

12/17/19 DRAFT

REDEVELOPMENT AGREEMENT

By and Between

THE TOWNSHIP OF WEST ORANGE

as Redevelopment Entity

and

GREEN ESSEX PARTNERS URBAN RENEWAL, LLC,

as Redeveloper

Dated as of _____

This Redevelopment Agreement (the “**Agreement**” or “**Redevelopment Agreement**”) is dated as of this ____ day of ____, 2019 and entered into by and between **THE TOWNSHIP OF WEST ORANGE, NEW JERSEY** (the “**Township**”), a public body corporate and politic of the State of New Jersey having its offices at 66 Main Street, West Orange, New Jersey 07052, in its capacity as redevelopment entity pursuant to *N.J.S.A. 40A:12A-4(c)*, and **GREEN ESSEX PARTNERS URBAN RENEWAL, LLC**, a limited liability company of the State of New Jersey in accordance with the provisions of the *Long Term Tax Exemption Law of 1992*, as amended and supplemented, *N.J.S.A. 40A:20-1 et seq.* (the “**Exemption Law**”), with offices at c/o BNE Real Estate Group, 16 Microlab Road, Suite A, Livingston, New Jersey 07039 (together with its permitted successors or assigns as hereinafter provided, the “**Redeveloper**”; each of the Township and the Redeveloper a “**Party**” and collectively the “**Parties**”).

W I T N E S S E T H

WHEREAS, the Township, adopted Resolution 17-18 on January 9, 2018 designating, Block 155, Lots 40.02, 40.03, 41.02, 42.02, and Block 155.21, Lot 40 as a non-condemnation “area in need of redevelopment” (the “**Redevelopment Area**”) pursuant to the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the “**Redevelopment Law**”); and

WHEREAS, in accordance with the Redevelopment Law, the Township adopted Ordinance 2573-19 on June 11, 2019 enacting a redevelopment plan for the Redevelopment Area entitled “Essex Green-Executive Drive Redevelopment Plan” and dated May 1, 2019 (as further amended and supplemented from time to time, the “**Redevelopment Plan**”); and

WHEREAS, the Redeveloper is the contract purchaser of Block 155, Lots 40.02 and 42.02 (the “**Property**”) and submitted a proposal to the Township to be designated by the Township as redeveloper for the Property; and

WHEREAS, Block 155, Lot 41.02 is owned by West Orange Office Executive Park, LLC (“**WOOEP**”); and

WHEREAS, the Township evaluated the Redeveloper’s proposal and adopted Resolution 186-19 on July 16, 2019 designating the Redeveloper as conditional redeveloper for the Property; and

WHEREAS, the Redeveloper proposes the redevelopment of the Property including; (1) demolition of all existing improvements on the Property, except for the existing improvements located on Lot 41.02, (2) merge Lots 40.02 and 42.02 and subdivision to create lot for Public Dog Park, (3) design, develop, finance, construct, operate and maintain a residential development consisting of one 4-story building with a basement wrapped around a 4-story parking deck and three additional 4-story buildings with basements with surface parking and individual parking garages, containing up to 425 rental apartments (approximately 20 studio units, 175 one-bedroom units, and 230 two-bedroom units), including up to 64 affordable units (at least 15% of the total number of units constructed) and 361 market rate units, (4) amenity space including a pool, landscaped courtyard and various on grade landscaped park areas, (5)

construction and conveyance to the Township of a Public Dog Park as set forth in Article III and Section 4.3 below, (6) construction of Library Improvements as set forth in Section 4.4 below, (7) cause the conveyance to the Township of Lot 41.02, which is and shall remain owned by WOOEP until conveyance to the Township as set forth in Article III below, and (8) construction of all necessary on- and off-site Infrastructure Improvements as set forth in Section 4.6 below, all subject to receipt of Governmental Approvals (the “**Project**” or “**Redevelopment Project**”); and

WHEREAS, in furtherance of the Redevelopment Plan, the Parties wish to set forth the terms and conditions relating to the design, financing, construction and implementation of the Project upon the Property by the Redeveloper, and to designate the Redeveloper as the redeveloper (as such term is defined in the Redevelopment Law) of the Property on the terms and conditions set forth herein,

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained, the Parties hereto do hereby covenant and agree, each with the other, as follows:

ARTICLE I DEFINITIONS

1.1. Defined Terms. (a) The following terms shall have the meanings ascribed to them in the Recitals above:

Agreement or Redevelopment Agreement	Redevelopment Area
Exemption Law	Redevelopment Law
Party	Redevelopment Plan
Parties	Township
Project or Redevelopment Project	WOOEP
Property	
Redeveloper	

(b) The terms below shall have the following meanings:

“**2017 Tax Appeals**” shall have the meaning ascribed thereto in Section 13.5.

“**Administrative Agent**” shall have the meaning ascribed thereto in Section 4.2(c).

“**Affiliate**” means with respect to any Person, any other Person directly or indirectly Controlling or Controlled by, or under direct or indirect common Control with such Person.

“**Affordable Units**” shall mean those very low, low and moderate income housing units, totaling at least 15% of the total units constructed, required to be constructed within the Project pursuant to Section 4.2 of this Agreement and in accordance with COAH Regulations and UHAC.

“**Applicable Laws**” shall mean all federal, state and local laws, ordinances, approvals,

rules, regulations statutes, permits, resolutions, judgments, orders, decrees, directives, interpretations, standards, licenses and other similar requirements applicable thereto, including but not limited to, the Redevelopment Law, the Municipal Land Use Law, *N.J.S.A. 40:55D-1 et seq.*, the Redevelopment Area Bond Financing Law, *N.J.S.A. 40A:12A-64 et seq.*, the Eminent Domain Act, *N.J.S.A. 20:3-1 et seq.*, the Zoning Ordinance of the Township of West Orange, as and to the extent applicable pursuant to the terms of the Redevelopment Plan, Environmental Laws, the Fair Housing Act of 1985, *N.J.S.A. 52:27D-301 et seq.*, COAH Regulations, relevant construction codes including construction codes governing access for people with disabilities, and all other applicable federal, state or local zoning, land use, environmental, health and safety laws, ordinances, rules and regulations, and federal and state labor standards or regulations.

“Application” or “Government Application” shall mean any application for Governmental Approval submitted by or on behalf of Redeveloper, including all plans, drawings, documentation and presentations necessary and appropriate for the purpose of obtaining any and all Governmental Approvals required to implement and Complete the Project.

“Certificate of Completion” shall mean written acknowledgment by the Township in recordable form that the Redeveloper has completed construction of the Project (or relevant Phase thereof) in accordance with the requirements of this Redevelopment Agreement; and that, in accordance with the provisions of *N.J.S.A. 40A:12A-9*, the conditions determined to exist at the time the area was determined to be in need of redevelopment no longer exist.

“Certificate of Occupancy” shall have the meaning ascribed thereto in the Township’s Municipal Code and in the applicable provisions of the Uniform Construction Code.

“Closing” shall mean the conveyance of title to the Public Dog Park by the Redeveloper and Lot 41.02 by WOOEP to the Township.

“Closing Date One” shall mean the date upon which title to the Public Dog Park is conveyed by the Redeveloper to the Township as further defined in Section 3.6 herein.

“Closing Date Two” shall mean the date upon which title to Lot 41.02 is conveyed by WOOEP to the Township as further defined in Section 3.6 herein.

“COAH” shall mean the Council on Affordable Housing of the State established by the Fair Housing Act of 1985, as same may be amended from time to time.

“COAH Regulations” shall mean the substantive and procedural rules enacted by COAH from time to time, including but not limited to UHAC, as defined below.

“Commence Construction”, “Commencement of Construction”, or “Commencement Date” shall mean the date upon which the construction force and machinery is mobilized for construction of the Project in accordance with Governmental Approvals.

“Completion of Construction”, “Complete Construction” or “Completion Date” shall mean the date upon which the Redeveloper receives a Certificate of Completion for the Project (or relevant Phase or portion thereof).

