

ATTACHMENT “A”

DEVELOPER'S AGREEMENT

THIS AGREEMENT, made this 10th day of FEBRUARY 2009 by COLONIAL WOODS, L.L.C., a New Jersey Limited Liability Company, having its principal place of business at 184 South Livingston Avenue, Suite 11, Livingston, New Jersey 07039, County of Essex, State of New Jersey, hereinafter referred to as "DEVELOPER"; and

THE TOWNSHIP OF WEST ORANGE, a Municipal Corporation of the State of New Jersey, having its principal place of business at 66 Main Street, West Orange, N.J. 07052, hereinafter referred to as "TOWNSHIP".

WITNESSETH

WHEREAS, the DEVELOPER is the owner in fee of real property in the Township of West Orange, designated as Block 173, Lot 12 and Block 172.29, Lot 40.02, on the Assessment Maps of the TOWNSHIP, located north of Warren Road, Nance Road and Colonial Woods Drive, and;

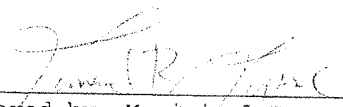
WHEREAS, the DEVELOPER submitted an application for a preliminary and final major subdivision of Block 173, Lot 12 and Block 172.29, Lot 40.02 to the Planning Board of the TOWNSHIP; and

WHEREAS, the DEVELOPER received preliminary and final major subdivision approval from the Planning Board of the Township to create a twenty seven (27) lot subdivision and said approval was memorialized by a resolution adopted by the Board on August 7, 2003, subject to certain conditions, a copy of such which is attached hereto as Schedule "A" and made a part hereof; and

WHEREAS, the DEVELOPER received subdivision approval from the Essex County Planning Board on November 12, 2002. A copy of the approval dated November 18, 2002 is attached hereto as Schedule "B", and made a part hereof; and

WHEREAS, the DEVELOPER is about to apply for a Soil Erosion and Sediment Control permit from the Hudson-Essex-Passaic Soil Conservation District; and


Approved by: Municipal Attorney
Richard D. Trenk, Esq.


Prepared by: Municipal Eng.
Leonard R. Lepore, P.E.

HEHL & HEHL OC

370 CHESTNUT STREET

UNION NJ 07083

WHEREAS, the DEVELOPER is about to apply for a Treatment Works Approval from the New Jersey Department of Environmental Protection (NJDEP); and

WHEREAS, prior to the DEVELOPER filing an application for a Treatment Works Approval with the NJDEP the consents of the Township of West Orange and the Joint Meeting of Essex and Union Counties (Joint Meeting) are required; and

WHEREAS, prior to obtaining the consent of the Joint Meeting the DEVELOPER shall enter into an Agreement with the Joint Meeting to reduce inflow and infiltration within the TOWNSHIP'S sanitary sewage collection system; and

WHEREAS, the APPLICANT received permits from the New Jersey Department of Environmental Protection for Authorization for Freshwater Wetlands Statewide General Permit, Water Quality Certification and Road Crossing; Transition Area Waiver-Special Activities; and Application for Transition Area Waiver. These approvals are attached hereto as Schedule "C" and made a part hereof; and

WHEREAS, the DEVELOPER received a permit from the New Jersey Department of Transportation for Highway Occupancy. Said permit is attached hereto as Schedule "D" and made a part hereof; and

WHEREAS, the DEVELOPER, TOWNSHIP, and Public Service Electric and Gas Company (PSE&G) entered into an Agreement entitled "Letter of Intent - Proposed Easement for Utility Crossings, Township of West Orange" for temporary and permanent access and utility easements across property of PSE&G, Block 173, Lots 2, 12.01, 13 and 14 located just south of the DEVELOPER'S property for access to existing public roads and utilities. A copy of the Agreement is attached hereto as Schedule "E" and made a part hereof; and

WHEREAS, the DEVELOPER has submitted to the office of the Township Engineer of the Township of West Orange drawings related to said subdivision. Said drawings are listed in Schedule "F" which is attached hereto and made part hereof and hereinafter there drawings shall be referred to as "Construction Plans"; and

WHEREAS, the office of the Township Engineer of the Township of West Orange has approved said plans for the installation of improvements and has made certain recommendations to the DEVELOPER regarding the development of said lands which must be complied with by the DEVELOPER as will be hereinafter set forth; and

WHEREAS, the aforementioned approvals by the Planning Board of the Township and the approval of the Township Engineer are granted subject to the performance of the terms and conditions hereinafter set forth in this Agreement, to all which the DEVELOPER agrees; and

WHEREAS, it is the purpose of this Agreement to set forth the matters agreed upon to be performed hereafter in connection with the foregoing development by the DEVELOPER.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants hereinafter set forth, it is hereby agreed between the parties hereto as follows:

1. This major subdivision shall be known and designated as "Colonial Woods North", and the final plat(s) shall bear such designation.

2. Should the DEVELOPER desire to change the name of this development, DEVELOPER shall promptly make application to the Township Council of the TOWNSHIP for permission, and no advertising of any kind shall be allowed under the proposed new name until and unless the approval, in writing is obtained from the Township Council of the TOWNSHIP.

3. The final subdivision plat(s) to be filed in the County recording office at no cost to the TOWNSHIP and the application related thereto shall be deemed to be part of this Agreement and binding upon the DEVELOPER and shall meet the approval of the Township Engineer and Township Attorney as to which the DEVELOPER shall hereafter comply as required by the Township Engineer and Township Attorney.

3.1. The Township and the Developer recognize that all PSE&G properties are encumbered by a blanket mortgage in favor of bond holders which cannot be postponed or subordinated. Developer agrees to provide title insurance in favor of the Developer and the Township insuring the aforementioned access and utility easements without exception to the mortgage of the bond holders.

3.2. The DEVELOPER understands that no temporary, conditional or final Certificates of Occupancy will be issued for any dwelling until the Final Subdivision Map has been filed and also subject to the conditions of Paragraph 14.

3.3. The street names for the new streets within the development were assigned by the Township Engineer. The streets are named after West Orange residents killed while serving their country in the Armed Services, unless streets, where applicable, were extensions of existing streets.

