

REDEVELOPMENT AGREEMENT

BY AND BETWEEN

THE TOWNSHIP OF WEST ORANGE, NEW JERSEY

AND

WEST ORANGE SENIOR HOUSING, LLC

Dated: _____, 2019

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THIS REDEVELOPMENT AGREEMENT (“**Redevelopment Agreement**”) is made this ____ day of _____, 2019 by and between:

THE TOWNSHIP OF WEST ORANGE, in the County of Essex, 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 a “redevelopment entity” pursuant to *N.J.S.A. 40A:12A-4(c)* (hereinafter referred as the “**Township**”);

AND

WEST ORANGE SENIOR HOUSING, LLC, a New Jersey limited liability company, having its offices at 1 Parker Plaza, Fort Lee, New Jersey 07024 (together with permitted successors or assigns as hereinafter provided, referred to as the “**Redeveloper**”). The Township and the Redeveloper are sometimes collectively referred to as the “**Parties**”.

WITNESSETH

WHEREAS, the Township Council of the Township of West Orange, in the County of Essex, New Jersey (the “**Township Council**”) adopted Resolution 99-19 on March 19, 2019 pursuant to the provisions of the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the “**Redevelopment Law**”), and based upon the report and recommendation of the West Orange Planning Board (the “**Planning Board**”), designating a portion (the portion that contains the West Orange Public Library) of certain property identified on the official tax maps of the Township as Block 68, Lot 1, as an area in need of redevelopment (the “**Property**”); and

WHEREAS, pursuant to *N.J.S.A. 40A:12A-7*, the Township Council, in accordance with the applicable provisions and requirements of the Redevelopment Law, on July 16, 2019 enacted the West Orange Library Redevelopment Plan (as may be amended and supplemented from time to time, the “**Redevelopment Plan**”); and

WHEREAS, the Redeveloper wishes to develop the Property with a 65-unit age-restricted, affordable housing project including 61 one-bedroom units, 3 two-bedroom units, and 1 two-bedroom superintendent’s unit in accordance with the provisions of the New Jersey Housing and Mortgage Finance Agency Law of 1983 (*N.J.S.A. 55:14K-1 et seq.*), 7,500 square feet of space to be used by the Township for a public purpose (the “**Township Space**”) to be located in a four-story elevator building, and on-site parking as specifically set forth on the concept plan attached as Exhibit A (the “**Project**”) and in accordance with the Redevelopment Plan; and

WHEREAS, the Township has determined that the Redeveloper possesses the proper qualifications and experience to implement and complete the Project in accordance with the Redevelopment Plan, and all other applicable laws, ordinances and regulations; and

WHEREAS, the Township is fee owner of the Property; and

WHEREAS, in order to effectuate this Redevelopment Agreement, the Redeveloper shall enter into a 99-year lease of the Property with the Township and shall lease back the Township Space to the Township for the same 99-year term; and

WHEREAS, in order to effectuate the Redevelopment Plan, the Project and the redevelopment of the Property, the Township Council has determined to enter into this Redevelopment Agreement with the Redeveloper, which Redevelopment Agreement designates Redeveloper as the “redeveloper” of the Project as that term is defined in the Redevelopment Law, and which specifies the respective rights and responsibilities of the Township and the Redeveloper with respect to the Project,

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 1: DEFINITIONS

1.01. Definitions. As used in this Redevelopment Agreement the following terms shall have the meanings ascribed to such terms below. Terms listed below in the singular form shall include the plural and words listed in the plural shall include the singular. Whenever the context may require, any pronoun that is used in this Redevelopment Agreement shall include the corresponding masculine, feminine and neuter. All references to Sections, Articles or Exhibits shall refer to Sections, Articles or Exhibits in this Redevelopment Agreement unless otherwise specified.

(a) The following terms shall have the meanings ascribed to them in the Recitals to this Redevelopment Agreement:

Parties	Redevelopment Law
Planning Board	Redevelopment Plan
Project	Township
Property	Township Council
Redeveloper	Township Space
Redevelopment Agreement	

(b) The following terms shall have the definitions ascribed to them herein:

“**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.

“**Appeal Period**” shall mean the period of time specified by statute or court rule within which an appeal may be taken by any party from the grant of any Governmental Approval.

“**Applicable Laws**” means all federal, State and local laws, ordinances, approvals, rules, regulations and requirements applicable thereto including, but not limited to, the Redevelopment Law, the MLUL, Environmental Laws, relevant construction codes including construction codes governing access for people with disabilities, and such other applicable zoning, sanitary,

pollution and other environmental safety ordinances, laws and such rules and regulations promulgated thereunder, and all applicable environmental laws and applicable federal and state labor standards.

“**Bond**” is defined in Section 4.09(b).

“**Building Permit**” means a building permit issued by or on behalf of the Township for construction of the Project, excluding a demolition permit but including a footings and foundation permit.

“**Business Days**” means all days except Saturdays, Sundays and the days observed as public holidays by the Township.

“**Certificate of Completion**” means written acknowledgement by the Township in recordable form that the Redeveloper has Completed Construction of the Project in accordance with the requirements of this Redevelopment Agreement, substantially in the form annexed hereto as Exhibit B.

“**Certificate of Occupancy**” means a temporary or permanent certificate of occupancy as defined in the applicable ordinances of the Township and the applicable provisions of the Uniform Construction Code.

“**Commencement**”, “**Commence Construction**”, “**Commencement of Construction**”, or “**Commencement Date**” means the undertaking of any actual physical construction of any portion of the Project, including but not limited to demolition, site preparation, or the substantial rehabilitation or construction of Improvements or construction or upgrading of infrastructure.

“**Completion**”, “**Completion of Construction**”, “**Complete Construction**”, or “**Completion Date**” means the completion of construction of the Project in accordance with the Redevelopment Plan and this Redevelopment Agreement, sufficient for issuance of Certificates of Occupancy for the building and every dwelling unit and subject only to (i) completion of "punchlist" items or minor conditions of the Governmental Approvals, and (ii) installation of landscaping, if the delay in completion thereof is necessitated by seasonal concerns.

“**Completion Notice**” means written notification to the Township of Completion of Construction of the Project and request by Redeveloper for the issuance by the Township of a Certificate of Completion.

“**Concept Plan**” is as attached hereto as Exhibit A.

“**Construction Event of Default**” means if Redeveloper (i) fails to Commence Construction within the time frame specified in this Redevelopment Agreement (as same may be modified pursuant to the terms hereof and subject to Force Majeure); or (ii) abandons the Project or substantially suspends construction work after obtaining a Building Permit or Commencement of Construction without the prior knowledge and consent of the Township for more than one hundred twenty (120) days (unless such suspension arises out of a Force Majeure Event), and

any such failure, abandonment or suspension under clauses (i) or (ii) shall not be cured, ended, or remedied within sixty (60) days after receipt by the Redeveloper of Notice of such failure, abandonment or suspension; provided, however, that if the failure, abandonment or suspension is one that cannot be completely cured within sixty (60) days after receipt of such Notice, it shall not be a Construction Event of Default as long as the Redeveloper promptly began to take actions to correct the failure, abandonment or suspension upon its receipt of Notice thereof and is proceeding with due diligence to remedy the failure, abandonment or suspension as soon as reasonably practicable.

“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.

“County” means Essex County, New Jersey.

“Declaration of Covenants and Restrictions” or **“Declaration of Restrictions”** means a written instrument to be executed by Redeveloper and recorded in the Office of the Essex County Clerk, substantially in the form annexed hereto as Exhibit C, intended to encumber the Property and to run with the land until a Certificate of Completion has been issued for the Project, except as otherwise expressly provided therein, setting forth certain statutory and contractual undertakings of and restrictions applicable to Redeveloper and its permitted successors and assigns in connection with the ownership and redevelopment of the Project, all as more particularly described in Article 3.

“Effective Date” means the date this Redevelopment Agreement has been executed by both the Township and the Redeveloper.

