is a cemetery plot. (CIRCLE THE APPLICABLE SECTION). If such section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale (see instructions).
☐ No non-like kind property received.
8. ☐ Transfer by an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this state.
9. ☐ The property being sold is subject to a short sale instituted by the mortgagee, whereby the seller has agreed not to receive any proceeds from the sale and the mortgagee will receive all proceeds paying off an agreed amount of the mortgage.
10. ☐ The deed being recorded is a deed dated prior to the effective date of P.L. 2004, c. 55 (August 1, 2004), and was previously unrecorded.

SELLER(S) DECLARATION

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein could be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete. By checking this box ☐ I certify that the Power of Attorney to represent the seller(s) has been previously recorded or is being recorded simultaneously with the deed to which this form is attached.

8/14/13
Date8/14/13
Date

Signature

(Seller) Please indicate if Power of Attorney or Attorney in Fact

Signature

(Seller) Please indicate if Power of Attorney or Attorney in Fact

RECORDING INFORMATION SHEET

ESSEX COUNTY REGISTER'S OFFICE
HALL OF RECORDS , ROOM 130
465 MARTIN LUTHER KING Jr. Blvd
NEWARK NJ 07102

INSTRUMENT NUMBER:

14044449

DOCUMENT TYPE :

DEED**Official Use Only**

WILLIAM NARVAEZ
DEPUTY REGISTER
ESSEX COUNTY, NJ

INSTRUMENT NUMBER
14044449
RECORDED ON
June 25, 2014 11:47 am
BOOK:12501 PAGE:6528

RR

CONSIDERATION (E) \$1.00

MAIL COPY _____

NO COPY _____

ENVELOPE _____

ADDITIONAL STAMPINGS _____

Return Address (for recorded documents)

KENNETH SAUTER, ESQ
HILL WALLACK LLP

89 HEADQUARTERS PLAZA, SUITE 1428
MORRISTOWN NJ 07960

No. Of Pages (excluding Summary Sheet)

6

Recording Fee (excluding Transfer Tax)

\$90.00

Realty Transfer Tax

\$0.00

Amount Charged (Check # 8364)

\$90.00

Municipality

WEST ORANGE

Parcel Information**Block** 155**Lot** 27**First Party Name**

ARC OF ESSEX COUNTY INC

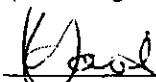
Second Party Name

ARC OF ESSEX COUNTY INC

Additional Information (Official Use Only)

***** DO NOT REMOVE THIS PAGE. *****
COVER SHEET (DOCUMENT SUMMARY FORM) IS PART OF ESSEX COUNTY FILING RECORD
***** RETAIN THIS PAGE FOR FUTURE REFERENCE. *****

6/100
Prepared by: (Print signer's name below signature)



Kenneth R. Sauter, Esq.

DEED

This Deed is made on June , 2014

BETWEEN

THE ARC OF ESSEX COUNTY, INC.

whose address is 123 Naylor Avenue, Livingston, New Jersey. 07039,

referred to as the Grantors,

AND

THE ARC OF ESSEX COUNTY, INC.

whose address is 123 Naylor Avenue, Livingston, New Jersey, 07039,

referred to as the Grantee.

The words "Grantor" and "Grantee" shall mean all Grantors and all Grantees listed above.

Transfer of Ownership. The Grantor grants and conveys (transfers ownership of) the property described below to the Grantee. This transfer is made for the sum of **ONE AND 00/100 (\$1.00) DOLLAR-----**.

The Grantor acknowledges receipt of this money.

Tax Map Reference (N.J.S.A. 46:15-1.1) Municipality of **WEST ORANGE**,
Block No. **155** Lot No. **27 C0177** Account No.

☐ No property tax identification number is available on the date of this Deed. (Check box if applicable).

Property. The property consists of the land and all the buildings and structures on the land in the **Township of West Orange, County of ESSEX and State of NEW JERSEY**. The legal description is:

SEE LEGAL DESCRIPTION ATTACHED

BEING the same premises conveyed to Grantor by the following Deed:

(1) The ARC of Essex County, Inc. by deed from Mark Whaley and Jeannette Whaley, married, dated August 29, 2013, and recorded October 21, 2013, in the Register's Office of the County of Essex, New Jersey, in Deed Book 12464, page 556 (the "**Original Deed**").