4. To the extent applicable by law, this agreement shall at all times be subject to the terms of the applicable Land Subdivision Ordinances and Zoning Ordinances of the Township of West Orange, as amended and supplemented, and shall at all times be subject to all other applicable ordinances and regulations of the Township of West Orange and also the requirements of the Engineering Department, Fire Department and Construction Official of the Township.

4.1. DEVELOPER agrees to comply with the foregoing accordingly, it being intended that all the foregoing shall be in accordance with the provisions of the aforesaid Construction Plans. See Schedule "F".

5. DEVELOPER agrees to comply with the requirements for the installation and maintenance of improvements as hereinafter set forth.

5.0.1. Improvements include sanitary sewer mains, sanitary sewer service connections, sanitary sewer appurtenances, storm sewers and appurtenances, drainage inlets including water quality inlets, drainage ditches and swales including water quality swales, storm water detention and water quality basins, stream crossings, water mains and hydrants, utilities, streets, curbs, sidewalks, street and traffic signs, street lighting, monuments, fencing where required, environmental controls, landscaping and shade trees where required all in accordance the Planning Board's Resolutions of Conceptual, Preliminary and Final Approval. See Schedule "A".

5.1. Sanitary sewers shall be installed as shown on the approved plans and profiles, complete with all manholes, building connections and other appurtenances necessary to properly complete the work at no cost to the Township.

5.1.1. Sanitary sewer mains will be installed on the property and within all rights-of-way and easements in accordance with the terms and conditions specified in the New Jersey Department of Environmental Protection (NJDEP) Treatment Works Permit to be acquired by the DEVELOPER at no cost to the TOWNSHIP.

5.1.2. It is expressly understood that no construction of the sanitary sewer or appurtenances shall be permitted without the NJDEP Treatment Works Permit.

5.1.2.1. It is also expressly understood that no construction of the sanitary sewer or appurtenances shall be

permitted until such time as the Developer complies with the provisions of paragraph 3.1.

5.1.3. It is further understood that no temporary, conditional or final Certificate of Occupancy will be issued until the sanitary sewerage system as depicted on the approved Construction Plans has been installed and approved by the Township Engineer and that the conditions pertaining to the issuance of Certificates of Occupancy as contained in paragraph 14 et seq. are satisfied. The Township may require sanitary lines be inspected by a closed circuit T.V. camera pulled through the lines at the sole cost and expense of the DEVELOPER. If any breaks, settlement, misalignment, or other defects, due to inferior materials or workmanship are discovered, repairs shall be completed and the repaired section reinspected. This shall only apply to new sanitary sewer mains installed by the DEVELOPER if in the opinion of the Township Engineer the sewer mains or a portion thereof were damaged during construction.

5.1.4. The cost involved in operating and maintaining the sanitary sewer mains and appurtenances shall be borne solely by those using same until such time as the improvements are accepted by the TOWNSHIP by a resolution of the TOWNSHIP Council. The cost of operation shall include labor, materials, equipment, utilities, carrying charges, and all else necessary to properly operate and administer the sewage collection facilities, and shall be at the user's sole responsibility until acceptance by the TOWNSHIP. All house service connections from the sewer main to the residential structure will be the responsibility of the individual property owner benefiting from same.

5.2. The Storm Sewer System shall be installed as shown on the Construction Plans, and shall include catch basins, yard inlets, building drain connections, water quality inlets and water quality swales, including vegetation and plantings, storm water detention and water quality basins and appurtenances necessary to properly complete this work.

5.2.1. The storm sewer collection system will be installed on the property in accordance with the Construction Plans at no cost to the Township.

5.2.2. Precast concrete drainage structures shall be installed to the extent and in the manner required by the Township Engineer of the Township, if required by the provisions of the aforesaid Construction Plans. Said installation shall take place when called for by the Township Engineer.

5.2.3. The cost involved in operating and maintaining the storm sewer collection system, storm water detention and water quality basins, culverts and drainage swales shall be borne solely by those using same until such time as the improvements are accepted by the TOWNSHIP by resolution of the TOWNSHIP Council. Upon completion of the development by the DEVELOPER and acceptance or final approval by the TOWNSHIP, the drainage swales and storm water detention and water quality basins will be maintained by the adjoining property owners.

5.3. Curb, pavement and sidewalks shall be installed and maintained as shown on the approved plans and profiles at no cost to the Township.

5.3.1. All travelways are to be graded behind the curb at a two (2%) percent grade for a minimum distance of 10 feet for sidewalk installation in accordance with the requirements of the Township Engineer.

5.3.1.1. Sidewalks shall be installed on both sides of all streets unless a waiver is received from the Township Council. Sidewalks are to be constructed in accordance with the requirements of applicable ordinances and to the approval of the office of the Township Engineer at no cost to the Township. All sidewalk locations are as depicted on the Construction Plans.

5.3.1.2. On streets where sidewalks are to be installed, the location of catch basins at the intersections shall be at either end of the curb return or as approved on the Construction Plans.

5.3.2. Street lighting shall meet with the approval of the Township Engineer and Public Service Electric and Gas Company.

5.3.3. The maintenance of all roads, curbs and sidewalks shall be borne solely by those using same until such time as the improvements are completed and accepted by the TOWNSHIP by resolution of the TOWNSHIP Council. Upon acceptance, the Township will maintain the road, Public Service Electric the street lights and benefiting and adjoining property owners will maintain their curb and sidewalk. Payment of the costs associated with operating and maintaining street lights owned by Public Service Electric shall be in accordance with N.J.S.A. 40:55D-53.6.

5.4. The DEVELOPER shall be solely responsible for coordinating all utility installations necessary or desired for this development. The location of sub-surface utilities

installed behind the curb shall be marked on the trench backfill with utility identification warning tape and periodic surface markers.

5.5. All open areas for which no landscaping or other planting is shown shall be graded and planted to establish a satisfactory stand of grass.