“Environmental Laws” means any applicable federal, State, local, municipal or other statutes, laws, ordinances, rules, regulations or other legally enforceable requirement, whether presently existing or hereinafter enacted, promulgated or otherwise created, or the common law, for the protection of the environment or human health from Hazardous Materials, as the same may be amended or supplemented from time to time, including, without limitation, (a) the New Jersey Spill Compensation and Control Act, as amended, *N.J.S.A. 58:10-23.11, et seq.*; (b) the New Jersey Industrial Site Recovery Act, as amended, *N.J.S.A. 13:1K-6, et seq.*; (c) the New Jersey Underground Storage of Hazardous Substances Act, as amended, *N.J.S.A. 58:10A-21, et seq.*; (d) the New Jersey Site Remediation Reform Act, *N.J.S.A. 58:10C-1, et seq.*; (e) the New Jersey Solid Waste Management Act, *N.J.S.A. 13:1E-1 et seq.*; (f) the New Jersey Brownfield and Contaminated Site Remediation Act; *N.J.S.A. 58:10B-1 et seq.*; (g) the Coastal Area Facility Review Act, *N.J.S.A. 13:19-1 et. seq.*; (h) the New Jersey Water Pollution Control Act, *N.J.S.A. 58:10A-1 et seq.*; (i) the Solid Waste Utility Control Act, *N.J.S.A. 48:13A-1 et seq.*; (j) the Comprehensive Environmental Response, Compensation & Liability Act, as amended, 42 *U.S.C. Section 9601, et seq.*; (k) the Resource Conservation and Recovery Act, as amended, 42 *U.S.C. Section 6901, et seq.*; (l) the Hazardous Material Transportation Act, as amended, 49 *U.S.C. Section 180, et seq.*; (m) the Occupational Safety and Health Act, as amended, 29 *U.S.C. Section 651, et seq.*; (n) the Administrative Requirements for the Remediation of Contaminated Sites,

N.J.A.C. 7:26C, et seq.; (o) the NJDEP Remediation Standards, *N.J.A.C. 7:26D, et seq.*; or (p) the Technical Requirements for Site Remediation, *N.J.A.C. 7:26E, et seq.*

“**Escrow Account**” is defined in Section 6.01(a).

“**Escrow Deposit**” is defined in Section 6.01(a).

“**Estoppel Certificate**” is defined in Section 8.12.

“**Event of Default**” is defined in Section 5.01.

“**Existing Members**” means the Persons owning membership interests in the Redeveloper as of the date of this Redevelopment Agreement, who are as follows: Joseph Alpert.

“**Force Majeure Event**” means 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; 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); acts of the public enemy; acts of terrorism; acts of war; fire; epidemics; quarantine restrictions; blackouts, power failures, or energy shortages; and governmental embargoes; strikes or similar labor action by equipment or material suppliers or transporters, or unavailability of necessary building materials.

“**Foreclosure**” is defined in Section 7.03(b).

“**Governmental Approvals**” means all governmental approvals required for the Commencement of Construction, Completion of Construction, and use and occupancy of the Project, including, without limitation, land use approval by the Planning Board and any deviations that may be required for the Project; County planning board approvals, if and to the extent required; Building Permits; environmental permits, approvals, consents or authorizations from NJDEP and any other applicable governmental agencies; sewerage capacity approvals, utilities-related permits and any and all other necessary governmental permits, licenses, consents and approvals.

“**Ground Lease**” is defined in Section 4.03(a).

“**Hazardous Materials**” means any substance which is or contains (i) any "hazardous substance" as now or hereafter defined in §101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. §9601, *et seq.*) (“**CERCLA**”) or any regulations promulgated under CERCLA; (ii) any “hazardous waste” as now or hereafter defined in the Resource Conservation and Recovery Act (42 U.S.C. §6901, *et seq.*) (“**RCRA**”) or regulations promulgated under RCRA; (iii) any substance regulated by ISRA or any regulations promulgated under ISRA, the Spill Compensation and Control Act (*N.J.S.A. 58:10-23.11, et seq.*) (the “**Spill Act**”), or any regulations promulgated under the Spill Act, the Solid Waste Management Act (*N.J.S.A. 13:1E-1, et seq.*), or any regulations promulgated under

the Solid Waste Management Act; (iv) any substance regulated by the Toxic Substances Control Act (15 U.S.C. §2601, *et seq.*); (v) gasoline, diesel fuel, or other petroleum hydrocarbons; (vi) asbestos and asbestos containing materials, in any form, whether friable or non-friable; (vii) polychlorinated biphenyls; (viii) radon gas; and (ix) any additional substances or materials which are now or hereafter determined, classified or considered to be hazardous or toxic, or subject to regulation or need to be specially treated, handled, and/or removed from the Property pursuant to any Environmental Laws.

“Improvements” shall mean all improvements constructed as part of the Project.

“Institution” shall mean any savings and loan association, savings bank, commercial bank or trust company (whether acting individually or in any fiduciary capacity), an insurance company, a real estate investment trust, an educational institution or a state, municipal or similar public employee’s welfare, pension or retirement system or any corporation or entity subject to supervision and regulation by the insurance or banking departments of the State or of the United States Treasury, or any successor department or departments hereafter exercising the same functions as said departments, or any Affiliate of the foregoing.

“MLUL” means the Municipal Land Use Law, *N.J.S.A. 40:55D-1 et seq.*

“Mortgage” means any security interest, evidenced by a written instrument, encumbering the Property, or any portion thereof, that secures the performance of obligations or the payment of debt, including, without limitation, any grant of, pledge of, or security interest in, any collateral, or any grant, directly or indirectly, of any deed of trust, mortgage or similar instrument or any other security whatsoever.

“Mortgagee” shall mean the holder of any Mortgage and any Affiliate(s) of such holder, including entities affiliated with such holder that own or exercise control over real property.

“NJDEP” means the New Jersey Department of Environmental Protection, and any successors in interest.

“Notice” is defined in Section 8.08.

“Permitted Transfer” is defined in Section 3.05(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.

“Public Benefits” is defined in Section 4.01.

“Redevelopment Entity” means the Township acting in its capacity as a redevelopment entity pursuant to the Redevelopment Law and any permitted successors or assigns.

“State” means the State of New Jersey.

“Township Costs” shall mean (i) all reasonable outside professional and consultant fees, out of pocket costs or expenses incurred by the Township arising out of or in connection with the preparation, performance, administration, or enforcement of this Redevelopment Agreement or arising out of or in connection with the Project, after the date of this Redevelopment Agreement; (ii) subject to Redeveloper’s termination rights pursuant to Section 5.03 herein, litigation costs arising out of or in connection with a dispute with a third party with respect to this Redevelopment Agreement or the Project, except that litigation costs regarding the adoption of a resolution by the Township authorizing this Redevelopment Agreement which arise within 45 days from the date of the adoption of the resolution are excluded from this definition; and (iii) any other out of pocket fee, cost or expense reasonably incurred by the Township, after the date of this Redevelopment Agreement, to satisfy its obligations under this Redevelopment Agreement or in furtherance of the Project, but shall not include any and all costs incurred in connection with Redeveloper’s site plan application to the Planning Board and governed by the escrow deposited by Redeveloper in connection with such application in accordance with the MLUL.

“Township Construction Official” means Tom Tracey, or his successor or designee.

“Township Engineer” means Leonard Lepore or his successor or designee.

“Transfer” means prior to Completion of the Project (i) a sale or re-conveyance of all or any portion of the Property or Project by Redeveloper to any other Person; (ii) a sale, pledge, joint venture, equity investment, or any other act or transaction involving or resulting in a change in Control of Redeveloper or change in the Managing Member of Redeveloper as it exists on the date of this Redevelopment Agreement; (iii) a transfer of fifty percent (50%) or more of the membership interest in Redeveloper to a Person other than an Institution, or (iv) any assignment of this Redevelopment Agreement to any other Person.

1.02. Interpretation and Construction. In this Redevelopment Agreement, unless the context otherwise requires:

(a) The terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder” and any similar terms, as used in this Redevelopment Agreement, refer to this Redevelopment Agreement, and the term “hereafter” means after, and the term “heretofore” means before the Effective Date.

(b) Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa.

(c) Words importing persons mean and include firms, associations, partnerships (including limited partnerships), trusts, corporations, limited liability companies and other legal entities, including public or governmental bodies, as well as natural persons.

(d) Any headings preceding the texts of the several Articles and Sections of this Redevelopment Agreement, and any table of contents or marginal notes appended to copies

hereof, shall be solely for convenience of reference and shall not constitute a part of this Redevelopment Agreement, nor shall they affect its meaning, construction or effect.

(e) Unless otherwise indicated, all approvals, consents and acceptances required to be given or made by any Person or Party hereunder shall not be unreasonably withheld, conditioned, or delayed.

ARTICLE 2: REPRESENTATIONS AND WARRANTIES

2.01. Designation as Redeveloper. The Township hereby designates and appoints the Redeveloper as redeveloper of the Project on the Property. For so long as this Redevelopment Agreement and the designation hereunder remain in effect, Redeveloper shall have the exclusive right to redevelop the Property in accordance with the Redevelopment Plan, the Governmental Approvals, the Redevelopment Law and all other Applicable Laws, and the terms and conditions of this Redevelopment Agreement.

2.02. Representations and Warranties of the Township. The Township hereby makes the following representations and warranties:

(a) The Redevelopment Plan has been duly adopted in compliance with all Applicable Laws and is currently in full force and effect;

(b) The Township is a municipal corporation, duly organized and existing under the laws of the State, that has the legal power, right and authority pursuant to the Redevelopment Law to enter into this Redevelopment 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 its obligations hereunder, and has duly executed this Redevelopment Agreement;

(c) All requisite action has been taken by the Township and all requisite consents have been obtained in connection with the entering into this Redevelopment Agreement;

(d) To the best knowledge of the Township there are no writs, injunctions, orders or decrees of any court or governmental body that would be violated by the Township entering into or performing its obligations under this Redevelopment Agreement;

(e) This Redevelopment Agreement has been 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 laws presently in effect and the execution and delivery thereof shall not, with due 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; and

(f) The Township represents that, to the best of its knowledge and belief, after due inquiry, there is no action, proceeding or investigation now pending, nor any basis therefore, known or believed to exist which questions the validity of the Redevelopment Plan or this

Redevelopment Agreement or any action or act taken or to be taken by the Township pursuant to the Redevelopment Plan or Redevelopment Agreement.

