

RECOGNITION AGREEMENT
(Financial Agreement)

This **RECOGNITION AGREEMENT** ("**Agreement**") dated as of August ____, 2018, is made by **THE TOWNSHIP OF WEST ORANGE**, having its offices at 66 Main Street, West Orange, New Jersey 07052 ("**Municipality**"), for the benefit of **TD BANK, N.A.**, a national banking association, having an address at 1100 Lake Street, Ramsey, New Jersey 07446 (together with its successors and assigns, "**Mortgagee**").

W I T N E S S E T H

WHEREAS, VALLEY ROAD RESIDENTIAL URBAN RENEWAL, LLC, a New Jersey limited liability company (the "**Mortgagor**") is the owner of that certain parcel of improved real property described in Schedule A attached hereto and made a part hereof (the "**Land**");

WHEREAS, Mortgagee has made a construction loan to the Mortgagor in the principal amount of \$18,510,000.00 (the "**Loan**" or the "**Mortgage Amount**") in connection with a 100 unit residential building with 55 affordable units and 45 market rat units, plus one (1) superintendent unit and community center, parking and related improvements to be located on the Land in the Township of West Orange;

WHEREAS, the Loan is evidenced by that certain Construction Loan Note dated as of the date hereof made by Mortgagor in favor of Mortgagee in the maximum principal amount of \$18,510,000.00 (the "**Note**"); and

WHEREAS, the Note is secured by that certain Construction Loan Mortgage and Security Agreement dated as of the date hereof made by Mortgagor in favor of Mortgagee (the "**Mortgage**"); and

WHEREAS, Mortgagor and Municipality have entered into that certain Financial Agreement dated March 21, 2017 (together with all amendments thereto and modifications, renewals, extensions and replacements thereof, the "**Financial Agreement**"); and

NOW, THEREFORE, for Ten and No/100 Dollars (\$10.00), and as an inducement for the Mortgagee's making of the Loan to Mortgagor, and in consideration of the benefits to be received and expected to be received by Municipality and by Mortgagor in connection therewith, the parties hereto covenant, agree, represent and warrant as follows:

1. **Municipality's Representations, Warranties and Covenants Regarding the Redevelopment Agreement.** Municipality hereby represents, warrants and covenants to Mortgagee that, as of the date hereof:

(a) Attached hereto as Exhibit B is a true, correct and complete copy of the Financial Agreement, including all exhibits and other attachments thereto and all amendments thereto and modifications thereof, and the Financial Agreement is in full force and effect and has not been cancelled, modified, supplemented, amended, extended, renewed or terminated;

(b) To the best of Municipality's knowledge, there exists no default, breach or violation by either party under the Financial Agreement;

(c) Municipality hereby consents to the Mortgage and to the perfection of the lien created thereunder upon Mortgagor's interest in and to the Property;

(d) Municipality acknowledges that Mortgagee is the mortgagee providing financing on the Property and that notices as provided for in the Financial Agreement which are to be sent to the Mortgagor shall also be sent to Mortgagee as follows:

As to Mortgagee:

TD Bank, National Association
1100 Lake Street
Ramsey, New Jersey 07446
Attention: Thomas J. Ponticelli

with a copy to:

Emmet, Marvin & Martin, LLP
177 Madison Avenue
Morristown, New Jersey 07960
Attention: Neil Williams, Esq.

2. **Right to Foreclose.** Upon the occurrence and continuance of an Event of Default (following the expiration of all applicable notice and cure periods) by Mortgagor under and as defined in the Mortgage, Mortgagee shall, subject to the terms of the Mortgage, have the right, (a) to foreclose upon, or accept a deed in lieu of foreclosure of, Mortgagor's leasehold right, title and interest in and to the Property created thereby and thereunder, and any other real or personal property securing the Mortgage, and to exercise any other right or remedy which is available pursuant to the Mortgage or the other Loan Documents (as defined in the Mortgage), or at law or in equity, and (b) thereafter, to sell, transfer and assign the Property and any other real or personal property securing the Mortgage to any person or entity (a "**Purchaser**"). The Municipality's consent to the new owner as provided in Section 9 of the Financial Agreement shall not be unreasonably withheld, conditioned or delayed. It is understood that such Purchaser, in order to get the benefits under the Financial Agreement must qualify for such benefits as provided under the New Jersey Long Term Tax Exemption Law, including any successor statutes, as same may be modified.