5.6. Shade trees shall be installed and maintained for a period of not less than two (2) years. Trees that die shall be replaced as soon as possible within the limits of accepted horticultural practices as determined by the Township Engineer. Shade trees at fifty (50) foot intervals and located 12 feet behind the proposed street curb as shown on the landscape plan shall be installed at such locations so as not to conflict with underground utility service locations. Trees furnished shall be good quality, free from disease and injury, with a single main leader. The trees shall be wrapped, guyed, fertilized, and such other measures taken that are consistent with good horticultural practice.

5.7. Topsoil and seeding shall be installed on site on all non-landscaped, unpaved areas. The DEVELOPER shall water fertilize, and mow lawn areas as required to cultivate a strong growth of turf.

5.7.1. All lots shall be topsoiled and seeded and/or sodded prior to the issuance of a certificate of occupancy. Once a certificate of occupancy is issued and title conveyed to the homeowner, the responsibility to maintain the turf shall be the homeowner's. If weather does not permit this, then a cash bond in the maximum amount of \$2,500.00 shall be posted with the TOWNSHIP for topsoiling and seeding only.

5.8. Environmental controls shall be installed at such locations as necessary to prevent erosion in accordance with the permit to be issued by the Hudson-Essex-Passaic Soil Conservation District. The DEVELOPER shall maintain the erosion control measures during the development period.

5.9. Water service lines shall be installed as required to extend domestic service and fire protection service at no cost to the Township. The construction shall meet the minimum requirements of the New Jersey-American Water Company and the Fire Department of the Township of West Orange. Hydrants are to be located by the West Orange Fire Department.

5.9.1. No Certificate of Occupancy shall be issued in Section 2 until the water main is looped through Sections 1 and 2

from Colonial Woods Drive to Nance Road as depicted on the final subdivision map and the water main and fire hydrants are operational.

5.9.2. Except for a model home, no building permits shall be issued in either Section 1 or 2 until the water main and hydrants for that section are installed and are operational.

5.10. The DEVELOPER, at its sole cost, shall provide all the construction control necessary for the accurate location of all work to be constructed in the development. Grade sheets shall be furnished to the Township Engineer for review prior to the start of construction for each phase of the improvements.

6. All work shall conform to the standard specifications of the TOWNSHIP on file in the office of the Township Engineer or as amended by the Construction Plans to comply with the Residential Site Improvement Standards, N.J.A.C. 5-21 et seq. and this Agreement.

7. The construction of all improvements shall be completed within five (5) years from the date of this Agreement, unless the times are extended by resolution of the Township Council.

7.1. The DEVELOPER agrees to use water conservation methods to reduce the generation of waste water. This includes low water volume flush fixtures using 1.6 gallons or less of water per flush, flow restrictors in water lines, and any such other devices or procedures that will reduce the volume of waste water generation.

7.2. The owner shall furnish written authorization for the Township Engineer or his representative to inspect all sanitary sewer system fixture connections and appurtenances and storm drain system connections and appurtenances within the structures on site during regular business hours in form and content acceptable to the Municipal Attorney prior to execution of the Developer's Agreement. See Schedule "G" annexed hereto and made a part hereof.

8. The DEVELOPER, at its sole cost, shall prepare and make applications, plans, supporting documents, pay applications fees and all else necessary for the construction of all the on-site and off-site improvements for this project, as shown on the Construction Plans, see Schedule "F". All applications shall be completed and filed with the respective agency within three (3) months from the date of the within Agreement with the exception of building permits.

8.1. Inspection Fees: An escrow account shall be established to facilitate payment of engineering services performed by the TOWNSHIP. The anticipated inspection costs to install improvements are five percent of the construction cost estimate excluding rock excavation and extraordinary circumstances. In accordance with N.J.S.A. 40:55D-53h, the account may be funded in installments equal to twenty-five (25%) percent of the total anticipated amount. When the balance on deposit drops below \$500.00 or ten (10%) percent of the total anticipated inspection costs, the DEVELOPER shall deposit an additional twenty-five (25%) percent installment with the TOWNSHIP. The fund shall not be used for any permits or other payments due the TOWNSHIP. Upon completion and approval of the project, any funds remaining shall be refunded to the DEVELOPER upon written request to the Escrow Agent.

8.1.1. For rock blasting and excavations a separate escrow account will be established in accordance with N.J.S.A. 40:55D-53h to allow the Township to obtain the services for a geo-technical engineer who will be present at the development when blasting occurs. The geo-technical engineer will determine if blasting is in accordance with all regulations and permits. If the permit or regulation is violated all blasting shall cease until such time as the TOWNSHIP'S geotechnical engineer is satisfied procedures are changed to allow blasting in compliance with the permit and regulations. That amount shall be limited to five (5) percent of the construction cost estimate for rock excavation.

8.2. The DEVELOPER, at its sole cost, shall provide an "As Constructed" plan showing all deviations from the approved plan. The plan shall be prepared, signed, and sealed by a land surveyor licensed by the State of New Jersey.

8.2.1. The DEVELOPER, at its sole cost, shall provide a plan, prepared by a New Jersey licensed surveyor, drawn to a scale of one inch equals 100 feet, conforming to N.J.A.C. 13:40-5.1, with sufficient data to amend the Assessment Maps which must conform to the standards established in the publication prepared by the Department of the Treasury, Division of Taxation, Local Property and Public Utility Branch, entitled "Tax Maps", dated February, 1985. This map shall be submitted at the time the final subdivision map is submitted to the TOWNSHIP for signing.

8.2.1.1. DEVELOPER shall pay the TOWNSHIP for the cost of revising its Assessment Maps and Sanborn Insurance Maps. The

cost of these services is \$500.00 and is payable upon signing the Final Subdivision Plat by TOWNSHIP officials.

8.3. DEVELOPER, at its sole cost, will furnish to the TOWNSHIP, as required, proper metes and bounds descriptions with respect to the various easements and rights-of-way referred to or incorporated by reference herein, for drainage purposes, storm sewer and sanitary sewer easements, for on site drainage easements, for other utility easements, and for road widening as required, all in accordance with the recommendations of the Township Engineer of the TOWNSHIP, and as shown on the DEVELOPER'S approved and filed subdivision map. Within twenty (20) days after presentation to the DEVELOPER of written easements in form and content mutually satisfactory regarding the foregoing, the DEVELOPER shall execute, record in the County Hall of Records, and deliver the same to the TOWNSHIP, at no cost to the TOWNSHIP.