Being premises known as 177 Marion Drive, West Orange, New Jersey, 07052

(2) The grantee hereunder does acknowledge that the cost of the acquisition and rehabilitation of the property has been satisfied out of the proceeds of a certain loan from the County of Essex under the Federal HOME Program and that the premises shall be subject to the affordability requirements contained in 24 Code of Federal Regulation, Part 92. The Affordability Period will be fifteen (15) years, and will be enforced through a Deed Restriction that runs with the land to be executed by the Borrower. The Affordability Period will not commence until a Certificate of

TITLE INSURANCE COMMITMENT

SCHEDULE A

NUMBER 4

(continued)

DESCRIPTION

ALL that certain lot, parcel or tract of land, situate and lying in the Township of West Orange, County of Essex, State of New Jersey, and being more particularly described as follows:

Being all that certain real property subject to the provisions of the State of New Jersey Condominium Act, N.J.S.A. 46:8B-1 et seq., its amendments and supplements and situated, lying and being in the Township of West Orange, County of Essex, State of New Jersey, more particularly described as Unit 177, Building 9, situated in Essex Green Villa Condominium, a New Jersey Condominium, together with an aggregate 1.2914 percent undivided interest in the Common Elements of said Condominium appurtenant to the aforesaid Unit, in accordance with and subject to the terms, limitations, conditions, covenants, restrictions, easements, agreements and other provisions set forth in the Master Deed for Essex Green Villa Condominium recorded September 25, 1979 in the Essex County Register's Office in Deed Book 4656, Page 702; and amended by Deed Book 4701, Page 569; Corrective Master Deed recorded in Deed Book 4752, Page 747 and second Corrective Master Deed recorded in Deed Book 4796, Page 825, and any further amendments hereto.

LOT 27 C0177 IN BLOCK 155 ON THE TAX MAP.
(Said Lot and Block reported for informational purposes only)

Issued by:
Central Jersey Title Co., Inc.
16 Schuyler Place
Morristown, NJ 07960
Telephone: 973-538-5070 Fax: 973-538-1563

Occupancy (C of O) and a project completion report have been submitted to Lender, and the Project has met the requirements for Project Completion outlined in 24 CFR 92.2, which will require that the property be acquired and construction be complete and property standards met; all HOME funds have been disbursed by the County and drawn from the US Treasury; and required completion data has been entered in HUD's IDIS system. The Borrower will notify the Lender when the Borrower has satisfied the requirements for completion, and submit the necessary support documentation, including a Certificate of Occupancy. Upon its approval, the County will notify the Borrower of the actual date of completion and the exact date of the expiration of the Affordability Period, which shall be calculated based on the date of completion. If necessary, the Borrower shall execute an amendment to the deed running with the land that extends the affordability restrictions of 24 CFR 92.252 to the exact date of expiration of the Affordability Period. The Affordability Period shall remain in force despite any prepayment of this Loan. The Borrower understands that the HOME assisted units must achieve initial occupancy within 18 months of the project completion date. If a unit has no initial occupancy within 18 months of the project completion date, then the funds invested in that unit must be reimbursed to Lender. If any HOME-Assisted Units are vacant six (6) months after Project Completion, the Borrower shall provide Lender with a report on current marketing efforts and, if requested by the Lender, a plan for enhanced marketing of the HOME-Assisted Units. The provisions thereof may be enforced by the County of Essex by an action under the mortgage in foreclosure, the Mortgage Note, the Amended and Restated Developer's Written Agreement, or the Amended and Restated Loan Agreement dated June 17, 2014 for acceleration of the loan as provided in paragraph 3 of the Loan Agreement.

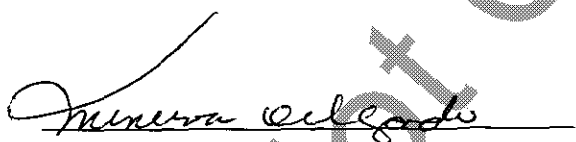
SUBJECT to easements and restrictions of record, if any, and such state of facts as an accurate survey may disclose.

Promises by Grantor. The Grantor promises that the Grantor has done no act to encumber the property. This promise is called a "covenant as to grantor's acts" (N.J.S.A. 46:4-6). This promise means that the Grantor has not allowed anyone else to obtain any legal rights which affect the property (such as by making a mortgage or allowing a judgment to be entered against the Grantor).