Municipality confirms that if Mortgagee or a Purchaser becomes the owner of the Property as aforesaid, then Mortgagee or such Purchaser shall succeed to all of Mortgagor's rights and benefits under the Financial Agreement provided that Mortgagee or such Purchaser assumes the obligations of Mortgagor under the Financial Agreement.

3. **Forbearance.** If Mortgagee decides to foreclose upon Mortgagor's right, title and interest in and to the Property pursuant to and subject to the terms of the Mortgage, Municipality agrees to forbear from exercising any right to terminate the Financial Agreement in order to permit Mortgagee to complete the foreclosure provided that Mortgagee diligently pursues such foreclosure and provided that Mortgagee cures any defaults that are reasonably susceptible to cure by Mortgagee.

4. **Miscellaneous.**

(a) **Governing Law.** This Agreement and the rights and obligations of the parties hereunder shall be governed by and construed in accordance with the laws of the State of New Jersey, without giving effect to its internal principles of conflicts of law. Municipality hereby irrevocably submits to the non-exclusive jurisdiction of any state or federal court in New Jersey over any action, suit or proceeding arising out of or relating to this Agreement.

(b) **Successors and Assigns.** This Agreement, and the information contained herein, shall be binding on, and enforceable by and against, Municipality and Municipality's successors and assigns, and this Agreement, and the information contained herein, shall inure to the benefit of, and be enforceable by Mortgagee and/or Bondholder Representative and its successors and assigns.

(c) **WAIVER OF JURY TRIAL.** TO THE FULLEST EXTENT PERMITTED BY LAW, MUNICIPALITY AND MORTGAGEE EACH HEREBY IRREVOCABLY WAIVES TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER IN ANY WAY ARISING OUT OF, OR RELATED TO, OR IN CONNECTION WITH THIS AGREEMENT.

[SIGNATURES ON NEXT PAGE]

SIGNATURE PAGE TO RECOGNITION AGREEMENT

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Mortgagee: **TD BANK, N.A.**

By: _____
Name:
Title:

Municipality: **THE TOWNSHIP OF WEST ORANGE**

By: _____
Name:
Title:

**ACKNOWLEDGED AND AGREED TO
THIS _____ DAY OF AUGUST, 2018.**

**VALLEY ROAD RESIDENTIAL URBAN
RENEWAL, LLC**, a New Jersey limited liability company

By: _____
Joseph Alpert, Co-Managing Member

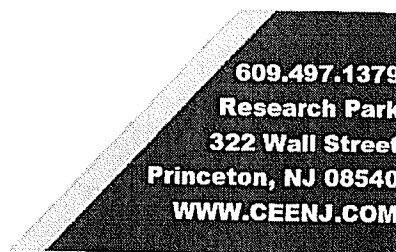
EXHIBIT A

DESCRIPTION OF PROPERTY

ENGINEERING
SURVEYING
ENVIRONMENTAL
LANDSCAPE DESIGN



**Civil & Environmental
Engineering, Inc.**



**DESCRIPTION OF
LOTS 1, 7, 44, 50 & 56
BLOCK 9
TOWNSHIP OF WEST ORANGE, ESSEX COUNTY, NEW JERSEY**

All that certain lot, parcel, or tract of land, situated and lying in the Township of West Orange, County of Essex, and State of New Jersey, and being more particularly bounded and described as follows:

BEGINNING at a point situated along a northerly Right-Of-Way of Mitchell Street (50' wide R.O.W.), commonly representing a southerly property corner of Lot 8, Block 9 and a westerly property corner of Lot 7, Block 9, marked by a capped iron pin, and running thence:

1. North 29 degrees 30 minutes 13 seconds East, a distance of 164.84 feet to a point, thence;
2. South 62 degrees 42 minutes 47 seconds East, a distance of 19.33 feet to a point, thence;
3. North 32 degrees 04 minutes 13 seconds East, a distance of 199.34 feet to a point, thence;
4. South 57 degrees 55 minutes 47 seconds East, a distance of 179.40 feet to a point, thence;
5. South 30 degrees 37 minutes 13 seconds West, a distance of 77.34 feet to a point, thence;
6. South 35 degrees 49 minutes 13 seconds West, a distance of 28.80 feet to a point, thence;
7. South 32 degrees 53 minutes 46 seconds West, a distance of 251.99 feet to a point, thence;
8. North 60 degrees 29 minutes 47 seconds West, a distance of 2.65 feet to a point, thence;
9. North 31 degrees 23 minutes 13 seconds East, a distance of 0.75 feet to a point, thence;
10. North 60 degrees 28 minutes 47 seconds West, a distance of 185.25 feet to the point and place of BEGINNING.

CONTAINING 67,029 Square Feet (1.54 Acres).

Being in accordance with a plan entitled "Boundary Survey Plan prepared for Block 9, Lots 1, 7, 44, 50 & 56, Township of West Orange, Essex County, New Jersey", prepared by TRC Engineers, Inc, dated May 27, 2015, last revised July 17, 2015.

Subject to easements and restrictions of record, if any.

Michael T. Armstrong
Professional Land Surveyor.
NJPLS #35820

EXHIBIT B

Financial Agreement

Financial Agreement Between the
Township of West Orange, New Jersey and
Valley Road Residential Urban Renewal, LLC
pursuant to the Long Term Tax Exemption Law
N.J.S.A 40A:20-1 et. seq.,

This Financial Agreement ("Agreement") is entered into this 21st day of March, 2017 by and between the Township of West Orange, New Jersey (the "Municipality") and Valley Road Residential Urban Renewal, LLC ("LLC") a Limited Liability Company, and duly recognized urban renewal entity, organized under the laws of the State of New Jersey.

W I T N E S S E T H

WHEREAS, LLC is in the process of undertaking the construction of a housing project consisting of one hundred (100) apartment units on land located at 22-24 Central Avenue consisting of Block 9 Lots 1, 7, 44, 50 & 56 on the Municipal tax map for both low income and market rate households (the "Project"), which development, by providing such shelter, serves an important public purpose and benefit to all of the citizens of the Municipality; and

WHEREAS, LLC has applied to the Mayor and Municipal Council (the "Application") and the Mayor and Municipal Council of West Orange have resolved to exempt the Project from real property taxation in accordance with the Long Term Tax Exemption Law, as amended or supplemented in the future. N.J.S. A. 40A:20-1 et. seq. (the "Law"); and

WHEREAS, the Municipality and LLC have agreed that in lieu of property taxes on the improvements to be situated on Block 9 Lots 1, 7, 44, 50 & 56 as shown on the official tax map of the Township of West Orange, the Municipality shall impose upon LLC, an annual service charge as hereinafter provided; and

WHEREAS, the Municipality and LLC desire to enter into this Financial Agreement to set forth in writing their respective rights and obligations pursuant to the provisions of the Law.

NOW THEREFORE, in consideration of the promises and mutual covenants herein contained, the parties hereto agree as follows:

1. Controlling Law: This agreement shall be governed by the provisions of the Law. It is expressly understood and agreed that the Township relies upon the facts, data, and representations

contained in the Application of which a form of this Agreement was included as a part thereof. LLC and the Project shall at all times prior to the expiration or other termination of this Agreement remain bound by all of the provisions of the Law.