“Construction Period” shall mean the period beginning on the Commencement Date and ending on the Completion Date.

“Contingency Satisfaction Date” shall mean the date upon which the PILOT Contingency has been satisfied, but not later than the Contingency Satisfaction Deadline.

“Contingency Satisfaction Deadline” shall mean June 30, 2020; *provided, however*, that if as of June 30, 2020, and notwithstanding the diligent and good faith efforts of the Parties, the PILOT Contingency has not been satisfied because required State approvals that have been applied for, which application for State approvals shall be filed no later than April 22, 2020, have not yet been obtained, then either Party by Notice to the other Party may elect to extend the Contingency Satisfaction Deadline until August 31, 2020, or to be consistent with any delay solely caused by the State entity. In the event the PILOT Contingency is not satisfied by the Contingency Satisfaction Deadline the Parties may elect to terminate this Agreement as hereinafter provided; *provided, however*, that upon such termination the Parties shall have no further liability to each other under this Agreement except as otherwise expressly provided to the contrary herein; *and provided further*, that in the event of any such termination the Township shall not be obligated to reimburse Redeveloper for any monies expended by Redeveloper in connection with this Agreement, the Project or the performance of Redeveloper’s obligations hereunder.

“Control” (including the correlative meanings of the terms “controlled by” and “under common control with”), as used with respect to the Redeveloper, the power, directly or indirectly, to direct or cause the direction of the management policies of the Redeveloper, whether through the ownership of an interest in the Redeveloper, or by contract or otherwise.

“Declaration of Covenants and Restrictions” or “Declaration of Restrictions” shall mean a written instrument intended to be executed by Redeveloper, to be recorded in the Office of the Essex County Register and to encumber the Property and to run with the land, setting forth certain statutory and contractual undertakings of and restrictions applicable to Redeveloper and its permitted successors and assigns in connection with the ownership, redevelopment or rehabilitation of the Project, all as more particularly described in Article VII.

“Deed” shall have the meaning ascribed thereto in Section 3.7.

“Deed-Restriction Period” shall have the meaning ascribed thereto in Section 4.2(b).

“Default” shall mean a condition or event which constitutes or would constitute, after notice or lapse of time or both, an Event of Default as more particularly defined in Article X.

“Effective Date” shall mean the date of complete execution of this Agreement by Redeveloper and the Township.

“Environmental Conditions” shall have the meaning ascribed thereto in Section 3.14(b)(ii).

“Environmental Laws” means all common law, federal, state, regional, and local laws, statutes, ordinances, regulations, rules, codes, consent decrees, judicial or administrative orders or decrees, directives or judgments of any federal, state, regional, or local government entity, authority, agency, and/or department with relevant authority relating to environmental contamination, damage to or protection of the environment, environmental conditions, or the use, handling, processing, distribution, generation, treatment, storage, disposal, manufacture or transport of Hazardous Substances materials or wastes, whether heretofore, now in effect or hereinafter enacted or promulgated or amended, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”) (42 U.S.C. §§ 9601-9675); the Resource Conservation and Recovery Act of 1976 (“RCRA”) (42 U.S.C. §§ 6901, et seq.); the Clean Water Act (33 U.S.C. §§ 1251, et seq.); the New Jersey Spill Compensation and Control Act (the “Spill Act”) (N.J.S.A. 58:10-23.11 *et seq.*); the Industrial Site Recovery Act, as amended (“ISRA”) (N.J.S.A. 13:1K-6 *et seq.*); the New Jersey Underground Storage of Hazardous Substances Act (N.J.S.A. 58:10A-21 *et seq.*), the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-1 *et seq.*); the New Jersey Environmental Rights Act (N.J.S.A. 2A:35A-1 *et seq.*); the New Jersey Site Remediation Reform Act (N.J.S.A. 58:10C-1 *et seq.*); and the rules and regulations promulgated thereunder, including but not limited to the Technical Requirements for Site Remediation (N.J.A.C. 7:26E *et seq.*).

“Escrow Account” shall have the meaning ascribed thereto in Section 4.13(a).

“Escrow Deposit” shall have the meaning ascribed thereto in Section 4.13(b).

“Event of Default” shall have the meaning ascribed thereto in Section 10.2.

“Financial Agreement” shall have the meaning ascribed thereto in Section 13.1(a).

“Force Majeure Event” shall mean causes that are beyond the reasonable control and not substantially due to the fault or negligence of the party seeking to excuse delay or failure of performance of an obligation hereunder by reason thereof, including, but not limited to, third-party litigation that enjoins implementation of the Project or the relevant Phase thereof or materially interferes with the ability of Redeveloper to obtain Governmental Approvals and Market Rate Financing for the Project, as more particularly described in Section 10.5 below; declarations of public emergency; acts of nature (as to weather-related events, limited to severe and unusual events or natural occurrences such as hurricanes, tornadoes, earthquakes, and floods not reasonably foreseeable at the time the Project Schedule is agreed to); acts of the public enemy; acts of terrorism; acts of war; fire; epidemics; quarantine restrictions; blackouts, power failures, or energy shortages; governmental embargoes; interruptions in the free flow of capital markets or other instances of illiquidity in global or U.S. capital markets that have a material and adverse effect on Redeveloper’s ability to finance and construct the Project; and strikes or similar labor action by equipment or material suppliers or transporters, or unavailability of necessary building materials (all of the foregoing *provided that* Redeveloper has no commercially

reasonable alternatives to avoid the impact thereof on the progress of the Project.) During any Force Majeure Event that affects only a portion of a Project, Redeveloper shall to the maximum extent feasible continue to perform its obligations for the balance of the Project unaffected by the Force Majeure Event. The existence of an event or occurrence of Force Majeure Event shall not prevent the Township from declaring a default or the occurrence of an Event of Default by the Redeveloper if the event that is the basis of the Event of Default is not a result of the Force Majeure Event.

“Gap Title Defects” shall have the meaning ascribed thereto in Section 3.7(b).

“Governmental Approvals” shall mean all final and unappealable local, state or federal government approvals necessary for implementation and completion of the Project in accordance with the terms of this Agreement, including, without limitation, preliminary and final site plan approval, preliminary and final subdivision approval, if and as applicable, environmental permits, including but not limited to wetlands and storm water drainage permits, permits, consents, permissions or approvals relating to historic preservation matters, utilities-related permits, including permits related to water supply and sewer service, and all other necessary permits, licenses, consents, permissions or approvals from or required by governmental agencies.

“Improvements” shall mean the construction, installation, repair, rehabilitation or reconstruction of all buildings, structures or improvements existing upon, or constructed on or installed as part of the Project, and the provision of any performance bonds, or maintenance bonds, completion guarantees or any other performance assurances in connection therewith.

“Infrastructure Improvements” shall have the meaning ascribed thereto in Section 4.6.

“Library Improvements” shall have the meaning ascribed thereto in Section 4.4.

“Litigation Costs” shall have the meaning ascribed thereto in Section 13.2.

“Malanga Litigation” shall mean Kevin Malanga v. Township of West Orange; Township of West Orange Planning Board; and Township of West Orange Township Council, Superior Court Docket Number ESX-L-1137-18, Appellate Division Docket Number A-004036-18t3.

“Market Rate Financing” shall mean financing for the Commencement of the Project or relevant Phase thereof, including but not limited to one or more of equity participations, “mezzanine” debt, or other financing arrangements in addition to a Mortgage, at interest rates and on terms and conditions that are substantially similar to those generally available for similar projects under generally prevailing industry standards and market conditions.

“Minority” shall mean a person who is a citizen or lawful permanent resident of the United States and who is either one or a combination of: (i) African American (a person having origins in any of the black racial groups of Africa), (ii) Alaskan Native and/or American Indian (a person having origins in any of the original peoples of North America), (iii) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian

subcontinent, Hawaii or the Pacific Islands), (iv) Hispanic (a person of Mexican, Puerto Rican, Cuban, or South American, or other Spanish culture or origin, regardless of race), or (v) Female (a person of the female gender).