8.4. The DEVELOPER, at its sole cost, agrees to maintain said public improvements above recited and to correct any defects therein as determined by the Township Engineer of the TOWNSHIP for a period of two (2) years after acceptance or final approval of the improvements as hereinafter provided, in accordance with the Maintenance Bond required by Paragraph 13.3.3.

8.4.1. The DEVELOPER, at its sole cost, shall for a period of two (2) years after acceptance or final approval of the improvements as hereinafter set forth, insure that all dead trees on any right-of-way within said development shall be removed at the cost and expense of the DEVELOPER, in accordance with the Maintenance Bond required by Paragraph 13.3.3.

9. Parties hereto do hereby agree as follows with respect to drainage, grading and handling of debris as binding upon the DEVELOPER.

9.1. All springs of water emanating therefrom shall be piped to the nearest available storm sewer, drainage ditch or swale, or stream.

9.2. Water from leaders and sump pumps shall be piped to the nearest storm drains, drainage ditch or swale, or stream, to the extent feasible or as approved by the Township Engineer on the individual plot plans to be approved prior to the issuance of a building permit for that particular lot.

9.3. DEVELOPER, at its sole cost, shall insure that all areas in the said development will be properly graded and

properly drained and will in this regard comply with all reasonable instructions of the Township Engineer and/or Construction Official of the TOWNSHIP relating thereto. In this regard, it is understood that all areas shall be graded so that the finished grade slopes away from all sides of the structure at a grade of not less than three (3%) percent for a minimum distance of ten (10) feet. Land shall otherwise be graded so as to cause surface runoff to drain toward the curb and/or swales to prevent excess runoff across adjoining lands. Terraces or banks shall not have a slope greater than two to one, and all plans for retaining walls shall be subject to approval by the Construction Official of the TOWNSHIP. All retaining walls which require a permit shall be constructed of precast modular block the design of such shall be prepared by a licensed professional engineer and submitted to the TOWNSHIP'S Building Department for a permit.

9.4. DEVELOPER, at its sole cost, shall insure that no stumps, dead trees, or debris are deposited on or permitted to remain upon the land or other portions of said development, nor shall any stumps or dead trees or debris be deposited below the surface of the earth.

9.5. In the event that any drainage problem is created on adjoining properties attributable to this development, corrective measures shall be provided by DEVELOPER, at its sole cost, within the area limits of the development at such places and in such manner as the Township Engineer may reasonably direct.

9.6. DEVELOPER, at its sole cost, will remove silt deposited in the TOWNSHIP'S storm sewers, brooks and catch basins or other drainage areas resulting from the washdown of soil or debris in the course of construction. Any reasonable instruction given the DEVELOPER by the Construction Official and/or the Township Engineer with respect to preventing such washdown shall be promptly carried out by the DEVELOPER.

9.7. The DEVELOPER, or those using the same, shall be solely responsible for the maintenance of the roads within the development including the plowing and removing of snow until such time as the improvements are completed and accepted by resolution of the TOWNSHIP Council.

9.8. The DEVELOPER solely agrees to provide for an adequate area within each proposed housing unit for the storage of disposable solid waste and recyclable solid waste. Recyclable solid waste includes but is not limited to newspapers, bottles, and aluminum cans. Said areas are to meet with the approval of

the Township Health Officer and Township Engineer. Disposable solid waste and recyclable solid waste will be collected by the TOWNSHIP.

10. Parties hereto do hereby agree further with respect to the following concerning avoidance of nuisances, during construction, same to be binding upon the DEVELOPER as hereinafter stated.

10.1. DEVELOPER solely agrees that at all times during construction, they will insure that all access roads leading to the development are kept reasonably free of dirt, stones, mud, and other debris. DEVELOPER further solely agrees to provide adequate off-street parking facilities for the use of workmen and visitors and further shall provide sanitary facilities for said workmen and visitors as required during the course of construction.

10.2. There shall be no burning of debris in the development.

10.3. Any and all damage caused to the public roads which are directly attributable to the DEVELOPER during the course of construction in said development shall be the responsibility of the DEVELOPER to repair and replace as required, at their sole cost and expense. The repair and replacement shall be as directed by the Township Engineer, including location, extent, materials and time limits, and repairs deemed to be an emergency by the Township Engineer shall be corrected within two (2) hours oral notice by the Township Engineer at the DEVELOPER'S sole cost and expense. Failure to abide by the provisions of this subsection shall result in the Construction Official and/or Township Engineer issuing a Stop Work notice to remain in effect until repairs are made.

10.4. DEVELOPER solely shall bear the responsibility of insuring that all agents, servants, employees, representatives, independent contractors, and subcontractors involved in the construction of said development shall fully comply in all respects with the terms and conditions of this Agreement, all of the same to be the full responsibility of the DEVELOPER.

11. Parties hereto do hereby agree with respect to on site supervision of work hours, same to be binding upon the DEVELOPER as hereinafter stated.

11.1. DEVELOPER shall appoint a job superintendent, fluent in English, or his designated representative, whose name, home address, and telephone number shall be furnished to the

Township Engineer, Construction Official and Police Department and such job superintendent, or his designated representative, shall be on the job at all times while work is being performed herein and, if not, the job is subject to being shut by the Township Engineer or Construction Official on one (1) hour oral notice.

11.2. No work shall be performed in the development by DEVELOPER, his agents, servants, employees, representatives, independent contractors or his subcontractors between the hours of 7:00 p.m. and 7:30 a.m., Monday through Friday. On Saturday, work hours are limited to 8:00 a.m. to 7:00 p.m. No work of any kind, except sales, shall be performed by the DEVELOPER or anyone on his behalf on Sunday.

12. DEVELOPER shall make every reasonable effort to preserve shade trees presently growing in this development and will replace trees planted in accordance with the landscape plan as to any that may die within two (2) years of planting, in accordance with the Maintenance Bond required by Paragraph 13.3.3.

12.1. DEVELOPER shall obtain a tree removal permit(s) in conformance with the TOWNSHIP'S Tree Ordinance prior to the start of any construction.