Signatures. The Grantor signs this Deed as of the date at the top of the first page.

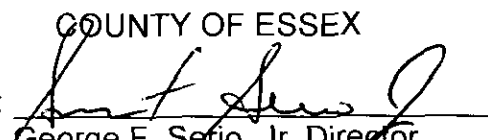
Witness/Attest:

THE ARC OF ESSEX COUNTY, INC.



By: 
Linda Lucas, Chief Executive Officer

Consent to Amendment to Deed Restriction. The County of Essex, Division of Housing and Community Development signed below to confirm its consent to the Amendment of the restrictions set forth in the Original Deed as recited in this Deed.

COUNTY OF ESSEX
By: 
George F. Sefio, Jr. Director
Division of Housing and Community
Development

STATE OF NEW JERSEY, COUNTY OF ESSEX SS.:

I CERTIFY that on June 17, 2014

Linda Lucas personally came before me and acknowledged under oath, to my satisfaction, that:

- a) this person signed and delivered the attached Deed as the Chief Executive Officer of The Arc of Essex County, Inc., a corporation of the State of New Jersey, named in this document; and
- b) this Deed was signed and delivered by the corporation as its voluntary act and deed by virtue of authority from its Board of Directors; and
- c) The corporation made this Deed for **\$1.00** as the full and actual consideration paid or to be paid for the transfer of title. (Such consideration is defined in N.J.S.A. 46:15-5.)



MINERVA DELGADO
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES OCT.18, 2015

DEED The ARC of Essex County, Inc, Grantor TO The ARC of Essex County, Inc., Grantee	Dated: June 17, 2014
	Hill Wallack LLP Record and return to:
	Kenneth Sauter, Esq. Hill Wallack LLP 89 Headquarters Plaza, Suite 1428 Morristown, NJ 07960

State of New Jersey
SELLER'S RESIDENCY CERTIFICATION/EXEMPTION
(C.55, P.L. 2004)

(Please Print or Type)

SELLER(S) INFORMATION (See Instructions, Page 2)

Names(s)

THE ARC OF ESSEX COUNTY, INC.

Current Resident Address:

Street: 123 NAYLON AVENUE

City, Town, Post Office
LIVINGSTONState
NJZip Code
07039**PROPERTY INFORMATION (Brief Property Description)**

Block(s)

Lot(s)

Qualifier

155

27 CO177

Street Address:

177 MARION DRIVE

City, Town, Post Office
WEST ORANGEState
NJZip Code
07052Seller's Percentage of Ownership
100Consideration
1.00Closing Date
06/17/2014**SELLER ASSURANCES (Check the Appropriate Box) (Boxes 2 through 10 apply to Residents and Non-residents)**

1. ☐ I am a resident taxpayer (individual, estate, or trust) of the State of New Jersey pursuant to N.J.S.A. 54A:1-1 et seq. and will file a resident gross income tax return and pay any applicable taxes on any gain or income from the disposition of this property.
2. ☐ The real property being sold or transferred is used exclusively as my principal residence within the meaning of section 121 of the federal Internal Revenue Code of 1986, 26 U.S.C. s. 121.
3. ☐ I am a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4. ☐ Seller, transferor or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5. ☒ Seller is not an individual, estate or trust and as such not required to make an estimated payment pursuant to N.J.S.A. 54A:1-1 et seq.
6. ☒ The total consideration for the property is \$1,000 or less and as such, the seller is not required to make an estimated payment pursuant to N.J.S.A. 54A:5-1-1 et seq.
7. ☐ The gain from the sale will not be recognized for Federal income tax purposes under I.R.C. Section 721, 1031, 1033 or is a cemetery plot. (CIRCLE THE APPLICABLE SECTION). If such section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale (see instructions).
☐ No non-like kind property received.
8. ☐ Transfer by an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this state.
9. ☐ The property being sold is subject to a short sale instituted by the mortgagee, whereby the seller has agreed not to receive any proceeds from the sale and the mortgagee will receive all proceeds paying off an agreed amount of the mortgage.
10. ☐ The deed being recorded is a deed dated prior to the effective date of P.L. 2004, c. 55 (August 1, 2004), and was previously unrecorded.