2.03. Representations and Warranties of Redeveloper. Redeveloper hereby makes the following representations and warranties:

(a) 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.

(b) Redeveloper is a duly organized and a validly existing legal entity under the laws of the State and all necessary consents 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.

(c) No receiver, liquidator, custodian or trustee of Redeveloper shall have been appointed as of the Effective Date, and no petition to reorganize Redeveloper pursuant to the United States Bankruptcy Code or any similar statute that is applicable to the Redeveloper shall have been filed as of the Effective Date;

(d) No adjudication of bankruptcy of the Redeveloper or a filing for voluntary bankruptcy by Redeveloper under the provisions of the United States Bankruptcy Code or any other similar statute that is applicable to the Redeveloper has been filed;

(e) No indictment has been returned against Redeveloper or any officer or shareholder of Redeveloper;

(f) Redeveloper's execution and delivery of this Redevelopment Agreement and its performance hereunder will not constitute a violation of any operating, partnership and/or stockholder agreement of Redeveloper or of any agreement, mortgage, indenture, instrument or judgment, to which Redeveloper is a party;

(g) Redeveloper is financially and technically capable of leasing, developing, designing, financing, constructing, operating, and maintaining the Project;

(h) 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 which (i) questions the validity of this Redevelopment Agreement or any action or act taken or to be taken by Redeveloper pursuant to this Redevelopment Agreement; or (ii) is likely to result in a material adverse change in Redeveloper's property, assets, liabilities or condition which will materially and substantially impair its ability to perform pursuant to the terms of this Redevelopment Agreement;

(i) To the best of Redeveloper's knowledge and belief after diligent inquiry all information and statements included in any information submitted to the Township and its agents are true and correct in all respects. Redeveloper acknowledges that the facts and representations

contained in the information, submitted by Redeveloper are a material factor in the decision of the Township to enter into this Redevelopment Agreement; and

(j) Redeveloper is not delinquent with respect to any taxes, payments in lieu of tax, service charge, or similar obligations owed to the Township for any property situated in the Township.

ARTICLE 3: COVENANTS AND RESTRICTIONS

3.01. Covenants and Restrictions. Redeveloper agrees to record the Declaration of Restrictions in the office of the Essex County Clerk immediately upon the execution of this Redevelopment Agreement.

3.02. Description of Covenants. The following covenants and restrictions are imposed upon Redeveloper, its successors and assigns, and are intended to run with the land until a Certificate of Completion has been issued for the Project, except as otherwise provided, which shall be recorded simultaneously with the execution of the Ground Lease substantially in the form of the Declaration of Covenants and Restrictions annexed hereto as Exhibit C:

(a) Redeveloper shall construct the Project on the Property in accordance with, and subject to the terms of, the Redevelopment Plan, this Redevelopment Agreement, and all Applicable Laws and Governmental Approvals;

(b) Except for Permitted Transfers, and subject to the terms hereof, prior to the issuance of a Certificate of Completion, Redeveloper shall not effect a Transfer without the written consent of the Township, which shall not be unreasonably withheld, conditioned or delayed;

(c) In connection with its use or occupancy of the Project, Redeveloper shall not effect or execute any covenant, agreement, lease, conveyance or other instrument whereby the Property is restricted upon the basis of race, color, creed, religion, ancestry, national origin, sexual orientation, sex or familial status, and Redeveloper, its successors and assigns, shall comply with all Applicable Laws prohibiting discrimination or segregation by reason of race, color, creed, religion, ancestry, national origin, sexual orientation, sex or familial status;

(d) Subject to and in accordance with the terms hereof, Redeveloper shall, upon Completion of Construction, obtain a Certificate of Occupancy and all other Government Approvals required for the occupancy and uses of the Property for the purposes contemplated hereby;

(e) Subject to and in accordance with the terms hereof, Redeveloper shall cause the Project to be developed, financed, constructed, operated and maintained at its sole cost and expense;

(f) Subject to and in accordance with the terms hereof, Redeveloper shall lease, develop, finance, construct, operate and maintain the Project consistent with Applicable Laws,

Government Approvals, the Redevelopment Plan, and this Redevelopment Agreement including the obligation to use commercially reasonable efforts to meet all deadlines and timeframes set forth in this Redevelopment Agreement;

(g) Prior to the issuance of a Certificate of Completion, Redeveloper shall not encumber, hypothecate or otherwise use the Property, or any part thereof as collateral for any transaction unrelated to the Project; and

(h) Upon commencement of the Ground Lease, Redeveloper will promptly pay any and all taxes, service charges, business improvement district special assessments or similar obligations when owed with respect to the Property and at all times for any other property owned by Redeveloper situated in the Township.

3.03. Effect and Duration of Covenants. It is intended and agreed that the covenants and restrictions set forth in Section 3.02 shall be covenants running with the land. All covenants in Section 3.02, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this 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 3.02 shall cease and terminate upon the issuance of a Certificate of Completion, substantially in the form annexed hereto as Exhibit B, provided however, that the covenants in Section 3.02(c) shall remain in effect without limitation as to time.

3.04. Enforcement by Township. In amplification, and not in restriction of the provisions of this Article 3, 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 3.02 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.

3.05. Prohibition Against Transfers of Interests in Redeveloper. (a) 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 Redevelopment Agreement. The Township considers that a change of Control in Redeveloper, a change in the Managing Member of Redeveloper, or the transfer of fifty percent (50%) or more of the ownership interest in Redeveloper to any Person other than an Institution, 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 Redevelopment Agreement with Redeveloper, and, in so doing, the Township is relying on the obligations of Redeveloper and not some other Person for the faithful performance of all

undertakings and covenants to be performed by Redeveloper hereunder. As a result, except for Permitted Transfers, prior to Completion of the Project as evidenced by the issuance of a Certificate of Completion, and without the prior written approval of the Township, which shall not be unreasonably withheld, conditioned or delayed, Redeveloper agrees for itself and all successors in interest that there shall be no change in Control of Redeveloper, there shall be no change in the Managing Member of Redeveloper, nor shall there be any transfer of fifty percent (50%) or more of the ownership interest in Redeveloper to any Person other than an Institution. At all times during the term of this Redevelopment Agreement, Joseph Alpert, or an Affiliate of Joseph Alpert, shall maintain ownership of at least fifty percent (50%) of the managing member interest in the Redeveloper. At all times, Joseph Alpert shall control the managing member and the managing member shall control the Redeveloper.

(b) The Township hereby consents, without the necessity of further approvals from any entity, to the following Transfers (each, a “**Permitted Transfer**”):

(i) 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 lease, development, construction, or marketing of the Project and not any transaction or project unrelated to 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 Mortgagee; or

(ii) Transfers of easements or dedications of portions or interests in the Property as may be required for utilities for the Project or otherwise as conditions of Governmental Approvals;

(iii) Environmental covenants and restrictions imposed by a regulatory agency as a condition of any permit or approval;

(iv) A lease agreement to a tenant or end user of the Project;

(v) A Transfer to an Affiliate of the Redeveloper, to one of the Existing Members, or to an entity controlled by Redeveloper or one or more of the Existing Members; and

(vi) A Transfer pursuant to a Foreclosure, and any Transfer by any Mortgagee or any Mortgagee’s successor and/or assigns after Foreclosure.

(vii) A Transfer described in Section 3.05(c).

(c) Further, notwithstanding any provisions of this Section 3.05 or any other provision of this Agreement to the contrary, Township consent is not required for: (i) the admission of a tax credit investor into the Redeveloper, (ii) the transfers of ownership interests in

a tax credit investor, or (iii) transfers of ownership in Redeveloper by a tax credit investor entity to any one or more Affiliates or other tax credit investor.

3.06. Township Covenants. The Township hereby covenants and agrees that:

(a) The Township shall undertake and complete, with due diligence, all of its obligations under this Redevelopment Agreement.

(b) The Redeveloper has been designated as the exclusive redeveloper of the Property and shall have the exclusive right and obligation to redevelop the Property and implement the Project in accordance with the terms and conditions of this Redevelopment Agreement.

ARTICLE 4: PROJECT

4.01. Public Benefits of Project. The Parties acknowledge the important public benefits associated with the Project as follows (collectively, the “**Public Benefits**”):

(a) The construction of the Project will help the Township meet the current housing shortage for affordable housing for senior citizens.

(b) The Project includes a 7,500 square-foot space to be leased back to the Township in accordance with Section 4.04, which can be used by the Township for a public purpose.