12.1.1. The DEVELOPER, upon application, will initially only be granted a tree removal permit to clear rights-of-way and utility easements. Tree removal permits for each individual lot will only be granted upon submitting a plot grading and drainage plan and approval by the Township Planner of the trees to be removed on each lot. Each plot grading and drainage plan shall accurately depict all trees six inches in diameter and larger.

12.2 The DEVELOPER shall protect all trees designated by the Township Forester to remain with construction fencing approved by the TOWNSHIP and placed in accordance with acceptable horticultural standards.

13. The parties do further agree with respect to the issuance of building permits and the commencement of building construction, same to be binding upon the DEVELOPER as hereinafter stated:

13.1. The issuance of any building permits shall be deferred until final subdivision plat(s) has been signed and filed with the Essex County Register, the NJDEP has issued a Sanitary Sewer Construction Permit, the DEVELOPER has acquired access and utility easements across the property of PSE&G in

favor of the TOWNSHIP, the Hudson Essex Passaic Soil Conservation District has issued a permit for Soil Erosion and Sediment Control and the Township Forester, has issued a Tree Removal Permit.

13.1.1. The commencement of building construction shall be deferred until all Soil Erosion and Sediment Control measures are installed as per the approved plan and certified as functional by the Township Engineer.

13.2. Building permits in this tract shall be issued on application of the DEVELOPER only or its successor in title.

13.3. Within 120 days of the date of execution of the Agreement or a building permit or permits are applied for with an exception for a model, whichever occurs first, the DEVELOPER shall deposit the amounts tabulated on the quantity take-off for Section 1 of the development, a copy of which is attached hereto as Schedule "H" and made a part hereof, as security for the performance of the unfinished matters contained in the Agreement that remain to be performed. For Section 2, the bond shall be deposited upon the application for a building permit in that section or within five years of the date of execution of this Agreement, which ever occurs first, unless the time is extended by resolution of the Township Council.

13.3.1. A deposit in cash or certified check, payable to the TOWNSHIP, with the Township Treasurer, in the maximum amount as specified in Schedule "H" or such lesser amount as agreed to by the Township Engineer, based upon the actual work completed by the DEVELOPER.

13.3.2. Delivery of a surety bond in a form acceptable to the Township Attorney and executed by a surety corporation authorized to do business in the State of New Jersey, or a Letter of Credit issued by a Bank authorized to do and currently doing business in New Jersey with a specified branch office within a 50-mile radius of West Orange to which a sight draft can be presented to draw upon the Letter of Credit and acceptable to the Township Attorney and acceptable to the TOWNSHIP in the maximum amount as specified in Schedule "H" or such lesser amount as agreed to by the Township Engineer based upon the actual work completed by the DEVELOPER.

13.3.3. Upon completion of the entire work by section provided herein, as certified by the Township Engineer in writing, the TOWNSHIP shall discharge the surety bond referred to above and shall return to the DEVELOPER all of the cash deposit

held by the Township Treasurer as above referred to, at which time the DEVELOPER shall post a maintenance guarantee in the amount specified in Schedule "H", in the form of a surety bond acceptable to the Township Attorney, to be retained by the TOWNSHIP for a period of two (2) years from the date of acceptance or final approval of said work, conditioned for the maintenance by the DEVELOPER of the aforementioned improvements and the correction of any defective work or omission of work for a period of two (2) years from the date of acceptance or final approval of said work, and to also secure the obligation of the DEVELOPER to remove any trees along the right-of-ways involved which may die within two (2) years and to otherwise perform that which is directed by the Township Engineer to be performed or corrected or replaced in connection with the development, or any portion thereof, during the two (2) year period above referred to. Upon the termination of the two (2) year period and provided the DEVELOPER fully discharges all of his obligations with respect to the foregoing and upon written certification by the Township Engineer of his satisfaction with the foregoing, the maintenance guarantee surety bond will be discharged.

14. Parties hereto do hereby further agree with respect to the issuance of Certificates of Occupancy for the structures to be erected in this development, same to be binding upon the DEVELOPER as hereinafter stated.

14.1. It is understood that no one, and/or no entity, will be permitted to occupy any unit which is the subject matter of this Agreement, unless and until all final governmental approvals and Certificates of Occupancy, have been issued by the appropriate governmental agencies and/or the TOWNSHIP. A violation of this section shall be construed as a breach of the within Agreement and DEVELOPER shall become responsible for any and all costs incurred by the TOWNSHIP in enforcing and maintaining the integrity of the within Agreement, including all reasonable attorney's fees, reimbursement for TOWNSHIP officials' salaries, court costs, etc., without limitation.

14.2. Such Certificates of Occupancy shall not be issued until the Township Engineer is satisfied that the roads have been maintained to the point where the stabilized base course is level, that said roads have been kept swept of dirt, dust and debris, and have been certified as then being functionally usable by the Township Engineer or his representative.

14.3. The issuance of Certificates of Occupancy shall not relieve DEVELOPER from completely performing all of the work remaining to be done pursuant to this Agreement, and said work shall be properly completed upon receipt of notice to that effect from the Township Engineer, the Construction Official, or their respective representatives.

14.4. In particular, it is specifically understood and agreed that prior to the issuance of temporary, conditional or final Certificates of Occupancy with respect to the structures involved herein, all improvements shall have been installed, excepting sidewalks, topping of the roads, and planting of shade trees and any other improvements which the Township Engineer expressly agrees may be deferred.

15. DEVELOPER further covenants that they will repair, when so notified by the Township Engineer, in a good and workmanlike manner, at their sole cost and expense, under the supervision of the Township Engineer and to his satisfaction, all faulty construction of roads, curbs, and other items agreed to be performed hereunder, and including, but not limited to any damages done to any public street in the TOWNSHIP by the use thereof by vehicles servicing the development for a period of five (5) years from the date of official acceptance or final approval by the TOWNSHIP.