SELLER(S) DECLARATION

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein could be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete. By checking this box ☐ I certify that the Power of Attorney to represent the seller(s) has been previously recorded or is being recorded simultaneously with the deed to which this form is attached.

06/17/2014

Date

Signature

(Seller) Please indicate if Power of Attorney or Attorney in Fact

Date

Signature

(Seller) Please indicate if Power of Attorney or Attorney in Fact

MUST SUBMIT IN DUPLICATE

STATE OF NEW JERSEY

AFFIDAVIT OF CONSIDERATION FOR USE BY SELLER

(Chapter 49, P.L.1968, as amended through Chapter 33, P.L. 2006) (N.J.S.A. 46:15-5 et seq.)

BEFORE COMPLETING THIS AFFIDAVIT, PLEASE READ THE INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM.

STATE OF NEW JERSEY

COUNTY

ESSEX

} SS. County Municipal Code
0722

FOR RECORDER'S USE ONLY

Consideration \$ 1.00
RTF paid by seller \$
Date 6-25-14 By K.C.

MUNICIPALITY OF PROPERTY LOCATION West Orange

*Use symbol "C" to indicate that fee is exclusively for county use.

(1) PARTY OR LEGAL REPRESENTATIVE (See Instructions #3 and #4 on reverse side)

Deponent, Kenneth R. Sauter, being duly sworn according to law upon his/her oath,
(Name)deposes and says that he/she is the Legal Representative in a deed dated June 17, 2014 transferring
(Grantor, Legal Representative, Corporate Officer, Officer of Title Company, Lending Institution, etc.)real property identified as Block number 155 Lot number 27 C0177 located at
177 Marion Drive, West Orange, New Jersey and annexed thereto.

(Street Address, Town)

(2) CONSIDERATION \$ 1.00 (Instructions #1 and #5 on reverse side) ☒ no prior mortgage to which property is subject.

(3) Property transferred is Class 4A 4B 4C (circle one). If property transferred is Class 4A, calculation in Section 3A below is required.

(3A) REQUIRED CALCULATION OF EQUALIZED VALUATION FOR ALL CLASS 4A (COMMERCIAL) PROPERTY TRANSACTIONS:
(See Instructions #5A and #7 on reverse side)

Total Assessed Valuation ÷ Director's Ratio = Equalized Assessed Valuation

\$ ÷ % = \$

If Director's Ratio is less than 100%, the equalized valuation will be an amount greater than the assessed value. If Director's Ratio is equal to or in excess of 100%, the assessed value will be equal to the equalized valuation.

(4) FULL EXEMPTION FROM FEE (See Instruction #8 on reverse side)

Deponent states that this deed transaction is fully exempt from the Realty Transfer Fee imposed by C. 49, P.L. 1968, as amended through C. 66, P.L. 2004, for the following reason(s). Mere reference to exemption symbol is insufficient. Explain in detail.

(a) For a consideration of less than \$100

(5) PARTIAL EXEMPTION FROM FEE (Instruction #9 on reverse side)

NOTE: All boxes below apply to grantor(s) only. ALL BOXES IN APPROPRIATE CATEGORY MUST BE CHECKED. Failure to do so will void claim for partial exemption. Deponent claims that this deed transaction is exempt from State portions of the Basic, Supplemental, and General Purpose Fees, as applicable, imposed by C. 176, P.L. 1975, C. 113, P.L. 2004, and C. 66, P.L. 2004 for the following reason(s):

- A. SENIOR CITIZEN Grantor(s) ☐ 62 years of age or over (Instruction #9 on reverse side for A or B)
- B. { BLIND PERSON Grantor(s) ☐ legally blind or;
- DISABLED PERSON Grantor(s) ☐ permanently and totally disabled ☐ receiving disability payments ☐ not gainfully employed*

Senior citizens, blind persons, or disabled persons must also meet all of the following criteria:

- ☐ Owned and occupied by grantor(s) at time of sale. ☐ Resident of State of New Jersey.
- ☐ One or two-family residential premises. ☐ Owners as joint tenants must all qualify.

*IN CASE OF HUSBAND AND WIFE, PARTNERS IN A CIVIL UNION COUPLE, ONLY ONE GRANTOR NEED QUALIFY IF TENANTS BY THE ENTIRETY.