“Mortgage” shall mean a permitted mortgage or related security in connection with financing necessary for Redeveloper to perform its obligations under this Redevelopment Agreement, including financing associated with the acquisition, development, construction, or marketing of the Project.

“Mortgagee” shall mean the holder of a Mortgage.

“Notice” shall have the meaning ascribed thereto in Section 14.9.

“Notice of Environmental Impossibility” shall have the meaning ascribed thereto in Section 3.2(e)(v).

“Permitted Exceptions” shall have the meaning ascribed thereto in Section 3.7(b).

“Person” means any individual, sole proprietorship, corporation, partnership, joint venture, limited liability company, trust, unincorporated association, urban renewal entity, institution, or any other entity.

“PILOT” shall have the meaning ascribed thereto in Section 13.1(a).

“PILOT Contingency” shall have the meaning ascribed thereto in Section 13.1(b).

“Plans and Specifications” shall mean all plans, drawings, specifications and related documents needed to obtain Governmental Approvals and to implement and Complete Construction of the Project in accordance with this Agreement and all applicable Governmental Approvals.

“Project Schedule” shall have the meaning ascribed thereto in Section 4.5.

“Public Dog Park” shall have the meaning ascribed thereto in Section 4.3.

“RAB” shall have the meaning ascribed thereto in Section 13.1(a).

“Redeveloper Protections” shall mean the provisions of Article V of this Agreement.

“Redevelopment Entity” shall mean the Township of West Orange, New Jersey or its successors or assigns acting in the capacity of “redevelopment entity” for purposes of the Redevelopment Law.

“Remediation” or **“Remediate”** or **“Remediating”** shall mean demolition, removal, site clearance, disposition and related processing and other costs and charges regarding existing improvements, the land and any groundwater thereunder, and all necessary actions required

under Environmental Laws or any other Applicable Law to investigate and clean up, remove, or otherwise respond to the known or suspected presence or threatened discharge of hazardous substances or hazardous wastes, including, as necessary, preliminary assessment, site investigation, remedial investigation, and remedial action, including as to both demolition and Remediation “soft costs” such as professional fees, site audit costs, agency processing and the like, but specifically excluding fees paid to Redeveloper or to any affiliate of Redeveloper.

“**Survey**” shall have the meaning ascribed thereto in Section 3.7(b).

“**Tax Agreement**” shall have the meaning ascribed thereto in Section 3.5.

“**Tax Court**” shall have the meaning ascribed thereto in Section 13.5.

“**Termination Notice**” shall have the meaning ascribed thereto in Section 10.3.

“**Title Commitment**” shall have the meaning ascribed thereto in Section 3.7(b).

“**Township Costs**” shall mean (i) all outside professional and consultant fees, costs or expenses reasonably incurred by the Township arising out of or in connection with the performance, administration, or enforcement of this Agreement; (ii) Litigation Costs arising out of or in connection with litigation or dispute resolution in connection therewith as more particularly set forth in Section 13.2 below; and (iv) a charge for each special meeting of a municipal board held at the request of or with the consent of Redeveloper, at a current cost of \$1,700 per meeting, which charge shall be adjusted from year to year during the Term of this Agreement to remain equal to the generally applicable charges of the Township for such special meetings. “Township Costs” shall not include charges for services performed in the ordinary course of their employment by Township employees.

“**Transfer**” shall mean a direct or indirect change in ownership or control, or an assignment.

“**UHAC**” shall mean Uniform Housing Affordability Controls, *N.J.A.C. 5:80-26.1, et seq.*, as same may be amended, or any successor laws or regulations.

“**WOOEP Exculpated Parties**” shall have the meaning ascribed thereto in Section 13.4(b)(iii).

ARTICLE II

REDEVELOPER DESIGNATION; TERM OF AGREEMENT

2.1 Redeveloper Designation. The Township hereby designates and appoints the Redeveloper as the exclusive redeveloper of the Property. The Redeveloper has the exclusive right to perform development and redevelopment activities in connection with the Project, and to retain the profits derived therefrom, under the framework and in accordance with the terms of this Agreement, the Redevelopment Plan, and all Applicable Laws.

2.2 Redeveloper's Scope of Undertaking. The services and responsibilities undertaken by the Redeveloper, as more particularly set forth in this Agreement, shall include all aspects of the acquisition, design, development, Remediation, site preparation, and construction of the Project and all Improvements, including, without limitation, engineering, permitting and administrative aspects, the performance of or contracting for and administration and supervision of all construction of Improvements required in connection with the Project, including the provision of any performance bonds, maintenance bonds, completion guarantees or any other performance assurances in connection therewith, whether required as a result of Governmental Approvals or pursuant to the terms of this Agreement; arrangement for interim and final inspections and any other actions required to satisfy the requirements of all Governmental Approvals necessary to develop and use the Project; marketing, sales and the administration, operation and management of the Project; and all aspects of the funding of the Project, including equity funding and construction, interim and permanent financing.

2.3 Term of Agreement. This Agreement shall commence on the Effective Date and shall expire upon the issuance of a final Certificate of Completion coinciding with Completion of Construction of the entire Project, unless earlier terminated in accordance with the provisions hereof.

2.4 Contingencies/Termination. Certain rights and obligations of the Redeveloper under this Agreement are contingent upon the Redeveloper closing on the acquisition of the Property. If the Redeveloper is unable to close on the acquisition of the Property for any reason whatsoever, it may terminate this Agreement upon thirty (30) days' notice to the Township and thereafter the Parties and WOOEP shall have no further rights or obligations among them with regard to this Agreement.

ARTICLE III CONVEYANCE TO TOWNSHIP OF PUBLIC DOG PARK AND LOT 41.02

3.1 Agreement to Convey the Public Dog Park and Lot 41.02. Subject to the terms, conditions and contingencies herein, the Redeveloper agrees to acquire, construct improvements thereon and then convey to the Township the Public Dog Park and cause Lot 41.02 to be conveyed to the Township by WOOEP after the completion of the Library Improvements unless otherwise provided for herein, and the Township agrees to accept the Public Dog Park from the Redeveloper and accept Lot 41.02 from WOOEP, in consideration of the financial considerations granted to Redeveloper by the Township as set forth in the Financial Agreement and on the additional terms and conditions below.

3.2 Public Dog Park and Lot 41.02 to be Conveyed. The Public Dog Park to be conveyed to the Township consists of the land in the approximate location identified in the attached Exhibit A, together with any buildings and improvements thereon and any privileges thereto. The Lot 41.02 to be conveyed to the Township consists of the land as particularly described in the attached Exhibit B, together with any buildings and improvements thereon and any privileges thereto.

3.3 Consideration. The conveyance of the Public Dog Park by the Redeveloper to the Township and Lot 41.02 by WOOEP to the Township shall be for no additional monetary consideration beyond the terms and conditions contained herein and in the Financial Agreement. No consideration shall be due and payable to the Redeveloper or WOOEP by the Township at Closing.

3.4 Conditions Precedent to Closing on Public Dog Park. Prior to Closing on the conveyance of the Public Dog Park to the Township, the Redeveloper shall acquire the property as set forth in Exhibit A, the Redeveloper shall complete construction of the Public Dog Park improvements as set forth in Section 4.3 herein, and the Township shall inspect and approve said improvements.