(c) As compensation for the Ground Lease, Redeveloper shall contribute One Million Dollars (\$1,000,000.00) towards the development of a new West Orange public library in accordance with Section 4.05.

4.02. Land Use Approvals. The Township shall use best efforts to obtain municipal land use approvals for the Project subject to the following conditions:

(a) Redeveloper shall pay all fees and costs associated with the preparation, submission and hearings to obtain municipal land use approvals, including but not limited to any application fees.

(b) Redeveloper shall coordinate, collaborate and cooperate with the Township in connection with obtaining the municipal land use approvals, including but not limited to, providing all required documents and experts.

(c) Redeveloper shall comply with all comments provided by the Planning Board in connection with obtaining the municipal land use approvals.

4.03. Lease of the Property.

(a) The Township agrees to lease the portion of Block 68, Lot 1 that contains the West Orange Public Library to Redeveloper on the terms and conditions set forth in a ground lease by and between the Parties in a form to be agreed to by the Parties (the “**Ground Lease**”),

and in consideration of Redeveloper's undertaking to Commence and Complete Construction of the Project in accordance with the provisions of this Redevelopment Agreement. The terms and conditions of the Ground Lease shall include, but not be limited to:

(i) The term of the Ground Lease shall be for a period of Ninety-Nine (99) years.

(ii) In addition to the Public Benefits detailed in Section 4.01, consideration for the Ground Lease shall be as set forth in Section 4.05.

(iii) Redeveloper shall lease back to the Township the Township Space in accordance with Section 4.04 for a period of Ninety-Nine (99) years to run concurrently with the Ground Lease.

(iv) The Deed Restrictions set forth in Section 4.10 shall be in full force and effect throughout the entire term of the Ground Lease.

(v) Conveyance to Redeveloper of all municipal land use approvals obtained in accordance with Section 4.02.

(b) Prior to the execution of the Ground Lease, a Certificate of Occupancy for a new West Orange public library must have been issued.

(c) If at any time the Redeveloper's ability to lease the Property is terminated in accordance with the provisions of the Ground Lease, then this Redevelopment Agreement and Redeveloper's designation as redeveloper of the Property shall terminate simultaneously therewith.

(d) The Parties hereby expressly acknowledge and agree that to the extent any portion of the Property requires environmental investigation or remediation under applicable Environmental Laws, the Township shall have no responsibility therefor. The Parties expressly agree and acknowledge that, upon the effective date of the Ground Lease, it shall be the sole responsibility of the Redeveloper to diligently undertake and pay the cost and expenses related to any and all environmental investigation, remediation, environmental testing, permits, approvals, and/or other analyses with respect to the Property, including the retention of a New Jersey Licensed Site Remediation Professional, in compliance with applicable Environmental Laws and regulatory timeframes, and that the Township has no obligation or liability whatsoever with respect to the environmental condition of the Property, or any other property for which any third-party may claim that Hazardous Materials originating from the Property are impacting thereon. Prior to the effective date of the Ground Lease, and excepting the due diligence previously conducted, Redeveloper shall NOT undertake any further environmental investigation, remediation, testing, and/or other analyses and shall make no submissions, filings or correspondence with any federal, state or local regulatory body, including, without limitation, the NJDEP, with respect to the physical or environmental condition of the Property.

(e) Redeveloper shall provide the Township, at no cost to the Township, electronic copies of all documents related to its environmental investigation activities conducted pursuant

to Section 4.03(d), including, without limitation, all preliminary assessment reports, site investigation work plans, site investigation reports, remedial investigation work plans, remedial investigation reports, remedial action work plans, remedial action reports, sampling analytical reports, diagrams, charts, maps and any notices, directives, reports, correspondence or other documents received from or submitted to any federal, state or local regulatory body, including, without limitation, the NJDEP, with respect to the physical or environmental condition of the Property. Redeveloper shall provide the Township with such copies within five (5) business days from issuance by its New Jersey Licensed Site Remediation Professional or submission to / receipt from any federal, State or local regulatory body.

(f) The Redeveloper is leasing the Property from the Township in “AS IS, WHERE IS, AND WITH ALL FAULTS” condition. The Township makes no representation or warranty as to the condition of the Property, including with respect to environmental matters. The Redeveloper is responsible for conducting its own due diligence with respect to the condition of the Property. The Redeveloper acknowledges and confirms that it is not relying on any representation or inducement which was or may have been made or implied by the Township or any other party acting on behalf of the Township with respect to the Property. After the effective date of the Ground Lease, the Township shall have no liability or obligation to Redeveloper or any other person or party under Environmental Laws with respect to the Property.

4.04. Lease Back of Township Space. Simultaneously with the Ground Lease (either included in the same document or as a separate lease document), Redeveloper shall lease back to the Township the Township Space within the Project for use by the Township for a public purpose. The lease back of the Township Space shall be for a period of Ninety-Nine (99) years to run concurrently with the Ground Lease. The Ground Lease shall be the consideration for such lease back of the Township Space and no further compensation for the lease back of the Township Space shall be due. Within Ninety (90) days of the commencement of the Ground Lease, Redeveloper shall complete the fit-out of the Township Space such that there is a wall and door dividing the Township Space from the remainder of the Project, painted walls and finished floors.

4.05. Consideration. In addition to the Public Benefits detailed in Section 4.01, the Township agrees to enter into the Ground Lease in exchange for one of the following, at the Township’s option:

(a) A contribution in the total amount of One Million Dollars (\$1,000,000.00) paid to the Township to be used for the construction of a new West Orange public library to be paid within sixty (60) days after receipt of a written demand for such contribution by the Township; or

(b) Redeveloper shall cause a new West Orange public library to be constructed at Redeveloper’s expense up to a total amount of One Million Dollars (\$1,000,000.00) and at a location to be determined by the Township. In the event the cost of development of a new West Orange public library exceeds One Million Dollars (\$1,000,000.00), the Township shall be responsible for payment to Redeveloper for the development costs in excess of One Million Dollars (\$1,000,000.00).

4.06. Timeline.

(a) Project Timeline.

(i) Within one hundred and twenty (120) days from the effective date of this Redevelopment Agreement, Redeveloper and Township shall file an application for municipal land use approval in accordance with the provisions of Section 4.02;

(ii) Redeveloper shall use commercially reasonable efforts to obtain all other final and unappealable Governmental Approvals on or before the ninetieth (90th) day after Redeveloper has obtained final and unappealable land use approval. To the extent reasonably requested by the Redeveloper, and to the extent applicable, the Township shall provide assistance and support to the Redeveloper in connection with any applications for any Governmental Approvals required to be obtained for or with respect to the Project;

(iii) Subject to Section 4.03(b), Redeveloper shall use commercially reasonable efforts to execute the Ground Lease on or before the forty-fifth (45th) day after Redeveloper obtains final and unappealable Governmental Approvals;

(iv) Within Ninety (90) days of the commencement of the Ground Lease, Redeveloper shall complete the fit-out of the Township Space in accordance with Section 4.04.

(v) Redeveloper agrees to use commercially reasonable efforts to Commence Construction of the Project within thirty (30) days after issuance of a Building Permit for the Project, in any case, Commencement of Construction cannot occur until after execution of the Ground Lease by both Parties; and

(vi) Redeveloper agrees to use commercially reasonable efforts to Complete Construction of the Project on or before twenty-four (24) months after issuance of a Building Permit for the Project.

(b) If, subject to the provisions of this Redevelopment Agreement, the Redeveloper fails, or determines that it will fail, to meet any relevant date for the completion of a task set forth in the Project time line set forth above, for any reason, the Redeveloper shall promptly provide notice to the Township stating: (i) the reason for the failure or anticipated failure, (ii) the Redeveloper's proposed method for correcting such failure, (iii) the Redeveloper's proposal for revising the Project time line and (iv) the method or methods by which the Redeveloper proposes to achieve subsequent tasks by the relevant dates set forth in the revised Project time line. Redeveloper's proposed revisions to the Project time line shall be subject to the Township's approval, which shall not be unreasonably withheld, conditioned or delayed.

(c) In the event that: Redeveloper does not obtain all necessary Governmental Approvals for the Project; or cannot enter into a Ground Lease for the Property, Redeveloper and the Township shall each have the right to terminate this Redevelopment Agreement upon written notice to the other party, provided that, if Redeveloper shall have entered into the Ground Lease,

Redeveloper shall thereafter waive its voluntary termination right set forth in this Section 4.06(c) unless and until it restores the Property (in the sole discretion of the Township) to the condition in which the Property existed on the effective date of the Ground Lease. No Governmental Approval shall be deemed to have been obtained (i) until the Appeal Period relating thereto has expired and no appeal has been taken, or (ii) if an appeal is filed within the applicable Appeal Period, until such appeal shall have been finally resolved in a manner sustaining the challenged Governmental Approval. If this Redevelopment Agreement is terminated pursuant to the terms of this Section 4.06(c), then, except as expressly set forth herein to the contrary, this Redevelopment Agreement shall be of no further force and effect and the Parties hereto shall have no further rights, liabilities and/or obligations hereunder.