C. LOW AND MODERATE INCOME HOUSING (Instruction #9 on reverse side)

- ☐ Affordable according to H.U.D. standards. ☐ Reserved for occupancy.
- ☐ Meets income requirements of region. ☐ Subject to resale controls.

(6) NEW CONSTRUCTION (Instructions #2, #10 and #12 on reverse side)

- ☐ Entirely new improvement. ☐ Not previously occupied.
- ☐ Not previously used for any purpose. ☐ "NEW CONSTRUCTION" printed clearly at top of first page of the deed.

(7) RELATED LEGAL ENTITIES TO LEGAL ENTITIES (Instructions #5, #12, #14 on reverse side)

- ☒ No prior mortgage assumed or to which property is subject at time of sale.
- ☒ No contributions to capital by either grantor or grantee legal entity.
- ☒ No stock or money exchanged by or between grantor or grantee legal entities.

(8) Deponent makes this Affidavit to induce county clerk or register of deeds to record the deed and accept the fee submitted herewith in accordance with the provisions of Chapter 49, P.L. 1968, as amended through Chapter 33, P.L. 2006.

Subscribed and sworn to before me
this 23rd day of June, 2014

Signature of Deponent

The Arc of Essex County, Inc.
Grantor NameHill Wallack LLP
89 Headquarters Plaza
Morristown, NJ 07960123 Naylor Avenue
Livingston, NJ 07039

Deponent Address

Grantor Address at Time of Sale

ANDREA G. PECKHOLDT

A. Notary Public of New Jersey

My Commission Expires: April 22, 2019

XXX-XXX- 173

Last three digits in Grantor's Social Security Number

Kenneth R. Sauter, Esq.

Name/Company of Settlement Officer

FOR OFFICIAL USE ONLY

Instrument Number _____ County _____
Deed Number _____ Book _____ Page _____
Deed Dated _____ Date Recorded _____

County recording officers shall forward one copy of each RTF-1 form when Section 3A is completed to:

STATE OF NEW JERSEY

PO BOX 251

TRENTON, NJ 08695-0251

ATTENTION: REALTY TRANSFER FEE UNIT

The Director of the Division of Taxation in the Department of the Treasury has prescribed this form as required by law, and may not be altered or amended without prior approval of the Director. For information on the Realty Transfer Fee or to print a copy of this Affidavit, visit the Division of Taxation website at:

www.state.nj.us/treasury/taxation/lpt/localtax.htm

APPENDIX P

Additional Affordable Housing Resolutions

- Resolution #186-25 – Appointing Geniece Gary-Adams as the Township's Municipal Housing Liaison, and Peter F. Smeraldo, Jr. as the Alternate Municipal Housing Liaison
- Resolution #17-24 – Appointing CGP&H as the Township's Administrative Agent

TOWNSHIP OF WEST ORANGE

TOWNSHIP HALL

66 MAIN STREET

WEST ORANGE, NEW JERSEY 07052

PURCHASE ORDER

Purchase Order Number

NO: 187388**This number must appear on
all packages, invoices, and
correspondence.****VOUCHER MUST BE RETURNED FOR PAYMENT**

Ship to: 66 MAIN STREET

Vendor : CGP&H, LLC
HOUSING LLC
1249 SOUTH RIVER RD
SUITE 301
CRANBURY, NJ 08512

WEST ORANGE
NEW JERSEY 07052

FOB DESTINATION FREIGHT PREPAID & CHARGED BACK

Account 14-6040-00-0000-010 DEVELOPER'S FEE - COAH -- DEVELOPER'S FEE - COAH --

Vendor Code 1004437 Date of Order 03/12/2025 Requisition#

Quantity	Unit	Description of Materials or Service	Unit Price	Extended
1.000		PROFESSIONAL SERVICES ADMIN AGENT 2025 NOT TO EXCEED	15,000.00	15,000.00

Purchase Order Total:

15,000.00**THIS ORDER IS TAX EXEMPT PER NJSA****54:32B-9(a)(1) TAX EXEMPT ID NO. 22-6002396**

Mandatory Prevailing Wage Policy P.L. 2007,c.68 for all Public Works Contractors and Sub-Contractors

Proof of Business Registration Certificate is Mandatory. P.L. 2004 57.Pursuant to NJSA 2A:30A2 the TWO has an ADR policy.