3.5 Conditions Precedent to Closing on Lot 41.02. Upon the Redeveloper closing on the acquisition of the Property, the Redeveloper and the Township, as necessary, shall enter into a right of entry, license or agreement with WOOEP for access to Lot 41.02, and the Township shall confirm in a notice to Redeveloper and WOOEP receipt from a third party of the Township's One Million Dollar (\$1,000,000.00) contribution toward the Library Improvements. The Township and Redeveloper shall enter into an agreement for the construction of the Library Improvements and payments to the Redeveloper for such construction. Upon receipt of building permits for the residential development on the Property and for the Library Improvements, the Redeveloper shall commence and complete construction of the Library Improvements as set forth in Section 4.4 herein. The Township shall remit to the Redeveloper payment in the amount of One Million Dollars (\$1,000,000.00) as the Township's contribution toward the Library Improvements, and the Township shall inspect and approve the Library Improvements. In the event the Township has not received from a third party the Township's One Million Dollar (\$1,000,000.00) contribution toward the Library Improvements prior to such time as the Redeveloper is prepared to commence construction of the Library Improvements, WOOEP shall convey Lot 41.02 to the Township prior to commencement of construction of the Library Improvements, and the One Million Five Hundred Thousand Dollar (\$1,500,000.00) contribution toward the Library Improvements shall be remitted to the Township at Closing for Lot 41.02 and thereafter, the Township shall contract with a third party for the construction of the Library Improvements. In addition, as a condition precedent to Closing on Lot 41.02, the Township shall comply with the terms and conditions of the tax settlement agreement attached hereto as Exhibit H (the "**Tax Agreement**").

3.6 Time and Place of Closing of Title. (a) Closing on the Public Dog Park shall occur prior to Redeveloper's application to the Township for the first Certificate of Occupancy for the residential apartment building to be located on the Property, at a time to be mutually agreed upon by the Parties (the "**Closing Date One**"). The Closing shall be held at the offices of McManimon, Scotland & Baumann, LLC or such other place as the Redeveloper and the Township may mutually agree.

(b) Closing on Lot 41.02 shall occur upon the Completion of Construction of the Library Improvements by the Redeveloper, or sooner as provided in Section 3.5, at a time to be mutually agreed upon by the Parties (the "**Closing Date Two**"). The Closing shall be held at the offices of McManimon, Scotland & Baumann, LLC or such other place as the WOOEP and the

Township may mutually agree.

3.7 Transfer of Ownership; Title. (a) At Closing, the Redeveloper shall give the Township for the Public Dog Park and WOOEP shall give the Township for Lot 41.02, a properly executed Bargain and Sale Deed with Covenants Against Grantor's Acts (the "**Deed**"), an adequate affidavit of title, a properly executed Affidavit of Consideration or Exemption, a true copy of a company Resolution authorizing the sale and conveyance, and such other documentation as may reasonably be requested by the Township's title insurance company. The Township shall pay for all recording fees and realty transfer taxes, if any, incidental to conveying title to the Township.

(b) The Redeveloper and WOOEP shall transfer and convey to the Township clear and marketable title to the Public Dog Park and Lot 41.02, respectively, defined for purposes of this Agreement as insurable by a title insurance company licensed to do business in the State of New Jersey at regular rates free of all claims and rights of others, except for: (a) normal utility easements servicing the Public Dog Park or Lot 41.02, which do not interfere with the Township's intended use thereof; (b) ALTA preprinted exceptions; (c) any Permitted Exceptions (as hereinafter defined); and (d) real estate taxes not yet due and payable. As soon as possible following the Effective Date the Township shall order a title report and title insurance commitment (the "**Title Commitment**"), and, if desired by the Township, a Phase I Investigation and survey of the Public Dog Park and Lot 41.02 by a licensed New Jersey surveyor (the "**Survey**") and to furnish a copy of the Title Commitment, Phase I Investigation and Survey to the Redeveloper for the Public Dog Park and to WOOEP for Lot 41.02 promptly after the Township receives same. Further, upon providing the Redeveloper and WOOEP with a copy of the Title Commitment and/or Phase I Investigation and Survey, the Township shall notify the Redeveloper and WOOEP in writing of any objection. In the event the Township raises title, environmental and/or Survey objections, the Redeveloper and WOOEP shall have thirty (30) days from the date of receipt of the Township's written objections in which to decide whether to remedy the objection(s). If the Redeveloper or WOOEP does undertake to remedy the objection(s) the Redeveloper or WOOEP shall be entitled to postpone Closing Date One or Two, respectively for a reasonable period of time in order to effectuate such remedy. In the event the Redeveloper or WOOEP is unable or refuses to remedy such objection(s), then the Township may either (i) waive the objection(s) (the "**Permitted Exceptions**") and proceed to Closing; or (ii) terminate this Agreement with respect to the Public Dog Park and Lot 41.02, in which case Redeveloper's designation as Redeveloper of the Property shall simultaneously and automatically terminate and the Parties shall have no further rights or obligations hereunder, except as specifically set forth herein. Notwithstanding anything contrary in the foregoing, the Township may, at its option, at or prior to Closing, notify the Redeveloper or WOOEP of any objections raised by the Township, the title company or the surveyor from a new or different state of facts relating to the title or environmental condition first arising between the conclusion of the Township's review of the Title Commitment, Phase I Investigation and survey and Closing Date One or Closing Date Two, respectively ("**Gap Title Defects**"). With respect to any such Gap Title Defects, the Redeveloper as to the Public Dog Park and WOOEP as to Lot 41.02 shall have the obligation to cure and the Township shall have the same options if the Redeveloper or WOOEP fails to cure as set forth above. Closing Date One or Closing Date Two shall be extended as necessary as a result of such Gap Title Defects. Any notice by the

Township to WOOEP in accordance with this Section 3.7 shall also be provided to the Redeveloper, who shall have the right but not the obligation to resolve any title objections or Gap Title Defects as to Lot 41.02 if WOOEP is unable or unwilling to do so.

3.8 Right of Entry. At any time between the date of this Agreement and Closing, the Redeveloper or WOOEP agrees to permit the Township or its duly authorized agents and representatives a right of entry for any purposes permitted under this Agreement and to otherwise conduct pre-closing inspections at any reasonable time prior to the Closing. The Township's right to enter upon the Public Dog Park or Lot 41.02 and to inspect same shall be conditioned upon the Township first furnishing the Redeveloper for the Public Dog Park or WOOEP for Lot 41.02 with proof satisfactory to the Redeveloper or WOOEP, respectively that all of the inspections to be conducted upon the property by or on behalf of the Township shall be protected by (i) liability insurance pursuant to a liability insurance policy having a single limit of not less than \$1,000,000 per occurrence in respect of injury or death and \$2 million per occurrence for property damage, plus excess (umbrella) liability policies with coverage of not less than \$10 million per occurrence, which policy shall be in a form and issued by an insurance company licensed to do business in the State of New Jersey, (ii) workers compensation insurance in an amount not less than \$1,000,000 or such greater amount as may be required under Applicable Laws for employees of the Township. The Township shall be responsible for repairing any damage caused during such inspections and/or indemnifying the Redeveloper as to the Public Dog Park or WOOEP as to Lot 41.02 for any property damage or injury caused directly by the Township or its duly authorized agents and representatives during said inspection, which obligation shall survive Closing. The terms of the right of entry between WOOEP and the Township regarding Lot 41.02 are as set forth in the form of right of entry attached as Exhibit I, which shall be executed by the Township and WOOEP prior to the Township exercising its right of entry.

3.9 Risk of Loss. The Redeveloper is responsible for any damage or loss to the Public Dog Park or Library Improvements constructed by Redeveloper, except for normal wear and tear, until Closing Date One for the Public Dog Park and until Closing Date Two for the Library Improvements, unless the same is the result of Township's right of entry pursuant to Section 3.8 above. Until Closing Date Two, WOOEP shall maintain the land and improvements on Lot 41.02 in substantially the same condition it is in at the Effective Date, reasonable wear and tear excepted, and also excepting any work performed by Redeveloper in furtherance of the Library Improvements and any damage resulting or arising from the Township's right of entry pursuant to Section 3.8 above. If prior to Closing Date Two, there is damage or casualty to the land or improvements on Lot 41.02 that is covered by insurance, WOOEP will assign to the Township its rights to the proceeds of such insurance allocable to Lot 41.02.

3.10 Brokerage Fees. The Redeveloper and the Township each represent that concerning the conveyance of the Public Dog Park and Lot 41.02, they have not dealt with or transacted any business with any broker, and each agrees to indemnify, defend and hold the other harmless from any claim of any broker made as a result of such Party's actions inconsistent with the representations made herein.