2. Tax Abatement: From and after the date of issuance of the permanent certificate of occupancy by the Municipality building department or the Municipality construction code official, with respect to the Project (hereinafter the "Substantial Completion Date") and until the last day of the calendar year during which occurs the thirtieth anniversary of such date, the Project shall be exempt from taxation on all improvements constituting the Project in accordance with the Law, unless sooner terminated as provided in Paragraph 8. The Project shall make a payment in lieu of such taxes as is specified in Paragraph 3. This exemption shall not apply to any real estate taxes payable on the land on which the Project is located. Also, the real estate taxes paid on the land shall be credited against the service charge payable in accordance with Paragraph 3. LLC warrants and represents that it shall use, manage and operate the Project as represented in the Application or otherwise for residential housing for low income and market rate citizens throughout the term of this agreement.

3. Payments in Lieu of Taxes: In consideration of the aforesaid abatement of taxation on Project improvements during the term of exemption for the period commencing with the Substantial Completion Date and ending in the calendar year as set forth in Paragraph 2, LLC shall pay to the Municipality an annual service charge for municipal services (herein "Annual Service Charge") supplied to the Project. The annual service charge shall be equal to ten (10%) percent of the Project Revenue; provided that the Annual Service Charge from years 1-15 shall not be less than the minimum specified in Paragraph 4 herein below and further provided that during years 16 through 21 the Annual Service Charge shall not be less than the amount specified in the N.J.S.A. 40A:20-12(b)(2)(b); and during years 22 through 27 not less than amount specified in N.J.S.A. 40A:20-12(b)(2)(c); and for years 28 and 29 not less than the amount specified in N.J.S.A. 40A:20-12(b)(2)(d); and for year 30 not less than the amount specified in N.J.S.A. 40A:20-12(b)(2)(e). LLC shall be entitled to an annual credit against the Annual Service Charge in the amount of any real estate taxes on land paid by it for the year. The Annual Service Charge, as adjusted, shall be payable by LLC to the Municipality in four (4) quarterly installments as are nearly equal as practicable on those dates when quarterly real estate tax payments are due the Municipality.

4. Minimum Payment: In no event shall the Annual Service Charge before the reduction for land taxes paid for the Project in any calendar year including and after the year of the Substantial Completion Date during the term of this Agreement, be less than the total taxes levied against all real property comprising the Project for the last full calendar year during which such real property was subject to tax preceding the year during which the Project is placed in service.
5. Limited-Dividend Entity: During the period of tax abatement herein, the distribution of profits and dividends payable by LLC to its owners shall be limited according to the limitations on distributions of profits and dividends under the Law. The parties recognize an amortization period of thirty years for the project to be included in the calculation of Net Profit pursuant to N. J. S. A 40A:20-3(c)(1). Within ninety (90) days of the end of each fiscal year during such period (currently, December 31), LLC shall submit an annual audited statement to the Mayor and Municipal Council and to the Director of the Division of Local Government Services of the Department of Community Affairs, pursuant to N.J.S.A. 40A:20-9d.
6. Financing. The plan for financing the Project as set forth in the application, is incorporated herein including, but not limited to (a) the estimated total project cost, (b) the construction and permanent financing sources, (c) the amortization rate on the total project cost, (d) the source and amount paid in capital, (e) the terms of mortgage amortization and payment of principal on mortgages and (f) the rental schedules and lease terms to be used with respect to units in the Project.
7. Inspection: LLC covenants and agrees that it shall, upon three (3) days written notice by either the Municipality or the State of New Jersey and their duly authorized representatives, permit inspection of the equipment, building and other facilities of the Project.
8. Termination: This agreement shall terminate at the end of the tax exemption period described in Paragraph 2 hereof, unless sooner terminated in accordance with the procedures under N.J.S.A. 40A:30-13. If the Project shall cease to be used for low and moderate income housing (other than for, repair or reconstruction of the facility), the Municipality on written notice to the LLC or successor Owner and opportunity to be heard, may terminate the tax exempt status after such notice and opportunity to be heard, if it makes an objective finding and determination that the purposes for

which the tax exemption has been granted are no longer being served.