CLAIMANT'S CERTIFICATION	OFFICER'S OR EMPLOYEE'S CERTIFICATION	VOUCHER MUST BE SUBMITTED TO THE TOWNSHIP TREASURER ON OR BEFORE THE 1ST DAY OF THE MONTH FOR PAYMENT.
I DO SOLEMNLY DECLARE AND CERTIFY UNDER THE PENALTIES OF THE LAW THAT THE WITHIN BILL IS CORRECT IN ALL ITS PARTICULARS; THAT THE ARTICLES HAVE BEEN FURNISHED OR SERVICES RENDERED AS STATED THEREIN; THAT NO BONUS HAS BEEN GIVEN OR RECEIVED BY ANY PERSON OR PERSONS WITH THE KNOWLEDGE OF THIS CLAIMANT IN CONNECTION WITH THE ABOVE CLAIM; THAT THE AMOUNT THEREIN STATED IS JUSTLY DUE AND OWING; AND THAT THE AMOUNT CHARGED IS A REASONABLE ONE.	HAVING KNOWLEDGE OF THE FACTS IN THE COURSE OF REGULAR PROCEDURES, I CERTIFY THAT THE MATERIALS AND SUPPLIES HAVE BEEN RECEIVED OR THE SERVICES RENDERED; SAID CERTIFICATION IS BASED ON DELIVERY SLIPS ACKNOWLEDGED BY A MUNICIPAL OFFICIAL OR EMPLOYEE OR OTHER REASONABLE PROCEDURES.	
(X) VENDOR SIGN HERE	DEPARTMENT HEAD	DEPARTMENT
OFFICIAL POSITION SIGN AND RETURN ONLY THIS ORIGINAL FOR PAYMENT	CERTIFICATION OF FUNDS AVAILABILITY  CHIEF FINANCIAL OFFICER	ORDERED BY  PURCHASE ORDER APPROVED - PURCHASING AGENT
VOUCHER COPY - SIGN AT X AND RETURN FOR PAYMENT		

TOWNSHIP OF WEST ORANGE

TOWNSHIP HALL
66 MAIN STREET
WEST ORANGE, NEW JERSEY 07052

Purchase Order Number

NO: 187388

This number must appear on
all packages, invoices, and
correspondence.

Ship to: 66 MAIN STREET

Vendor : CGP&H, LLC
HOUSING LLC
1249 SOUTH RIVER RD
SUITE 301
CRANBURY, NJ 08512

WEST ORANGE
NEW JERSEY 07052

FOB DESTINATION FREIGHT PREPAID & CHARGED BACK

Account 14-6040-00-0000-010 DEVELOPER'S FEE - COAH -- DEVELOPER'S FEE - COAH --

Vendor Code 1004437 **Date of Order** 03/12/2025 **Requisition#**

Quantity	Unit	Description of Materials or Service	Unit Price	Extended
1.000		PROFESSIONAL SERVICES ADMIN AGENT 2025 NOT TO EXCEED	15,000.00	15,000.00

Purchase Order Total:

15,000.00

THIS ORDER IS TAX EXEMPT PER NJSA

54:32B-9(a)(1) TAX EXEMPT ID NO. 22-6002396

Mandatory Prevailing Wage Policy P.L. 2007,c.68 for all Public Works Contractors and Sub-Contractors

Proof of Business Registration Certificate is Mandatory. P.L. 2004 57.Pursuant to NJSA 2A:30A2 the TWO has an ADR policy.

Date Mailed _____**Date Received** _____**Comments** _____

Accounts Payable Copy

TOWNSHIP OF WEST ORANGE

TOWNSHIP HALL
66 MAIN STREET
WEST ORANGE, NEW JERSEY 07052

Purchase Order Number

NO: 187388

This number must appear on
all packages, invoices, and
correspondence.