16. In the event the DEVELOPER shall determine to sell or dispose of the lands involved herein or any portion thereof, upon which a Certificate of Occupancy has not been issued, then and in that event, the DEVELOPER shall have the right to assign all of the obligation of this AGREEMENT and the successor in title shall assume and agree to perform all of the obligations recited therein. In addition, said DEVELOPER will promptly notify the TOWNSHIP in writing of the proposed sale and of the date when title is to close with respect thereto, such notice to be sent to the Township Engineer and Township Attorney of the TOWNSHIP. Acceptance by the TOWNSHIP of an assumption agreement made pursuant to the provisions of this paragraph shall require the posting of performance guarantees as previously described by the assuming Developer. Upon acceptance of the performance guarantees from the assuming Developer, the DEVELOPER shall be released from their obligations hereunder. It is understood that the costs of the preparation and recordation of an assumption agreement as above referenced to shall be paid for by the DEVELOPER.

16.1. Developer may sell or dispose of individual lots in a section without an assumption agreement as specified in paragraph 16 provided all improvements are installed in that section except for final road surface course, sidewalks, shade trees and monuments.

17. DEVELOPER agrees to indemnify the TOWNSHIP, their agents, servants, employees, or representatives and to save them harmless from any damages, claims, demands, or suits of any kind or liability of any kind arising out of the performance hereunder by DEVELOPER, their agents, servants, employees, representatives, and subcontractors, in the course of any work done in connection with any of the matters set forth in this Agreement. Further, the DEVELOPER shall carry and maintain during the terms of this Agreement, until all of the work herein provided for is fully completed, liability insurance, including completed operations coverage, covering all of the development and all work, and all vehicles involved herein wherein the TOWNSHIP is named as an additional insured in a sum of not less than \$2,000,000.00. Prior to any work being commenced hereunder, a certificate evidencing such insurance and proof of payment of the premium for same shall be delivered to the Township Engineer.

18. TOWNSHIP agrees to process all applications submitted hereunder in a reasonable timely manner provided all applications are fully complete with all supporting documents and application fees paid.

19. It is understood that all construction to be completed and performed hereunder by the DEVELOPER shall conform to the specifications and regulations of the applicable building codes and ordinances of the TOWNSHIP and shall be in accordance with the requirements and instructions of the Township Engineer as required by the provisions of the Construction Plans to be filed hereunder.

20. DEVELOPER agrees to perform as part of the completion of the development herein, all of the requirements set forth in the attached resolutions of the Planning Board; see Schedule "A", as the same shall be approved by the Township Engineer.

21. The subdivision map and construction plans as previously submitted by the DEVELOPER and above referred to may be modified hereafter as required by the Township Engineer of the TOWNSHIP, and in order to fully comply with the requirements of

the Planning Board of the TOWNSHIP, as is evidenced by the resolutions passed by the Planning Board. See Schedule "A".

22. DEVELOPER agrees to obtain all necessary approvals from the New Jersey Department of Environmental Protection with respect to the sanitary sewer extension above referred, together with any other approvals required from any other State agency that may be involved in connection with the completion of this development, which said development shall be completed in accordance with all applicable ordinances of the TOWNSHIP, and to the satisfaction of the Township Engineer and Township Attorney.

23. The DEVELOPER agrees to pay to the TOWNSHIP fees associated with off tract sanitary sewer improvements. The fees shall be paid on a unit basis and are due prior to the issuance of a certificate of occupancy for any unit. The fees are as follows: \$2,700 per unit for the South Mountain Relief Sewer, \$1,000 per unit for improvements to the King Road Pump Station and \$500 per unit for improvement to the Township's westerly interceptor sewer.

24. The DEVELOPER agrees to pay the Township the Development Fee for low and moderate income housing with the fee and payment schedule in accordance with the applicable Ordinance.

25. Wherever and whenever the consent or approval of the TOWNSHIP is required, such consent and approval shall not be unreasonably withheld or delayed provided all necessary plans, documents, applications and fees attendant to said consent and approval are submitted in a timely fashion by the DEVELOPER and are in proper form and content.

26. Any and all Deeds generated by the development or sale of this property in its entirety or the individual lots created by this subdivision shall incorporate this Developer's Agreement by reference. Such reference shall include the date of the Agreement, the filing date with the County Register and the filed book and page numbers.

26.1. All Deeds of Conveyance shall state the obligation of the abutting property owners to maintain in perpetuity all storm water detention and water quality basins upon which the storm water and water quality basins lay.

26.2. The Developer, its successors and assigns, acknowledge that Lot 22.01, the detention basin lot, is Deed Restricted to prevent further subdivision and that a portion of it where the detention basin, Block 173, Lot 12.13 is located is

reserved for drainage purposes. This restriction shall be placed in all Deeds of Conveyance.

27. Innumerable paragraphs of the within agreement, including but not limited to paragraphs 5.2.4, 5.3.3, 5.4.3 and 9.7 make reference to the DEVELOPER, and/or those enjoying the beneficial use of those paragraphs incurring certain costs attendant to what is contemplated, either in those particular paragraphs and elsewhere throughout the Agreement. What is contemplated is that these costs will, under no circumstances, be borne by the Township of West Orange, and should the DEVELOPER, their successors or assigns, or those enjoying the beneficial use of the benefits referred to herein, fail and/or refuse to comply with that which is contemplated in this Agreement, the Township of West Orange may impose a special assessment and/or tax in a pro rata fashion on the DEVELOPER and/or its successors or assigns or those then in title for the expenditures incurred, including, but not limited to engineering, planning, zoning, code enforcement/construction official and legal.

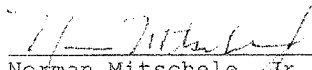
28. It is understood that the effective date of this agreement shall be the date of full execution and delivery thereof by and between the parties hereto.

29. DEVELOPER shall be solely responsible for any and all costs attendant to the recordation and/or filing of the within agreement, its amendments and supplements, and authorizes the TOWNSHIP to deduct monies on deposit sufficient to cover same.

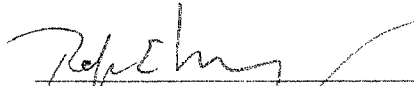
30. This agreement shall be binding upon the respective heirs, executors, successors, administrators and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed by their proper corporate officers and caused their proper corporate seals to be affixed hereto the day and year first written above.