3.11 Closing Prorations. The following adjustments are to be made at the Closing as of 12:00 midnight of the day preceding the Closing Date Two: (i) water charges; (ii) sewer charges; (iii) gas; (iv) electric; (v) fuel; (vi) real estate taxes; (vii) lease income; and (viii) any other items which shall be appropriate for adjustment under local closing standards and practices.

3.12 Possession. The Redeveloper shall vacate the Public Dog Park and WOOEP shall vacate Lot 41.02 prior to the Closing Date One and Two, respectively and will give possession of the same to the Township at the Closing, free and clear of all tenancies, except as set forth in Section 3.13 below. Redeveloper and WOOEP, respectively shall deliver any and all keys to the Public Dog Park and Lot 41.02 to the Township at Closing.

3.13 TSA Tenancy. The Parties acknowledge and agree that TSA's occupancy of the top floor of the existing building shall continue uninterrupted by the Closing and simultaneous with Closing, the existing lease with TSA shall be assigned to the Township. Upon Closing and at all times thereafter, any and all rent received or due and owing by TSA shall be paid to the Township as same has been prorated in accordance with Section 3.11 above. The Township and WOOEP shall enter into an assignment and assumption agreement transferring the existing lease with TSA from WOOEP to the Township. Said assignment and assumption agreement shall contain mutual indemnities providing that WOOEP will indemnify the Township for claims accruing under the TSA lease prior to Closing Date Two and the Township will indemnify WOOEP for claims accruing under the TSA lease after Closing Date Two.

3.14 Lot 41.02 AS IS WHERE IS. (a) Except as otherwise expressly provided in this Agreement, the Township shall accept Lot 41.02 at the Closing in the "as is", "where is" condition of Lot 41.02 with all faults as of the Closing Date Two. The Township agrees that: WOOEP shall not be liable for any construction, latent or patent defects in Lot 41.02, and shall not be bound in any manner whatsoever by any guarantees, promises, projections, operating expenses, set-up or other information pertaining to Lot 41.02 made, furnished or claimed to have been made or furnished by WOOEP or any other person or entity, including, without limitation, any broker, or any partner, member, manager, shareholder, employee, agent, attorney or other person representing or purporting to represent WOOEP or any broker, whether verbally or in writing. The Township acknowledges that neither WOOEP nor any of the employees, agents or attorneys of WOOEP has made any verbal or written representations or warranties whatsoever to the Township, whether express, implied, statutory, or by operation of law, except as expressly set forth in this Agreement, and in particular, that no such representations and warranties have been made with respect to the physical or environmental condition or operation of Lot 41.02, the layout or footage of Lot 41.02, the actual or projected revenue and expenses of Lot 41.02 or any of the leases at Lot 41.02 (including without limitation, the lease with the TSA), zoning, environmental, and other laws, regulations and rules applicable to Lot 41.02, or the compliance of Lot 41.02 therewith, the quantity, quality or condition of the articles of personal property and fixtures included in the transactions contemplated hereby, the use or occupancy of Lot 41.02 or any part thereof or any other matter or thing affecting or relating to Lot 41.02 or the transactions contemplated hereby, except as specifically set forth in this Agreement. The Township has not relied and is not relying upon any representations or warranties, or upon any statements made in any informational materials with respect to Lot 41.02 provided by WOOEP, or any other person or entity, including any broker or any shareholder, member, manager, employee, agent, attorney

or other person representing or purporting to represent WOOEP or any broker. IN ADDITION TO, AND WITHOUT LIMITATION OF THE FOREGOING, EXCEPT AS SET FORTH IN THIS AGREEMENT: WOOEP MAKES NO WARRANTY, EXPRESSLY, IMPLIED, STATUTORY, OR BY OPERATION OF LAW, AS TO THE QUANTITY, QUALITY, MERCHANTABILITY, TITLE, MARKETABILITY, FITNESS, OR SUITABILITY FOR A PARTICULAR PURPOSE OF LOT 41.02 OR ANY COMPONENT THEREOF, AND LOT 41.02 AND EACH COMPONENT THEREOF ARE SOLD IN AN "AS IS", "WHERE IS" CONDITION, WITH ALL FAULTS. BY EXECUTING THIS AGREEMENT, EXCEPT AS SET FORTH IN THIS AGREEMENT, THE TOWNSHIP AFFIRMS AND AGREES THAT (A) THE TOWNSHIP HAS NOT RELIED ON WOOEP'S SKILL OR JUDGMENT TO SELECT OR FURNISH LOT 41.02 OR ANY COMPONENT THEREOF FOR ANY PARTICULAR PURPOSE, (B) WOOEP MAKES NO WARRANTY THAT LOT 41.02 OR ANY COMPONENT THEREOF ARE FIT FOR ANY PARTICULAR PURPOSE, (C) THERE ARE NO REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED, STATUTORY, OR BY OPERATION OF LAW, WITH RESPECT TO LOT 41.02 OR ANY COMPONENT THEREOF, (D) THE TOWNSHIP HAS BEEN, OR WILL BE, GIVEN THE OPPORTUNITY TO INSPECT LOT 41.02 AND EACH COMPONENT THEREOF AND HAS DETERMINED TO ACCEPT TITLE TO LOT 41.02 AND EACH COMPONENT THEREOF BASED ON SUCH INSPECTION, AND (E) UPON CLOSING, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THE TOWNSHIP SHALL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING, BUT NOT LIMITED TO, CONSTRUCTION DEFECTS AND ADVERSE PHYSICAL CONDITIONS, MAY NOT HAVE BEEN REVEALED BY THE TOWNSHIP'S INVESTIGATIONS, AND THE TOWNSHIP, ON CLOSING, SHALL BE DEEMED TO HAVE WAIVED, RELINQUISHED, AND RELEASED WOOEP FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION (INCLUDING, WITHOUT LIMITATION, CAUSES OR ACTION IN TORT, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES AND COURT COSTS) OF ANY AND EVERY KIND OR CHARACTER, KNOWN OR UNKNOWN, THAT THE TOWNSHIP MIGHT HAVE ASSERTED OR ALLEGED AGAINST WOOEP AT ANY TIME BY REASON OF OR ARISING OUT OF ANY LATENT OR PATENT CONSTRUCTION DEFECTS OR PHYSICAL CONDITIONS, VIOLATIONS OR ANY APPLICABLE LAWS AND ANY AND ALL OTHER ACTS, OMISSIONS, EVENTS, CIRCUMSTANCES, OR MATTERS REGARDING LOT 41.02.

(b) Without limiting the generality of the provisions of Section 3.14(a) of this Agreement, and except as set forth in this Agreement, the Township specifically acknowledges and agrees as follows:

- (i) Neither WOOEP nor any other party acting (or purporting to act) on behalf of WOOEP, has made any (and WOOEP hereby disclaims any) representation or warranty of any kind or nature concerning any environmental condition existing at Lot 41.02;
- (ii) The Township shall take title to Lot 41.02 subject to any and all environmental conditions (or the presence of any matter or substance relating to any such environmental condition at Lot 41.02), whether known or unknown, disclosed or

undisclosed, and any and all claims and/or liabilities relating to (in any manner whatsoever) any hazardous, toxic or dangerous materials or substances located in, at, about or under Lot 41.02, or for any and all claims or causes of action (actual or threatened) based upon, in connection with or arising out of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq., or any other law or cause of action (including any federal or state based statutory, regulatory or common law cause of action) related to environmental matters or liability with respect to or affecting Lot 41.02 (any of the foregoing described in this clause (ii) being referred to as “**Environmental Conditions**”);

(iii) The Township hereby releases WOOEP and its members, managers, agents, and the employees, members, managers, and agents of any of the officers, employees, members, managers or agents of WOOEP, and any other person or entity as principal of WOOEP, whether disclosed or undisclosed (collectively, the “**WOOEP Exculpated Parties**”) from any liability of any kind or nature arising with respect to any Environmental Conditions and, specifically, agrees that if any claim is brought against the Township arising out of any Environmental Condition the Township shall have no claim of any kind or nature against WOOEP or any WOOEP Exculpated Party;