4.07. Construction of the Project.

(a) The Project shall be constructed in accordance with this Redevelopment Agreement, the Concept Plan and the Redevelopment Plan.

(b) Construction practices and hours shall be in accordance with Township Ordinances, which are available at the Township Building Department or through the Township Clerk.

(c) The Property will be cleaned on a regular basis by Redeveloper; provided, however, that Redeveloper agrees to clean up the Property within twenty-four (24) hours of a specific, reasonable request by the Township that Redeveloper do so or the close of the following Business Day, whichever is later. Ordinary construction equipment, materials and debris are allowed on the Project site during construction. Should Redeveloper fail to comply with this obligation, the Township will undertake street cleaning and charge Redeveloper for the costs of same. The Redeveloper shall repair, at Redeveloper's cost, any damage to the streets or sidewalks caused by Redeveloper during the construction of the Project.

(d) The Township acknowledges that for safety reasons, the sidewalks adjacent to the Property may need to be closed from time to time during construction of the Project. Notwithstanding the foregoing, Redeveloper will provide appropriate signage and crosswalks to ensure the continued flow of pedestrian traffic. Redeveloper shall supply to the Township Building Department plans and specifications providing for pedestrian safety at and across the Property as applicable. The Redeveloper shall keep the sidewalks abutting the Property clean and free of debris, ice and snow during the construction of the Project.

(e) The Redeveloper shall make arrangements with the Township Construction Official and the Township Police Department for off-street parking for construction vehicles and construction worker's vehicles, if such vehicles cannot be parked on the Property. The Township agrees to place from time to time temporary "emergency, no parking" signs on the adjacent street as reasonably requested by Redeveloper to accommodate Redeveloper's construction activities.

(f) There shall be a preconstruction meeting held at least seven (7) days prior to the Commencement of Construction, which meeting shall include the Township Construction

Official, the Township Engineer, a representative from the Township Police Department, a representative from the Township Fire Department and representatives from the various utility companies.

4.08. Certificates of Occupancy and Certificate of Completion.

(a) The Township, in accordance with its ordinances and regulations then in effect, upon application of Redeveloper, shall issue Certificates of Occupancy from time to time, as applicable, for the building and/or individual residential units, as may be necessary to enable Redeveloper to lease same to third parties.

(b) Following Completion of the Project, the Township agrees to issue a Certificate of Completion upon receipt of a Completion Notice from Redeveloper. The Certificate of Completion shall constitute a recordable, conclusive determination of the satisfaction and termination of the agreements and covenants with respect to the Project in this Redevelopment Agreement and the Redevelopment Plan. Within thirty (30) days after receipt of the Completion Notice, the Township shall provide 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 hereunder and what reasonable measures or acts will be necessary in the reasonable opinion of the Township in order for Redeveloper to be entitled to the Certificate of Completion.

4.09. Project Costs, Financing and Performance and Maintenance Guarantees.

(a) Redeveloper agrees that the costs and financing for the Project are the sole responsibility of the Redeveloper, not the Township.

(b) Redeveloper shall post performance and maintenance guarantees and review escrows in accordance with the provisions of *N.J.S.A. 40:55D-53 et seq.* of the MLUL and all Applicable Laws (collectively, the “**Bond**”), in the following manner:

(i) Prior to the Commencement of Construction, a performance bond or irrevocable letter of credit (or such other form of guarantee allowed in accordance with the MLUL) for those Improvements for which a performance guarantee may be required pursuant to the MLUL and as may be required pursuant to the land use approval, in an amount to be determined by the Township Engineer pursuant to the MLUL.

(ii) A maintenance guarantee in respect of those Improvements required to be bonded in accordance with the MLUL, in the form of a surety bond (or such other form of guarantee allowed in accordance with the MLUL) for a period not to exceed two (2) years after final acceptance of the Improvement, in an amount not to exceed fifteen percent (15%) of the cost of the Improvement, which cost shall be determined by the Township Engineer according to the method of calculation set forth in *N.J.S.A. 40:55D-53*.

(iii) If applicable, the Bond must name the Township as an obligee and Redeveloper shall deliver a copy of the Bond to the Township prior to Commencement of Construction. To the extent that a surety bond is provided, it shall be provided by a company licensed by the New Jersey Department of Banking and Insurance or otherwise authorized by the New Jersey Department of Banking and Insurance to do business in the State. In the event any insurance company, financial institution or other entity issuing a performance guarantee herein, shall be insolvent or shall declare bankruptcy or otherwise be subject to reorganization, rehabilitation, or other action, whereby state or federal agencies have taken over the management of the entity, within thirty (30) days after notice from the Township, Redeveloper shall replace the Bond.

(iv) In the event any Bond should lapse, be canceled or withdrawn, or otherwise not remain in full force and effect as a result of any act or omission by Redeveloper, then until an approved replacement of the lapsed Bond has been deposited with the Township, the Township may require Redeveloper to cease and desist any and all work on the Project, unless the Improvements required to be bonded have been completed and approved by the Township. In the event any Bond should lapse, be canceled or withdrawn, or otherwise not remain in full force and effect through no act or omission of Redeveloper, then unless Redeveloper fails to replace the Bond within ten business (10) days of notice given to Redeveloper by the Township, the Township may require Redeveloper to cease and desist work on the Project unless the Improvements required to be bonded have been completed and approved by the Township.

4.10. Deed Restrictions. (a) Redeveloper shall provide a 99-year deed restriction on the Project restricting all residential units, except one (1) on-site superintendent unit, to occupancy by low- and moderate-income residents in compliance with applicable State and Municipal laws and regulations related to development and marketing of affordable housing units. The deed restriction shall be prepared by Redeveloper and presented to the Township Attorney for review and approval as to form and substance. The deed restriction shall be recorded by Redeveloper at Redeveloper's expense prior to the issuance of the first Certificate of Occupancy.

(b) Redeveloper shall provide a 99-year deed restriction on the Project restricting all residential units, except one (1) on-site superintendent unit, to be age-restricted as defined by applicable State, Municipal and Federal laws and regulations. The deed restriction shall be prepared by Redeveloper and presented to the Township Attorney for review and approval as to form and substance. The deed restriction shall be recorded by Redeveloper at Redeveloper's expense prior to the issuance of the first Certificate of Occupancy.

4.11. Progress Meetings. Redeveloper agrees to attend and participate in progress meetings every six (6) months with representatives of the Township to report on the status of the Project and to review the progress under the Project Timeline. Progress meetings shall commence six (6) months after the Effective Date of this Agreement and shall terminate upon the issuance of the Certificate of Completion. The meetings shall be held at the Township's Municipal Building or other convenient location in the Township. Prior to the meeting, representatives of the Township may visit the Property to inspect the progress of the work on the

Project. Redeveloper shall prepare the agenda for the progress meeting in advance of the meeting (which shall include, *inter alia*, any agenda items reasonably requested by the Township) and shall provide information to the Township at the meetings regarding the Project progress including but not limited to, Governmental Approval submissions, financial commitments, construction of the Project, compliance with the Redevelopment Plan and activities concerning marketing and leasing, if applicable.

4.12. Progress Reports. Commencing on the first day of the second month after the Effective Date, Redeveloper shall submit to the Township a quarterly written progress report which shall include a detailed timetable for construction and completion of the Project, description of activities completed, the activities to be undertaken prior to the next quarterly progress report, the status of all Governmental Approvals, an explanation of each activity, if any, which is showing delay, a description of problem areas, current and anticipated delaying factors and their estimated impact on performance of other activities and completion dates in the Project Timeline and an explanation of corrective action taken or proposed.