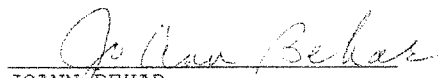
ATTEST:


Norman Mitschele, Jr.
Member

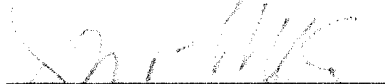
COLONIAL WOODS, L.L.C.


Ralph Mitschele, Jr.
Managing Member

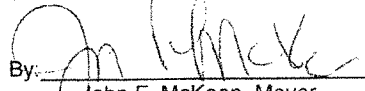
ATTEST:


JOANN BEHAR,
DEPUTY MUNICIPAL CLERK

TOWNSHIP OF WEST ORANGE


JOHN F. MCKEON, MAYOR

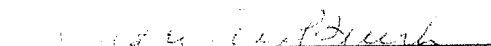
TOWNSHIP OF WEST ORANGE

By: 
John F. McKeon, Mayor

STATE OF NEW JERSEY)
) SS:
COUNTY OF ESSEX)

On February 12, 2009, before me came **JOHN F. McKEON, MAYOR**, known to me to be the individual in and who executed the foregoing, and duly acknowledged to me that he executed the same as his voluntary act and deed.

SUBSCRIBED AND SWORN to before me
this 16 day of February, 2009.


NOTARY PUBLIC

CHRISTIAN P. QUINN
Notary Public
New Jersey

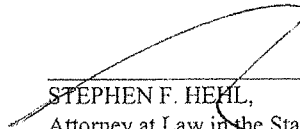
STATE OF NEW JERSEY
COUNTY OF ESSEX

SS:

I certify that on February 24, 2009, Ralph Mitschele, Jr. and Norman Mitschele, Jr., Members of Colonial Woods, L.L.C., personally came before me and acknowledged under oath, to my satisfaction, that this person (or if more than one, each person):

- (a) is named in and personal signed this Developer's Agreement;
- (b) signed, sealed and delivered this Developer's Agreement as his or her act and deed;
- (c) is authorized to and did execute this Developer's Agreement as Members of Colonial Woods, L.L.C., the entity named in this Developer's Agreement;
- (d) executed this Developer's Agreement as the act of the entity named in this Developer's Agreement.

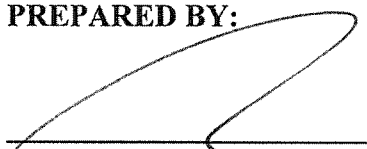
Subscribed and Sworn to before
me this 24th day of February, 2009.



STEPHEN F. HEHL,
Attorney at Law in the State of New Jersey

ATTACHMENT “B”

PREPARED BY:


STEPHEN F. HEHL, ESQ.

AMENDMENT TO DEVELOPER'S AGREEMENT

THIS AGREEMENT, made this 25 day of March 2014, by COLONIAL WOODS, L.L.C., (the "Developer") having its principal place of business at 184 South Livingston Avenue, Suite 11, Livingston, NJ 07039 and THE TOWNSHIP OF WEST ORANGE, having its principal place of business at 66 Main Street, West Orange, NJ 07052 (the "Township") and RNC DEVELOPERS INC., having its principal place of business at 184 South Livingston Avenue, Suite 11, Livingston, NJ 07039 (the "Successor in Title").

WITNESSETH

WHEREAS, the Developer and Township entered into a Developer's Agreement ("Agreement") dated February 10, 2009 in connection with a 27-lot subdivision which Agreement is annexed hereto as "Exhibit A," the scope of which relates to construction and development work in and around Block 173, Lot 12 and Block 172.29, Lot 40.02 on the Tax Map of the Township, now known as Block 173, Lots 12.02-12.27 and Block 172.29, Lot 40.03 also known as the area located north of Warren Road, and the extension of Nance Road and Colonial Woods Drive. "The project is known as the Colonial Woods North" (the "Project"); and

WHEREAS, the parties hereto have agreed to enter into this Amendment to Developer's Agreement ("Amendment"); and

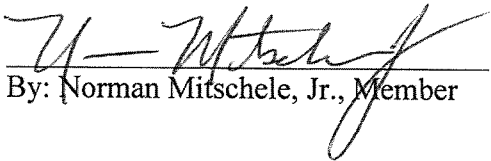
WHEREAS, the Developer and Successor in Title have requested that the Township Council for the Township authorize an extension of the time period for completion of construction set forth in Paragraph 7 of the aforementioned Agreement to December 31, 2017; and

WHEREAS, Developer is assigning all of the obligations of this Agreement to the Successor in Title and the Successor in Title has agreed to assume all obligations of this Agreement pursuant to paragraph 16 of the aforementioned Agreement;

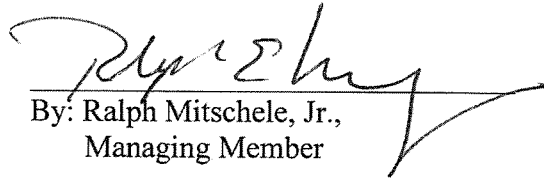
NOW THEREFORE, in consideration of the foregoing and of the mutual covenants hereinafter set forth, it is hereby agreed between the parties hereto as follows:

1. The time periods for completion of construction of all improvements contemplated under the Developer's Agreement as set forth in paragraph 7 of the Agreement is hereby extended until December 31, 2017.
2. Pursuant to Paragraph 16 of the Agreement, Developer hereby assigns all obligations of the Agreement to the Successor in Title and Successor in Title agrees to assume and further agrees to perform all of the obligations recited in the Agreement. Furthermore, the Township hereby acknowledges said assignment and assumption and agrees to release the Developer from any further responsibility under the Agreement upon transfer of title from the Developer to the Successor in Title. This Amendment and assignment shall not be deemed a waiver of the Township's rights to enforce the provisions of this Agreement against any party in connection with their obligations hereunder.
3. With regard to Section I of the Project, a bond shall not be required to be posted in connection with the development of said Section I until one of the following events takes place: (i) two (2) years elapses from the commencement of the physical site improvements on the site for Section I, with "commencement" being defined herein as the start of the clearing of the Property by the tree contractor; or (ii) application by the Developer or Successor in Title for a building permit for a house construction on any Lot in Section I, other than for construction of the model home located on Block 172.29, Lot 40.03.
4. With regard to Section II of the Project, a bond shall not be required to be posted until one of the following events takes place: (i) two (2) years elapses from the commencement of the physical site improvements on the site for Section II; or (ii) application by the Developer or Successor in Title for a building permit for a house construction on any Lot in Section II.
5. All other terms and conditions of the aforementioned Agreement shall remain in full force and effect unless specifically amended by this Amendment.