(iv) If the Closing occurs, then effective as of Closing Date Two, the Township assumes liability for any and all Environmental Conditions and hereby indemnifies and holds harmless WOOEP and each WOOEP Exculpated Party from any and all liabilities, claims, losses, costs, expenses and damages (including, without limitation, reasonable attorneys’ fees, costs and disbursements and costs incurred in the enforcement of the foregoing indemnification obligation) arising out of any Environmental Condition, whether or not pre-existing at the Closing and whether or not disclosed to the Township, it being the intention of the parties hereto that from and after the Closing (i) WOOEP shall have no further liability or obligation in respect of environmental matters of any kind or nature pertaining to Lot 41.02, and (ii) the Township shall fully assume any such liability or obligation, including, without limitation, the cost of any cleanup, remediation or removal of any hazardous substances or other Environmental Conditions; and

(c) **THE TOWNSHIP, WITH THE TOWNSHIP’S COUNSEL, HAS FULLY REVIEWED THE DISCLAIMERS AND WAIVERS SET FORTH IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE SET FORTH IN THIS SECTION 3.14, AND UNDERSTANDS THEIR SIGNIFICANCE AND EFFECT. THE TOWNSHIP ACKNOWLEDGES AND AGREES THAT THE DISCLAIMERS AND OTHER AGREEMENTS SET FORTH IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE SET FORTH IN THIS SECTION 3.14, ARE AN INTEGRAL PART OF THIS AGREEMENT, AND THAT WOOEP WOULD NOT HAVE AGREED TO CONVEY TITLE TO LOT 41.02 TO THE TOWNSHIP WITHOUT THE DISCLAIMERS AND OTHER AGREEMENTS SET FORTH IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE SET FORTH IN THIS SECTION 3.14.**

THE TERMS AND CONDITIONS OF THIS SECTION 3.14 WILL EXPRESSLY SURVIVE THE CLOSING AND WILL NOT MERGE WITH THE PROVISIONS OF ANY CLOSING DOCUMENTS.

ARTICLE IV IMPLEMENTATION OF PROJECT

4.1 Project Implementation. For so long as this Agreement and Redeveloper's designation as Redeveloper hereunder remain in effect, Redeveloper shall have the exclusive right to redevelop the Property. The Redeveloper agrees to implement the Project in accordance with the applicable terms and conditions of this Agreement, the Redevelopment Plan, Applicable Laws, and all Governmental Approvals. All redevelopment activities performed under this Agreement shall be performed timely and diligently, and provided in accordance with the level of skill and care ordinarily exercised by developers of comparable first class residential developments. All residential units other than the Affordable Units shall be constructed and marketed as "for sale" units.

4.2 COAH Housing Obligation. (a) Redeveloper understands that construction of the Project will result in an affordable housing obligation under applicable COAH Regulations. Fifteen percent (15%) of the total residential units constructed shall be Affordable Units as further described herein, in conformity with the COAH Regulations, UHAC and all other Applicable Laws.

(b) The requirement to construct the Affordable Units and the construction thereof will be tracked on an ongoing basis as Governmental Approvals are obtained and construction of the Project is implemented. The Redeveloper shall have an obligation to deed restrict the Affordable Units as very low, low or moderate income affordable units for a period of thirty (30) years (the "**Deed-Restriction Period**"). The deed restriction shall be provided to the Township for its review for compliance with the COAH Regulations, UHAC, and this Agreement prior to recordation. Redeveloper's obligation includes, but is not limited to, the Redeveloper's obligation to comply with phasing requirements, bedroom distribution requirements, very low/low/moderate income split requirements, pricing requirements, affirmative marketing requirements, candidate qualification and screening requirements and deed restriction requirements, all as set forth in the COAH Regulations, UHAC, and as further described herein.

(c) Redeveloper itself or an experienced administrative agent ("**Administrative Agent**") contracted by the Redeveloper shall have the responsibility for the administration of the Affordable Units and shall have the obligation to pay all costs associated with properly deed restricting the Affordable Units in accordance with UHAC and other applicable laws for the Deed-Restriction Period. Redeveloper and its Administrative Agent shall work with the Township and the Township's administrative agent regarding any affordable housing monitoring requirements imposed by COAH or the Court. Redeveloper shall provide, within thirty (30) days of written notice, detailed information requested by the Township or the Township's administrative agent concerning Redeveloper's compliance with UHAC and other applicable laws.

(d) The bedroom distribution for the Affordable Units shall be in conformity with the COAH Regulations, UHAC and all other Applicable Laws.

(e) The income mix for the Affordable Units shall be in conformity with the COAH Regulations, UHAC and all other Applicable Laws.

(f) The units with rents set for low, very low and moderate income households shall be distributed among each bedroom size on a prorated basis.

(g) The Redeveloper may phase construction of the Project and therefore phase construction of the Affordable Units. At a minimum, fifteen percent (15%) of all units in any phase shall be Affordable Units which shall be confirmed by the Township prior to application by Redeveloper for a final certificate of occupancy for any such phase of the Project.

4.3 Construction and Conveyance of Public Dog Park. Redeveloper shall acquire the property identified in Exhibit A and shall construct a public dog park thereon. The public dog park improvements shall be determined by the Township in consultation with the Redeveloper prior to commencement of construction of the Public Dog Park by the Redeveloper (the “**Public Dog Park**”).

4.4 Construction of Library Improvements. Redeveloper shall obtain a right of entry, license and/or agreement with WOOEP to access Lot 41.02 as described in Exhibit B and shall construct a new public library within the existing building in accordance with the specifications to be provided by the Township to the Redeveloper prior to commencement of construction of the library improvements (the “**Library Improvements**”), at a total cost not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00) of which One Million Five Hundred Thousand Dollars (\$1,500,000.00) shall be funded by the RAB and One Million Dollars (\$1,000,000.00) shall be remitted by the Township from a third party. In the event the total cost of the Library Improvements exceeds Two Million Five Hundred Thousand Dollars (\$2,500,000.00), then the Township shall be responsible for funding the remainder.

4.5 Phasing & Project Schedule. The Redevelopment Project may be constructed in Phases in accordance with the schedule attached hereto as Exhibit D (the “**Project Schedule**”). Redeveloper’s unexcused failure to adhere to the Project Schedule (as the same may be adjusted from time to time with the consent of the Township as hereinafter provided) shall constitute a Default.

4.6 Infrastructure Improvements. Redeveloper shall construct infrastructure improvements as specifically detailed in Exhibit C (the “**Infrastructure Improvements**”) at Redeveloper’s sole cost and expense in accordance with the Project Schedule.

4.7 Governmental Approvals. (a) The Redeveloper represents that it will cause to be prepared and filed, at Redeveloper’s sole cost and expense, all Governmental Applications as may be necessary and appropriate for the purpose of obtaining all Governmental Approvals required to implement the Project consistent with the Project Schedule. All of the Governmental

Applications shall be in conformity with the applicable provisions of the Redevelopment Plan, this Redevelopment Agreement and Applicable Laws. Redeveloper shall provide the Township with a copy of each Governmental Application at the same time those applications are submitted to the governmental agency having jurisdiction over the same.

(b) Diligent Pursuit of Governmental Approvals. Redeveloper agrees to prosecute all of Redeveloper's applications for Governmental Approvals diligently and in good faith, and in accordance with the Project Schedule. Subject to the requirements of Applicable Law, Redeveloper shall determine when and in what order to file each specific application. At Redeveloper's reasonable request, the Township will, in its reasonable judgment, sign consents or other documents required in connection with Redeveloper's applications for Governmental Approvals and will supply information which is in the Township's possession. The Township will, in its reasonable judgment, otherwise cooperate with and support Redeveloper in connection with the applications for Governmental Approvals as Redeveloper and Redeveloper's counsel may reasonably request.