ARTICLE 5: EVENTS OF DEFAULT; TERMINATION

5.01. Events of Default. 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 Redevelopment Agreement:

(a) If at any time Redeveloper shall: (i) generally not pay its debts as such debts become due, within the meaning of such phrase under Title 11 of the United States Code (or any successor to such statute), or admit in writing that it is unable to pay its debts as such debts become due; or (ii) make an assignment for the benefit of creditors; or (iii) file a voluntary petition under Title 11 of the United States Code, as the same may be amended, or any successor to such statute; or (iv) file any petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal bankruptcy code or any other present or future applicable federal or state or other statute or law; or (v) seek or consent to or acquiesce in the appointment of any custodian, trustee, receiver, sequestrator, liquidator or other similar official of Redeveloper or of all or any substantial part of its property or of the Property or any interest of Redeveloper therein; or (vi) take any corporate action in furtherance of any action described in this subsection or (vii) if at any time any proceeding against Redeveloper seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future applicable federal or State or other statute or law shall not be dismissed within ninety (90) days after the commencement thereof, or if, within ninety (90) days after the appointment without the consent of Redeveloper of any custodian, trustee, receiver, sequestrator, liquidator or any other similar official of Redeveloper, or of all or any substantial part of its properties or of the Property or any interest of Redeveloper therein, such appointment shall not have been vacated or stayed on appeal or otherwise, or if any such appointment shall not have been vacated within forty-five (45) days after the expiration of any such stay;

(b) 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 after Notice by the Township;

(c) Cancellation or termination by reason of any act or omission of Redeveloper of any insurance policy, performance or completion bond, letter of credit, guaranty or other surety required hereunder to be provided by Redeveloper for the benefit of the Township, which failure or delinquency is not cured within thirty (30) days after Notice by the Township;

(d) Any Transfer (except for Permitted Transfers), without the approval (or deemed approval pursuant to Section 3.05(b)) of the Township;

(e) Any default under the Ground Lease by Redeveloper or the Township which is not cured in accordance with the terms thereof; or

(f) Any other default or breach by Redeveloper or the Township in the observance or performance of any covenant, condition, representation, warranty or agreement hereunder and, except as otherwise specified below, the continuance of such default or breach for a period of thirty (30) days after Notice from the non-defaulting party specifying the nature of such default or breach and requesting that such default or breach be remedied; provided, however, with respect to any non-monetary default or breach, if the default or breach 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 defaulting party 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 Redevelopment Agreement specifically provides otherwise.

5.02. Remedies Upon Event of Default of Redeveloper. If an Event of Default by the Redeveloper occurs, then the Township may take whatever action at law or in equity as Township may deem necessary or desirable to enforce the performance or observance of any rights or remedies of Township, or any obligations, agreements, or covenants of the Redeveloper under this Redevelopment Agreement, including an action for specific performance and/or actual, compensatory damages (but specifically excluding consequential or punitive damages). Further, but subject to any cure provisions afforded the Redeveloper hereunder, the Township shall have the right, in its sole and absolute discretion, on written notice to the Redeveloper (after applicable Notice and cure period shall have expired), to terminate this Redevelopment Agreement upon which, except as expressly provided for herein, this Redevelopment Agreement shall be void and of no further force and effect and neither Party shall have any further rights, liabilities and/or obligations hereunder. In the event of such termination, and provided that the Redeveloper has not Commenced Construction or entered into a permitted Mortgage with an Institution for the construction of the Project, then the Ground Lease shall be terminated. In addition, if Redeveloper fails to pay any Township Costs in accordance with the requirements of this Redevelopment Agreement, the Township may file legal action seeking payment of the Township Costs.

5.03. Remedies Upon Event of Default by the Township. If an Event of Default by the Township occurs, then the Redeveloper may take whatever action at law or in equity as

Redeveloper may deem necessary or desirable to enforce the performance or observance of any rights or remedies of Redeveloper, or any obligations, agreements, or covenants of the Township under this Redevelopment Agreement, including an action for specific performance and/or actual, compensatory damages (but specifically excluding consequential or punitive damages). Further, but subject to any cure provisions afforded the Township hereunder, the Redeveloper shall have the right, in its sole and absolute discretion, on written notice to the Township (after applicable Notice and cure period shall have expired), to terminate this Redevelopment Agreement upon which, except as expressly provided for herein, this Redevelopment Agreement shall be void and of no further force and effect and neither Party shall have any further rights, liabilities and/or obligations hereunder and the Ground Lease shall simultaneously terminate.

5.04. Force Majeure Extension. For the purposes of this Redevelopment 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. 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 or Redeveloper from declaring a default or the occurrence of an Event of Default by the other party if the event that is the basis of the Event of Default is not a result of the Force Majeure Event.

5.05. No Waiver. Except as otherwise expressly provided in this Redevelopment Agreement, any failure or delay by either party hereunder in asserting any of its rights or remedies as to any default by the other party, shall not operate as a waiver of such default, or of any such rights or remedies, or to deprive the Township or the Redeveloper, as the case may be, of its right to institute and maintain any actions or proceedings in accordance with this Redevelopment Agreement, which it may deem necessary to protect, assert or enforce any such rights or remedies.

5.06. 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.

5.07. Termination Rights Related to Litigation. If third party litigation is commenced challenging the validity of (i) the designation of the Property, (ii) the Redevelopment Plan, or (iii) execution of this Redevelopment Agreement by the Township, 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 this Redevelopment Agreement; provided, however, that if such litigation is finally determined in favor of the plaintiff with no further opportunity for appeal, then either Party may terminate

this Redevelopment Agreement by written notice to the other. Upon such termination, this Redevelopment Agreement shall be void and of no further force and effect and neither Party hereto shall have any rights, liabilities and/or obligations hereunder.

ARTICLE 6: TOWNSHIP COSTS

6.01. Escrow Account to Cover Township Costs.

(a) Redeveloper hereby establishes with the Township an escrow account (the “**Escrow Account**”) having an initial balance of Twenty-Five Thousand Dollars (\$25,000.00) to cover Township Costs (the “**Escrow Deposit**”).

(b) Notwithstanding anything to the contrary contained herein, if the Township retains a different professional or consultant in the place of any professional originally responsible for any aspect of the project, the Township shall be responsible for all time and expenses of the new professional to become familiar with the project and the Township shall not bill Redeveloper or charge the Escrow Account for any such services.

6.02. Escrow Procedures.

(a) The Escrow Deposit is separate from and in addition to all other application fees and escrow deposits that may be required by the Township pursuant to the terms of the Redevelopment Agreement, including any applications for land use approvals that may be needed to implement the Redevelopment Plan. Additions to the Escrow Deposit may subsequently become necessary to cover all reimbursable expenses incurred by the Township, as “Escrowee”, pursuant to the terms of this Redevelopment Agreement.

(b) 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 this Redevelopment Agreement.

(c) The Escrowee shall use the Escrow Deposit and all additions thereto to pay Township Costs in accordance with the provisions of this 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 services, each date the services were performed, the hours spent in not greater than one-tenth (1/10) hour increments, the hourly rate, and specifying the services performed. 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 professionals or the Escrowee shall simultaneously send an informational copy of each voucher or statement submitted to the Escrowee to the Redeveloper; provided, that each such informational voucher or statement may be redacted if and as necessary to prevent disclosure of privileged or otherwise confidential matters.

(d) Within three (3) Business Days after a written request by the Redeveloper is received by the Township Attorney, the Escrowee shall prepare and send to the Redeveloper a statement which shall include an accounting of funds listing all deposits, disbursements and the cumulative balance of the Escrow Account. If at any time the balance in the Escrow Account is less than Five Thousand Dollars (\$5,000.00), the Escrowee shall provide the Redeveloper with a notice of the insufficient Escrow Account balance. Redeveloper shall deposit to the Escrow Account additional funds such that the total amount on deposit shall be not less than Fifteen Thousand Dollars (\$15,000.00) such deposit to be made within five (5) Business Days after the Escrowee's notice, failing which the Escrowee may unilaterally cease work without liability to the Redeveloper.

(e) Upon the issuance of a Certificate of Completion or other termination of this Redevelopment Agreement, the Redeveloper shall send written Notice by certified mail to the Escrowee requesting that the remaining balance of the Escrow Account be refunded, or otherwise applied in accordance with the provisions of this Redevelopment Agreement. After receipt of such Notice, the professional(s) shall render a final bill to Escrowee within thirty (30) days, and shall send an informational copy simultaneously to the Redeveloper. Within thirty (30) days after receipt of the final bill the Escrowee shall pay all outstanding bills and render a written final accounting to the Redeveloper. The Redeveloper will not be responsible for any additional charges once the final accounting has been rendered by the Escrowee in accordance with this section. This Section shall survive issuance of a Certificate of Completion or other termination of this Redevelopment Agreement.

(f) The Redeveloper may dispute the propriety or reasonableness of Township Costs paid out of the Escrow Account by written Notice to the Escrowee. A copy of such Notice shall be sent simultaneously to the professional(s) whose charges or estimated costs are the subject of the dispute. Such written Notice of a disputed charge shall be given within thirty (30) days after the Redeveloper's receipt of the informational copy of the professional's voucher, invoice, statement or bill, except that if the professional has not supplied the Redeveloper with an informational copy of the voucher, invoice, statement or bill, then the Redeveloper shall send Notice within thirty (30) days after 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 the Redeveloper's acceptance of the charge and a waiver by the Redeveloper of all objections to the charge and to payment thereof out of the Escrow Account. The terms of this Section shall survive termination of this Redevelopment Agreement. If the Escrowee and the Redeveloper cannot agree on the resolution of a disputed charge, the parties agree to arbitrate the matter, with a retired judge mutually agreeable to the parties acting as arbitrator. During the pendency of a dispute, the Escrowee shall not pay the disputed charges out of the Escrow Account but may continue to pay undisputed charges out of the Escrow Account.

(g) The terms of this Section 6.02 shall survive termination of this Redevelopment Agreement.