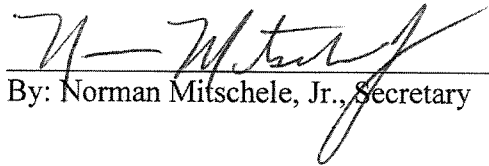
Witness/Attest


By: Norman Mitschele, Jr., Member

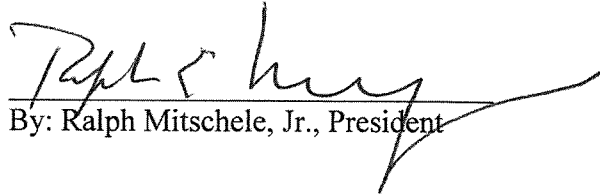
Colonial Woods, L.L.C.

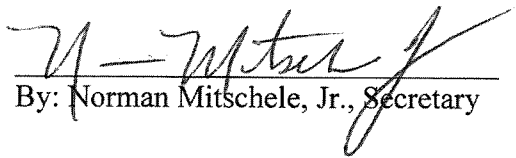

By: Ralph Mitschele, Jr.,
Managing Member

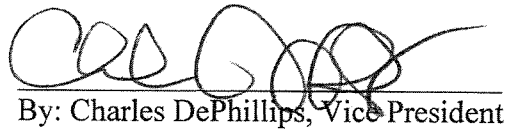
Witness/Attest


By: Norman Mitschele, Jr., Secretary

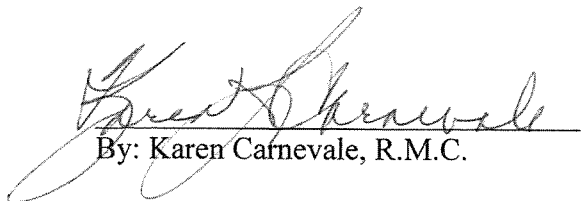
RNC Developers, Inc.


By: Ralph Mitschele, Jr., President

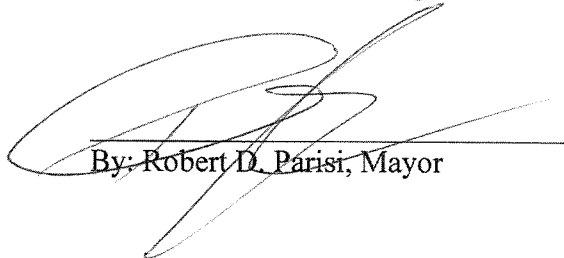

By: Norman Mitschele, Jr., Secretary


By: Charles DePhillips, Vice President

Witness/Attest


By: Karen Carnevale, R.M.C.

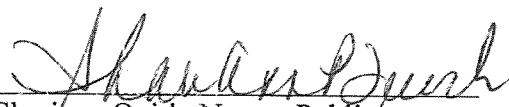
Township of West Orange


By: Robert D. Parisi, Mayor

STATE OF NEW JERSEY)
COUNTY OF ESSEX) SS.:

I certify that on April 4, 2014, 2014, Robert D. Parisi, Mayor, personally came before and acknowledged under oath to my satisfaction that he executed the same as his voluntary act and deed.

- (a) This person is the Mayor of the Township of West Orange, the municipality named in this Amendment to Agreement;
- (b) Karen Carnevale, R.M.C., is the attesting witness to the signing of this Amendment by the proper municipal representative who is Robert D. Parisi, Mayor;
- (c) This Agreement was authorized by a Resolution of the Township Council of West Orange;
- (d) This person knows that the proper seal of the municipality was affixed to this Amendment; and
- (e) this person signed this proof to attest to the truth of these facts.


Shariann Quirk, Notary Public

SHARIANN P. QUIRK
Notary Public of New Jersey
My Commission Expires on 4/13/2015

STATE OF NEW JERSEY)
COUNTY OF UNION) SS.:

I CERTIFY that on March 31, 2014, Ralph Mitschele, Jr., Member of Colonial Woods, L.L.C., personally came before me and acknowledged under oath, to my satisfaction, that this person:

- (a) is named in and personally signed this Amendment to Developer's Agreement;
- (b) signed, sealed and delivered this instrument as his or her act and deed;
- (c) is authorized to execute this instrument as Managing Member of Colonial Woods, L.L.C, the entity named in this instrument;
- (d) executed this Amendment to Developer's Agreement as the act of the entity named in this Amendment to Developer's Agreement.


ANITA LYNN JAMES, ESQ.
Attorney at Law in the State of New Jersey

STATE OF NEW JERSEY)

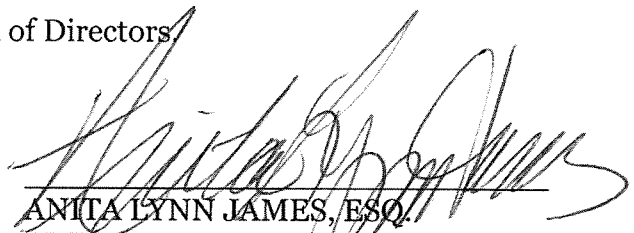
SS.:

COUNTY OF UNION)

I certify that on March 31st, 2014, Ralph Mitschele, Jr. and Charles DePhillips personally came before me and these persons acknowledged under oath, to my satisfaction, that:

(a) these persons signed, sealed and delivered the attached document as President and Vice President, respectively, of RNC Developers Inc., the corporation named in this document;

(b) this document was signed and made by the corporation as its voluntary act and deed by virtue of authority from its Board of Directors


ANITA LYNN JAMES, ESQ.
ATTORNEY AT LAW OF THE STATE
OF NEW JERSEY