(c) Appeals. If (i) one or more of Redeveloper's Applications for Governmental Approvals is denied, or approved with conditions that Redeveloper in its commercially reasonable judgment deems unacceptable, or (ii) anyone contests or challenges the grant of such Governmental Approval to Redeveloper, then unless the Township consents in advance to a different course of action Redeveloper may appeal or defend against such action, and during the pendency of the appeal proceeding otherwise continue as Redeveloper deems appropriate to seek the remaining Governmental Approvals. If Redeveloper determines not to appeal or defend against such action as set forth above, it may terminate this Agreement upon thirty (3) days notice to the Township and the Parties shall have no further rights or obligation to each other hereunder.

(d) Application for Site Plan Approval. Each Governmental Application submitted by or on behalf of the Redeveloper in connection with the Redevelopment Project shall conform in all material respects to the Redevelopment Plan and all Applicable Laws; *provided, however*, that nothing herein shall be construed as limiting the Redeveloper's ability to apply for reasonable bulk or area variances or waivers as may necessary or appropriate under the circumstances and in accordance with the applicable provisions of the Redevelopment Plan.

4.8 Commencement and Completion Schedule. The Redeveloper agrees to Commence Construction and diligently Complete Construction of the Project, and failure to do so shall be a Default by Redeveloper. Subject to the provisions of this Agreement with respect to Force Majeure and the applicable provisions of Section 5.2, if any, any material change in the scope of the Project (including changes in the Project budget if relevant to the calculation of the PILOT), changes or updates to the Project Schedule, or extension of the projected Completion Date, shall require the Township's prior written approval, which the Township will not unreasonably withhold. Redeveloper agrees to simultaneously provide to the Township copies of all project pro formas, Project Schedules and budgets that Redeveloper submits to actual or potential lenders or investors in connection with the financing of the Project, to the extent that they are materially different from those previously supplied to the Township by Redeveloper. The Redeveloper understands that absent extraordinary and unforeseeable circumstances the

Township will require Redeveloper's adherence to the schedule for Commencement of Construction and Completion of Construction, interim deadlines or milestones and time periods for the various activities and actions to be taken by the Redeveloper hereunder, subject only to the occurrence of a Force Majeure Event.

4.9 Plans and Specifications. Redeveloper hereby agrees that following an Event of Default the Township and anyone acting on the Township's behalf shall have an irrevocable license to use Redeveloper's Plans and Specifications, Governmental Applications, and Governmental Approvals to complete the Project, without cost to or liability of the Township (other than for actual services rendered to the Township subsequent to the Event of Default) and agrees to use best efforts to ensure that all agreements between Redeveloper and its contractors and consultants shall so provide. Redeveloper shall be compensated for such Plans and Specifications as provided in Section 10.8. In addition, all performance or completion bonds provided by Redeveloper's contractors shall name the Township as an intended beneficiary thereof, as its interests may appear, unless Redeveloper's construction lender objects in writing and for good cause to the inclusion of the Township.

4.10 Progress Reports and Project Oversight by the Township. During the implementation of the Project, the Redeveloper shall make periodic Progress Reports, no less frequently than on February 1 and August 1 and at such other times as may be reasonably requested by the Township, in such detail as may reasonably be requested by the Township, as to the actual progress of Redeveloper and which shall include, among other things, a description of activities completed, milestones achieved, status of the Project with respect to the Project Schedule, activities to be undertaken prior to the next regularly scheduled Progress Report, and any unanticipated problems or delays and the explanation therefor. If Redeveloper fails to meet a milestone or completion date set out in the Project Schedule and is notified of same in writing by the Township, or if Redeveloper conclusively determines between Progress Reports that it will fail to meet a milestone or completion date on the Project Schedule, Redeveloper shall promptly provide written notice to Township stating: (a) the reason for the failure to complete the applicable task, (b) Redeveloper's proposed method for correcting such failure, (c) Redeveloper's schedule for completing such task, and (d) the method or methods by which Redeveloper proposes to achieve subsequent tasks by the Completion Date. This Section shall not in any way be construed as entitling Redeveloper to an extension of the Completion Date or modification of the Project Schedule or Project budget, absent the Township's prior written consent. Redeveloper acknowledges and agrees that time is of the essence in providing the Progress Reports to the Township in accordance with this Section.

4.11 Certificate of Occupancy and Certificate of Completion. Redeveloper shall apply to the appropriate governmental officer or body for a Certificate of Occupancy, as required under Applicable Laws. Following the issuance of all required Certificates of Occupancy and the satisfaction of the terms and conditions of this Redevelopment Agreement with respect to the applicable Phase of the Project by Redeveloper, and upon receipt of a Notice of Completion from Redeveloper, the Township agrees to issue and not unreasonably withhold a Certificate of Completion, in proper form for recording, which shall acknowledge that the Redeveloper has performed all of its duties and obligations under this Redevelopment Agreement and has completed construction of the applicable Phase of the Project in accordance with the

requirements of this Redevelopment Agreement. Within 30 days after receipt of the Notice of Completion from the Redeveloper, the Township shall provide the Redeveloper with the Certificate of Completion or a written statement setting forth in detail the reasons why it believes that Redeveloper has failed to complete the Project in accordance with the provisions of this Redevelopment Agreement or is otherwise in default under this Agreement, and what reasonable measures or acts will be necessary in the opinion of the Township in order for the Redeveloper to be entitled to the Certificate of Completion. If there is a dispute as to the Completion of the applicable phase of the Project between the Redeveloper and Township, the Township agrees to issue a Certificate of Completion with conditions that if satisfied by the Redeveloper shall convert the conditional Certificate of Completion to a final one for the applicable phase of the Project so as not to delay or interfere with the Redeveloper's ability to secure permanent financing for the Project. When issued the Certificate of Completion shall constitute a recordable, conclusive determination of the satisfaction and termination of the agreements and covenants (as limited herein) in this Redevelopment Agreement and the Redevelopment Plan with respect to the obligations of the Redeveloper to construct the Project or relevant Phase, as well as a determination by the Township that the conditions that were found and determined to exist at the time the Redevelopment Area was determined to be in need of redevelopment shall be deemed to no longer exist and the conditions and requirements of N.J.S.A. 40A:12A-9 shall be deemed to have been satisfied with respect to the Redevelopment Project or applicable Phase thereof. Unless otherwise required by a related Financial Agreement, Governmental Approval or Applicable Law, upon the issuance of Certificate of Completion the provisions of this Agreement shall no longer encumber the applicable Phase of the Project; *provided, however*, that any other documents theretofore delivered pursuant to this Agreement that by their terms are intended to survive Completion of Construction (including, without limitation and by way of example only, any deed restrictions, the Declaration of Restrictions, tax exemption agreements, etc.) shall not be affected by delivery of the Certificate of Completion except as otherwise expressly provided therein.

4.12 Estoppel Certificates (Prior to Certificate of Completion). At any time and from time to time prior to the issuance of a Certificate of Completion, the Township shall, within thirty (30) days following a written request by Redeveloper, execute and deliver to (a) Redeveloper, or (b) a third party (*e.g.*, a prospective lender, purchaser, investor, tenant, *etc.*) designated by Redeveloper, an instrument in which the Township (i) certifies that this Agreement is unmodified and in full force and effect as to the Project (excepting only modifications which shall be set forth), and (ii) states whether to the actual knowledge of the Township Redeveloper is in default under this Agreement, and, if so, specifying each such default of which the Township shall have knowledge.

4.13 Escrow Account to Cover Township Costs. (a) The Redeveloper covenants and represents that it will make timely payment or reimbursement to the Township for all Township Costs. The Redeveloper has established with the Township an escrow account (the “**Escrow Account**”) to cover Township Costs. From time to time during the implementation of the Project and until issuance of a final Certificate of Completion the Redeveloper agrees to replenish the Escrow Account upon the written request of the Township, to provide for a sufficient balance, as determined by the Township in its reasonable judgment, to cover anticipated Township Costs.