ARTICLE 7: FINANCING

7.01. Mortgage Financing.

(a) During the term of this Redevelopment Agreement, the Redeveloper shall not engage in any financing or any other transaction creating any Mortgage on the Project in excess of ninety percent (90%) of the cost of leasing the Property and developing the Project (including designing, permitting and constructing the Project), except as may be approved by the Township (which approval shall not be unreasonably withheld) for the purpose of obtaining funds in connection with the construction of the Project.

(b) In the event that the Redeveloper is unable to obtain financing for the Project on terms and conditions acceptable to Redeveloper in its sole discretion, or if Redeveloper determines that financing for the Project cannot be obtained on terms and conditions acceptable to Redeveloper in its sole discretion, then prior to the Closing Date, Redeveloper shall have the right to terminate this Redevelopment Agreement upon written notice to the Township.

(c) If this Redevelopment Agreement is terminated pursuant to the terms of this Section 7.01 then, except as expressly set forth herein to the contrary and upon full payment of all Township Costs accruing until the date of such termination, this Redevelopment Agreement (including, without limitation, all the covenants contained herein) shall be of no further force and effect and the Parties hereto shall have no further rights, liabilities and/or obligations hereunder.

(d) If the Mortgagee reasonably requires any change(s) or modification(s) to the terms of this Redevelopment Agreement, the Township shall reasonably cooperate with the Mortgagee and the Redeveloper in reviewing and approving such proposed change(s) or modification(s); provided, however, that any such proposed change or modification shall not materially and adversely alter or modify the rights and obligations of the Redeveloper or the Township, as provided in this Redevelopment Agreement.

7.02. Notice of Default to the Mortgagee and Right to Cure. 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 Mortgagee and tax credit investor 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 Mortgagee and tax credit investor in Redeveloper. Each such Mortgagee and tax credit investor in Redeveloper (insofar as the rights of the Township are concerned) has the right at its option within sixty (60) days after the receipt of such Notice (and the expiration of all applicable cure periods), to cure or remedy, or to commence to cure or remedy, any such default which is subject to being cured and to add the cost thereof to the debt and the lien which it holds. The Township shall not seek to enforce any of its remedies under this Redevelopment Agreement during the period in which any such Mortgagee and tax credit investor in Redeveloper is proceeding diligently and in good faith to cure a Redeveloper Event of Default. If the Mortgagee and/or tax credit investor in Redeveloper elects to cure the Event of Default within such sixty (60) day period, but has not completed such cure, then not later than every sixty (60) days thereafter until such Event of Default is cured, Redeveloper shall inform the Township that the Mortgagee and/or tax credit investor in Redeveloper is proceeding diligently to cure the Redeveloper Event of Default, and briefly describe the course of action being pursued to effectuate such cure. Notwithstanding the foregoing, the Township may seek to

enforce any of its remedies under this Redevelopment Agreement with respect to a monetary Event of Default if such monetary Event of Default is not cured within such sixty (60) day period after notice thereof.

7.03. No Guarantee of Construction or Completion by Mortgagee.

(a) A Mortgagee shall in no manner be obligated by the provisions of this Redevelopment Agreement to construct or complete the Project, or to guarantee such construction or completion; nor shall any covenant or any other provisions be construed so to obligate a Mortgagee. Nothing contained in this Redevelopment Agreement shall be deemed to permit or authorize such Mortgagee to undertake or continue the construction or completion of the Project (beyond the extent necessary to conserve or protect the Mortgagee's security, including the Improvements or construction already made) without the Mortgagee or Affiliate of Mortgagee first having expressly assumed the Redeveloper's obligations to the Township with respect to the Project by written agreement reasonably satisfactory to the Township.

(b) If a Mortgagee forecloses its Mortgage secured by the Project, or takes title (in its name or the name of an Affiliate) to the Project by deed-in-lieu of foreclosure or similar transaction (collectively a “**Foreclosure**”), the Mortgagee or its Affiliate shall have the option to either (i) sell the Project to any Person, provided Mortgagee gives the Township Notice of such sale at least twenty (20) days prior to closing and provided such Person assumes the obligations of the Redeveloper under this Redevelopment Agreement in accordance with Applicable Law, and/or (ii) assume the obligations of the Redeveloper under this Redevelopment Agreement in accordance with Applicable Law. The Mortgagee, or the entity assuming the obligations of the Redeveloper, in that event must agree to complete the Project in accordance with the terms of this Redevelopment Agreement, but subject to reasonable extensions of any deadlines hereunder. Any such Mortgagee, or other entity assuming such obligations of the Redeveloper, upon completing the Project shall be entitled, upon written request made to the Township, to a Certificate of Completion in accordance with the terms of this Redevelopment Agreement. Nothing in this Redevelopment Agreement shall be construed or deemed to permit or to authorize any Mortgagee, or such other entity assuming such obligations of the Redeveloper, to devote the Property, or any part thereof, to any uses, or to construct any Improvements thereon, other than those uses or Improvements provided for or authorized by this Redevelopment Agreement and the Redevelopment Plan. The Mortgagee or such other entity that assumes the obligations of the Redeveloper shall be entitled to develop the Property or Project in accordance herewith.

ARTICLE 8: MISCELLANEOUS

8.01. No Consideration for Agreement. 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 and costs associated with Lot 1. 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.

8.02. Non-Liability of Officials and Employees.

(a) No member, official or employee of the Township shall be personally liable to 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 Redeveloper or its successor, or on any obligation under the terms of this Redevelopment Agreement.

(b) No member, officer, shareholder, director, partner or employee 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.

8.03. Modification of Agreement. No modification, waiver, amendment, discharge, or change of this Redevelopment Agreement shall be valid unless the same is in writing, duly authorized, and signed by Redeveloper and the Township.

8.04. Recitals and Exhibits. The Recitals and all Exhibits annexed to this Redevelopment Agreement are hereby made a part of this Redevelopment Agreement by this reference thereto.

8.05. Entire Agreement. This Redevelopment Agreement and the Ground Lease constitute the entire agreement between the parties hereto and supersede all prior oral and written agreements between the parties with respect to the subject matter hereof.

8.06. 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.

8.07. Indemnification. Redeveloper, for itself and its successors and assigns, covenants and agrees, at its sole cost and expense to indemnify, defend and hold harmless the Township, its Mayor, its governing body, their respective officers, employees, agents, contractors, boards, departments, officials, attorneys and consultants from any third party claims, liabilities, losses, costs, damages, penalties and expenses (including reasonable attorney's fees) resulting from or in connection with the acts or omissions of Redeveloper or of Redeveloper's agents, employees, or consultants in connection with the lease of the Property, development, financing, design, construction, operation, or maintenance of the Project, provided, however, that no indemnification shall be required pursuant to this Section 8.07 in the event that the indemnification otherwise due pursuant to this Section 8.07 is attributable to the gross negligence or willful misconduct of the Township, its governing body, or any agency of the Township or any of their respective officers, employees, agents, attorneys, consultants, representatives and employees. This Section shall survive termination of this Redevelopment Agreement.

8.08. Notices. A notice, demand or other communication required to be given under this Redevelopment Agreement by any Party to the other (each, a "**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, signature required, or delivered personally (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:

Mayor Robert D. Parisi
Township of West Orange
66 Main Street
West Orange, New Jersey 07052

With a copy to:

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

As to the Redeveloper:

Joseph Alpert
West Orange Senior Housing, LLC
1 Parker Plaza
Fort Lee, New Jersey 07024

With a copy to:

David J. Ritter, Esq.
Brach Eichler, LLC
101 Eisenhower Parkway
Roseland, New Jersey 07068

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 the earlier of receipt or rejection of delivery by the addressee, provided, that any Notice delivered by telecopy shall be deemed to have been received by such party at the time of transmission, provided that a hard copy and transmission confirmation is simultaneously sent by a recognized overnight national carrier service for next business day delivery. Any Notice given by an attorney for a party shall be effective for all purposes.

8.09. Further Assurances/Cooperation. The Parties shall reasonably cooperate with each other as reasonably necessary to effectuate the Project. From time to time at the request of

either Redeveloper or the Township, the other party shall execute, acknowledge and deliver such other and further documents as the requesting party may reasonably request to better effectuate the provisions of this Redevelopment Agreement.

8.10. Governing Law. This Redevelopment Agreement shall be construed and enforced in accordance with the internal laws of the State of New Jersey, without giving effect to the principles of conflicts of law.

8.11. Counterparts. This Redevelopment Agreement may be executed in one or more counterparts (which may be copies delivered electronically or by facsimile), each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same Agreement.

8.12. Estoppel Certificates. Within fourteen (14) days following written request therefore by a Party hereto (which request may be on behalf of any Mortgagee, purchaser, tenant or other party having an interest in the Property), the other party shall issue a signed certificate (“**Estoppel Certificate**”) stating that (i) this Redevelopment Agreement is in full force and effect, (ii) there is no Event of Default under this Redevelopment Agreement (nor any event which, with the passage of time and the giving of notice would result in an Event of Default under this Redevelopment Agreement), or stating the nature of the Event of Default or other such event, if any, and (iii) any other matter reasonably requested. In the event the Estoppel Certificate discloses an Event of Default or other event, it shall also state the manner in which such default, breach and/or event may be cured.