Ship to: 66 MAIN STREET

Vendor : CGP&H, LLC
HOUSING LLC
1249 SOUTH RIVER RD
SUITE 301
CRANBURY, NJ 08512

WEST ORANGE
NEW JERSEY 07052

FOB DESTINATION FREIGHT PREPAID & CHARGED BACK

Account 14-6040-00-0000-010 DEVELOPER'S FEE - COAH -- DEVELOPER'S FEE - COAH --

Vendor Code 1004437 **Date of Order** 03/12/2025 **Requisition#**

Quantity	Unit	Description of Materials or Service	Unit Price	Extended
1.000		PROFESSIONAL SERVICES ADMIN AGENT 2025 NOT TO EXCEED	15,000.00	15,000.00

Purchase Order Total:
THIS ORDER IS TAX EXEMPT PER NJSA
54:32B-9(a)(1) TAX EXEMPT ID NO. 22-6002396

15,000.00

Mandatory Prevailing Wage Policy P.L. 2007,c.68 for all Public Works Contractors and Sub-Contractors

Proof of Business Registration Certificate is Mandatory. P.L. 2004 57.Pursuant to NJSA 2A:30A2 the TWO has an ADR policy.

Date Mailed _____ **Date Received** _____**Comments** __________

Department Copy

RESOLUTION

WHEREAS, the Township of West Orange (the “Township”) administers an affordable housing program for qualified based on income eligibility consistent with the regulations promulgated by the Council on Affordable Housing and the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et. seq. and N.J.A.C. 5:97, et. seq.; and

WHEREAS, the Township adopted and enacted a Housing Element and Fair Share Affordable Housing Plan which included the proposed addition of 231 new, affordable family rental units between 2021 and 2025 to be included in inclusionary development; and

WHEREAS, the Township requires the services of a professional and experienced affordable housing consulting firm with the required licenses and certifications to function as the Township’s Administrative Agent pursuant to N.J.A.C. 5:80- 26.14; and

WHEREAS, Community Grants, Planning & Housing LLC also known as CGP&H LLC (“CGPH”) submitted a Proposal for Professional Services in response to a Request for Qualifications (the “RFQ”) for an Agreement for Administrative Agent Services for Affordable Housing (the “Contract”); and

WHEREAS, the proposed Contract, annexed hereto as Exhibit “A,” sets forth the proposed rates from CGPH’s Proposal for Professional Services listed in the section captioned Detailed Cost Proposal whereby the total paid by the Township will not exceed \$15,250 except for additional advisory services which shall be billed at a rate of \$130 per hour, but shall be subject to the written authorization from the Township prior to any such additional advisory services for a term of one year.

NOW, BE IT HEREBY RESOLVED, by the Township Council of the Township of West Orange that the Township authorizes the award and execution of the Contract with CGPH,

annexed hereto as Exhibit “A” for a term of one year to expire on December 31, 2024; and be it further

RESOLVED that a copy of this resolution shall be available in the Clerk’s office in accordance with applicable law.

Karen J. Carnevale, R.M.C.
Municipal Clerk

Bill Rutherford,
Council President

Adopted: January 9, 2024

I hereby certify funds are available from: _____
Account No.

John O. Gross, Chief Financial Officer

RESOLUTION APPOINTING MUNICIPAL HOUSING LIAISON

WHEREAS, pursuant to P.L. 2024, c.2, the Township of West Orange (the "Township") is required to appoint a Municipal Housing Liaison for the oversight of administration of the Township's affordable housing program to enforce the requirements of the law and N.J.A.C. 5:80-26.1 et. seq.; and

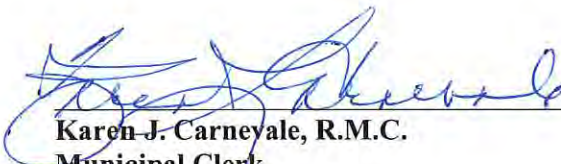
WHEREAS, Chapter 25 Section 18.17 provides for the appointment of a Municipal Housing Liaison to administer the Township's affordable housing program., and

WHEREAS, Chapter 25 Section 18.17 requires that the Municipal Housing Liaison shall be appointed with the approval of the governing body; and

WHEREAS, the Municipal Housing Liaison is an uncompensated position; and

WHEREAS, Geniece Gary-Adams and Peter F. Smeraldo Jr. have all required qualifications to hold the position as Municipal Housing Liaison; and

NOW, BE IT HEREBY RESOLVED, that the Township Council of the Township of West Orange, does and hereby approves the appointment of Geniece Gary-Adams and/or Peter F. Smeraldo Jr. as Municipal Housing Liaison pursuant to Township Code § 25-18.17 and the Fair Housing Act.



Karen J. Carneyale, R.M.C.
Municipal Clerk



Joe Krakoviak
Council President

Adopted: August 12, 2025