9. Transfer to Another Urban Renewal Entity. The Municipality will consent to a sale or other transfer of the Project by LLC to another urban renewal entity organized under the Law, their successors, assigns so long as such urban renewal entity does not own any other project receiving tax exemption under the Law. At the time of transfer and upon assumption by the transferee urban renewal entity of the transferor's obligations under this financial agreement, the tax exemption of the Project shall continue and inure to the transferee urban renewal entity, its respective successors or assigns. In the event the Project becomes owned by a non profit corporation then, as allowable by the Law, the term of this Agreement shall extend for forty (40) years and the minimum Annual Service Charge for the entire term of this Agreement shall be the amount specified in Paragraph 4.

10. Notice: Any approval, consent, request, waiver, notice or other document required or permitted to be given pursuant to any provision of this Agreement shall be deemed duly given only when in writing, signed by or on behalf of the person giving the same, and either personally delivered (with receipt acknowledged by the recipient) or deposited in a designated United States mail depository registered or certified mail, return receipt requested, postage prepaid, addressed to the person or persons to whom such approval, consent, request, waiver or notices to be given at their respective addresses:

If to the Township of West Orange to:

Clerk, Township of West Orange
66 Main Street
West Orange, New Jersey 07052

If to LLC to:

Joseph Alpert
The Alpert Group LLC
One Parker Plaza
Fort Lee, New Jersey 07024

11. Binding Effect: The provisions of this agreement shall be binding upon and inure to the benefit of the parties hereto, their respective personal representatives, heirs, successors or assigns.

12. Counterparts: This Agreement may be executed in any number of counterparts, each of which shall for all purposes constitute one agreement, which is binding upon the parties hereto.

13. Severability: Each provision of this Agreement is severable and the invalidity and the illegality of any of the provisions of this Agreement or its application to any person shall not affect the validity or the legality of any other provision or application to any person.

14. Waiver: Any term of this Agreement to which any party is entitled to the benefit of, may be waived at any time by such party by written instrument duly executed and such waiver shall not constitute or be deemed a waiver of any other term or provision of this Agreement.

15. Entire Agreement: This Agreement constitutes the entire agreement of the parties hereto with respect to the matter set forth herein and supersedes any prior understanding or agreement, oral or written.

16. Arbitration: The parties agree that all disputes arising under this Agreement shall be resolved by arbitration in accordance with the procedures and by a qualified arbitrator or arbitrators certified and selected as provided by the American Arbitration Association.

17. Applicable Law: This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey.

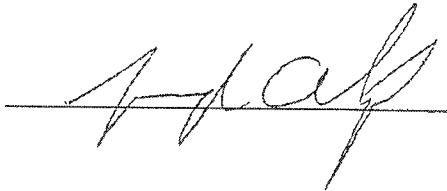
18. Authorization to Execute Agreement: On _____ at a meeting of the Municipal Council of the Municipality, the Municipal Council introduced and passed an Ordinance approving the granting of a tax abatement and payment in lieu of taxes, which Ordinance further authorized the Mayor to enter into a Financial Agreement in accordance with the Long Term Tax Exemption Law, N.J.S.A. 40A-20-1 et. seq. and in accordance with the provisions of the Ordinance, granting a tax abatement to the Project.

IN WITNESS WHEREOF, this Agreement has been executed as of the day and year first above written.

WITNESS:

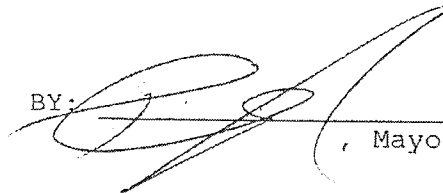
Valley Road Residential Urban
Renewal, LLC



By: 

Township of West Orange:



BY:  , Mayor