**THE BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK; SIGNATURE
PAGE FOLLOWS.**

IN WITNESS WHEREOF, the parties have executed this Redevelopment Agreement effective as of the latest date of the signatures affixed hereto.

Attest:

TOWNSHIP OF WEST ORANGE

Karen Carnevale, RMC
Township Clerk

By: _____
Mayor Robert D. Parisi

SEAL

Dated: _____

Witness:

WEST ORANGE SENIOR HOUSING, LLC

By: _____
Name: Joseph Alpert
Title: Managing Member

Dated: _____

7/12/19; subject to final review & revision

EXHIBIT A
CONCEPT PLAN

EXHIBIT B

FORM OF CERTIFICATE OF COMPLETION

Record and Return to:

Prepared by:

Certificate of Completion

_____, 20__

WEST ORANGE SENIOR HOUSING, LLC
1 Parker Plaza
Fort Lee, New Jersey 07024

RE: Certificate of Completion

Ladies and Gentlemen:

In accordance with Section 3.03 of the Redevelopment Agreement entered into by the Township of West Orange (the "**Township**") and West Orange Senior Housing, LLC (the "**Redeveloper**"), dated as of [_____] (the "**Agreement**"), this letter shall serve as acknowledgment that Redeveloper has performed all of its duties and obligations with respect to the Project (as such term is defined in the Agreement) under the Agreement and has completed construction of the Project in accordance with the requirements of the Agreement.

This Certificate of Completion shall constitute a recordable conclusive determination of the satisfaction and termination of the Redeveloper's obligations, responsibilities and covenants under the Agreement, except for Section 3.02(c) thereof, which by the terms of the Agreement shall survive such termination. The conditions that were found and determined to exist with respect to the Property (as defined in the Agreement) at the time the Property was determined to be in need of redevelopment shall be deemed to no longer exist and the Property shall no longer be subject to the possibility of eminent domain as a result of those determinations.

The Declaration recorded in the office of the Essex County Clerk on [_____] in deed book [____], page [____] is hereby discharged of record and is void and of no further force and effect, except with respect to Section 3.02(c) thereof, which remains in effect without limitation as to time.

Very truly yours,

TOWNSHIP OF WEST ORANGE

By:_____

Name:

Title:

ACKNOWLEDGMENT

STATE OF NEW JERSEY :

: ss.:

COUNTY OF ESSEX :

BE IT REMEMBERED, that on this ____ day of _____, 20__ 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/she is the _____ 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 _____ as and for the voluntary act and deed of said entity.

Notary or Attorney At Law
The State of New Jersey

EXHIBIT C

FORM DECLARATION OF COVENANTS AND RESTRICTIONS

Record and Return to:

Prepared by:

DECLARATION OF COVENANTS AND RESTRICTIONS

Block 68, Lot 1 in the Township of West Orange, New Jersey (the "**Property**")

This Declaration of Restrictions is made this ____ day of _____, 2019 by and between the **TOWNSHIP OF WEST ORANGE** (the "**Township**"), a municipal corporation of the State of New Jersey having its offices at 100 Mountain Avenue, West Orange, New Jersey 07081, in its capacity as redevelopment entity pursuant to *N.J.S.A. 40A:12A-4(c)*;

and

WEST ORANGE SENIOR HOUSING, LLC, a limited liability company of the State of New Jersey, having its offices at 1 Parker Plaza, Fort Lee, New Jersey 07024 (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 Council of the Township of West Orange, in the County of Essex, New Jersey (the "**Township Council**") adopted Resolution 99-19 on March 19, 2019 pursuant to the provisions of the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the "**Redevelopment Law**"), and based upon the report and recommendation of the West Orange Planning Board (the "**Planning Board**"), designating a portion (the portion that contains the West Orange Public Library) of certain property identified on the official tax maps of the Township as Block 68, Lot 1, as an area in need of redevelopment (the "**Property**"); and

WHEREAS, pursuant to *N.J.S.A. 40A:12A-7*, the Township Council, in accordance with the applicable provisions and requirements of the Redevelopment Law, on July 16, 2019 enacted the West Orange Library Redevelopment Plan (as may be amended and supplemented from time to time, the "**Redevelopment Plan**"); and

WHEREAS, the Redeveloper wishes to develop the Property with a [65-unit age-restricted, affordable housing project in accordance with the provisions of the New Jersey Housing and Mortgage Finance Agency Law of 1983 (*N.J.S.A. 55:14K-1 et seq.*) as specifically

set forth on the concept plan attached as Exhibit A (the "**Project**") and in accordance with the Redevelopment Plan; 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 contains such a covenant by the Redeveloper and its successor or assigns for as long as the Redevelopment Agreement remains in effect, as well as one (1) perpetual covenant by the Redeveloper and its successor or assigns not to unlawfully discriminate upon the basis of race color creed, religion, ancestry, national origin, sex or familial status in the sale, lease, rental, use or occupancy of the Property or any building or structures erected thereon; and

WHEREAS, the Redevelopment Agreement also provides that the Property, the Redevelopment Agreement, and Redeveloper's interest therein shall not be transferable, subject to certain conditions, prior to the issuance of a Certificate of Completion and further provides certain remedies to the Township for violations of the covenants and defaults under the Redevelopment Agreement; 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 and Governmental Approvals.

(b) Except for Permitted Transfers, and subject to the terms hereof, prior to the issuance of a Certificate of Completion, Redeveloper shall not effect a Transfer without the written consent of the Township, which shall not be unreasonably withheld, conditioned or delayed.

(c) In connection with its use or occupancy of the Project, Redeveloper shall not effect or execute any covenant, agreement, lease, conveyance or other instrument whereby the Property is restricted upon the basis of race, color, creed, religion, ancestry, national origin, sexual orientation, sex or familial status, and Redeveloper, its successors and assigns, shall comply with all Applicable Laws prohibiting discrimination or segregation by reason of race, color, creed, religion, ancestry, national origin, sexual orientation, sex or familial status.

(d) Redeveloper shall, upon Completion of Construction, obtain a Certificate of Occupancy and all other Government Approvals required for the occupancy and uses of the Property for the purposes contemplated hereby.

(e) Redeveloper shall cause the Project to be developed, financed, constructed, operated and maintained at its sole cost and expense.

(f) Redeveloper shall develop, finance, construct, operate and maintain the Project consistent with Applicable Laws, Government Approvals, the Redevelopment Plan, and the Redevelopment Agreement including the obligation to use commercially reasonable efforts to meet all deadlines and timeframes set forth in the Redevelopment Agreement.

(g) Prior to the issuance of a Certificate of Completion, Redeveloper shall not encumber, hypothecate or otherwise use the Property, or any part thereof as collateral for any transaction unrelated to the Project.

(h) Redeveloper will promptly pay and any and all taxes, service charges, business improvement district special assessments or similar obligations when owed with respect to the Property and any other property owned by Redeveloper situated in the Township.

(i) 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 were critical to the Township in entering into the Redevelopment Agreement. The Township considers that a change of Control in Redeveloper, a change in the Managing Member of Redeveloper, or the transfer of fifty percent (50%) or more of the ownership interest in Redeveloper to any Person other than an Institution, 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 entered into the Redevelopment Agreement with Redeveloper, and, in so doing, the Township relied on the obligations of Redeveloper and not some other Person for the faithful performance of all undertakings and covenants to be performed by Redeveloper under the Redevelopment Agreement. As a result, except for Permitted Transfers, prior to Completion of the Project as evidenced by the issuance of a Certificate of Completion, and without the prior written approval of the Township, which shall not be unreasonably withheld, conditioned or delayed, Redeveloper agrees for itself and all successors in interest that there shall be no change in Control of Redeveloper, there shall be no change in the Managing Member of Redeveloper, nor shall there be any transfer of fifty percent (50%) or more of the ownership interest in Redeveloper to any Person other than an Institution. At all times during the term of

the Redevelopment Agreement, [_____] shall maintain ownership of at least fifty percent (50%) of Redeveloper.

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 this 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(c) 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

Karen Carnevale, RMC
Township Clerk

By: _____
Mayor Robert D. Parisi

Witness:

WEST ORANGE SENIOR HOUSING, LLC

By: _____
Name: Joseph Alpert
Title: Owner

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 ESSEX :

BE IT REMEMBERED, that on this ____ day of _____, 2019 before me, the subscriber, a Notary Public of New Jersey, personally appeared Joseph Alpert, who, being by me duly sworn on his/her oath, deposes and makes proof to my satisfaction that he is the Owner of **WEST ORANGE SENIOR HOUSING, 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 Owner as and for the voluntary act and deed of said entity.

Notary or Attorney At Law
The State of New Jersey