(b) The Escrow Deposit is separate from and in addition to all other application fees and escrow deposits that may be required by the Township in connection with applications for land use approvals to implement the Redevelopment Plan. Additions to the Escrow Deposit may subsequently become necessary to cover all reimbursable expenses incurred by the Township pursuant to the terms of this Agreement.

(c) The Escrow Deposit and all additions thereto shall be held by the Escrowee in a banking institution or savings and loan association in the State of New Jersey insured by an agency of the federal government, or in any other fund or depository approved for such deposits by the State of New Jersey, in a segregated, non-interest-bearing account referenced to the Redevelopment Agreement.

(d) The Escrowee shall use the Escrow Deposit and all additions thereto to pay Township Costs in accordance with the provisions of the Redevelopment Agreement. Township Costs paid out of the Escrow Account shall include all Township Costs as defined in the Redevelopment Agreement. Each payment for professional services charged to the Escrow Account shall be pursuant to a voucher from the professional or consultant, identifying the personnel performing the reimbursable service, each date the services were performed, the hours spent in not greater than one-quarter (1/4) hour increments, the hourly rate, and specifying in reasonable detail the properly reimbursable expenses. All professionals shall submit the required vouchers or statements to the Escrowee on a monthly basis in accordance with the schedule and procedures established by the Escrowee. The professional shall simultaneously send an informational copy of each voucher or statement submitted to the Escrowee to the Redeveloper (redacted as necessary to remove confidential and privileged information).

(e) At least annually during the term of the Redevelopment Agreement, or as reasonably requested by the Redeveloper (but not more often than quarterly), Escrowee shall prepare and send to the Redeveloper a statement which shall include an accounting of funds listing all deposits, interest earnings, disbursements and the cumulative balance of the Escrow Account. If at any time the balance in the Escrow Account is less than Twenty-Five Thousand Dollars (\$25,000.00), or if the Escrow Account in the Township's reasonable estimation for good cause shown otherwise contains insufficient funds to enable the Township to continue performance of its obligations under the Redevelopment Agreement, the Escrowee shall provide Redeveloper with a notice of the insufficient Escrow Account balance and the amount of additional funds required. Upon receipt of such notice Redeveloper shall deposit to the escrow account additional funds such that the total amount on deposit shall be not less than Fifty Thousand Dollars (\$50,000.00), such deposit to be made within fifteen (15) business days of the Township's notice, failing which the Township may unilaterally cease work without liability to Redeveloper.

(f) Upon the issuance of a Certificate of Completion the Redeveloper shall send written notice by certified mail to the Escrowee requesting that the remaining balance of the Escrow Deposit be refunded, or otherwise applied in accordance with the provisions of the Redevelopment Agreement. After receipt of such notice, and within 30 days of Escrowee's receipt of all outstanding invoices for Township Costs, if any, the Escrowee shall pay all outstanding Township Costs and render a written final accounting to the Redeveloper.

(g) Redeveloper may dispute the propriety or reasonableness of Township Costs paid out of the Escrow Deposit by written notice to the Escrowee. A copy of such notice shall be sent simultaneously to any the entity(ies) whose charges or estimated costs are the subject of the dispute. Such written notice of a disputed charge shall be given within 45 days from Redeveloper's receipt of the informational copy of a voucher or invoice, statement, bill or invoice, except that if Redeveloper has not received an informational copy then the Redeveloper shall send notice within 60 days from receipt of the first statement of activity against the Escrow Account containing the disputed charge. Failure to dispute a charge in writing within the prescribed time shall constitute Redeveloper's acceptance of the charge and a waiver by Redeveloper of all objections to the charge and to payment thereof out of the Escrow Account. During the pendency of a dispute the Escrowee may continue to pay undisputed charges out of the Escrow Account. If a dispute over a charge is resolved in Redeveloper's favor after having been paid, the Escrowee shall reimburse the Escrow Account in the amount determined to be properly disputed.

ARTICLE V REDEVELOPER PROTECTIONS

5.1 Redevelopment Plan Amendments. The Township agrees that prior to Commencement of Construction of the last Phase of the Project the Township will not amend the Redevelopment Plan with respect to the Property or otherwise impair this Agreement without Redeveloper's prior consent.

5.2 Impossibility of Performance; Changed Market Conditions. Notwithstanding the Redeveloper's right to terminate this Agreement prior to Closing on the acquisition of the Property or any other rights to terminate the Agreement set forth herein, Redeveloper's failure or refusal to develop a particular Phase of the Project shall not constitute a Default by Redeveloper in the performance of its obligations hereunder if such failure or refusal is for the following reasons and on the following terms and conditions:

(a) Subject to the provisions of Section 5.2(c) below, Redeveloper's failure or refusal to develop a particular Phase of the Project shall not constitute a default hereunder if due to physical impossibility of performance or economic infeasibility due to the condition of the property or to regulatory restrictions relating to the condition of the property.

By way of example, "physical impossibility of performance" would be an irremediable environmental condition. An example of "economic infeasibility" would be a cost of Remediation of an environmental condition that would significantly and adversely affect the anticipated return of the Project as reflected on the Project *pro forma* supplied to the Township by Redeveloper, in either case such that redevelopment of the Project on the terms and conditions set forth herein becomes economically irrational or infeasible.

(b) Subject to the provisions of Section 5.2(c) below, Redeveloper's failure or refusal to develop a particular Phase of the Project shall not constitute a Default if such failure or refusal

is the result of changed market conditions encompassing market or economic phenomena or conditions that are not unique to the Project, which changed market conditions render the development and marketing of the Phase based upon the product type and financial assumptions currently proposed by Redeveloper economically infeasible or remote or the inability to secure financing for the Project under typical lending terms.

(c) In order to invoke the protections of Section 5.2(a) or (b), Redeveloper shall provide Notice to the Township of Redeveloper's intention to invoke such protections, which Notice shall include a detailed description of the facts and circumstances relied upon by Redeveloper in support of its position, as well as the commercially reasonable steps Redeveloper has taken to overcome or mitigate the impacts of those facts and circumstances.

(d) If Redeveloper's failure or refusal to develop a Phase of the Project in accordance with the terms and conditions of this Agreement is excused by reason of physical impossibility of performance, then such failure or refusal shall not constitute a Default hereunder if Redeveloper relinquishes its designation as redeveloper as to that Parcel or Phase, as the case may be, and all rights to develop that Parcel or Phase under the terms of the Redeveloper's Agreement. In such case, the Township shall have the right (but not the obligation) to amend the Redevelopment Plan to facilitate redevelopment by a third party redeveloper.

(e) If Redeveloper's failure or refusal to develop is excused by reason of economic infeasibility or changed market conditions, then such failure or refusal shall not constitute a Default hereunder if Redeveloper by Notice to the Township requests to renegotiate, in good faith and within the time periods hereinafter set forth, with the objective of redefining a mutually acceptable and economically feasible project. Such negotiations could include, by way of example, consideration of modifications to this Agreement or to the use and density requirements under the Redevelopment Plan.

(f) Prior to invoking the protections and provisions of this Section 5.2, Redeveloper shall have used commercially reasonable efforts to mitigate the impacts of the facts and circumstances claimed to result in project infeasibility. The protections and provisions of this Section 5.2 shall not apply if Redeveloper's inability to proceed with the Project could have been overcome but for Redeveloper's own acts or omissions.

ARTICLE VI REPRESENTATIONS AND WARRANTIES

6.1 Representations and Warranties by the Redeveloper. The Redeveloper makes the following representations and warranties:

(a) Redeveloper represents that it has obtained or can obtain and will commit the requisite equity and debt financing in an amount necessary to purchase the Property on the terms and conditions set forth herein, and to perform Redeveloper's obligations hereunder.

(b) Redeveloper has the legal capacity to enter into this Redevelopment Agreement and perform each of the undertakings set forth herein and in the Redevelopment Plan as of the

date of this Redevelopment Agreement.

(c) Redeveloper is duly organized and a validly existing legal entity under the laws of the State of New Jersey and all necessary resolutions or authorizations have been duly adopted to authorize the execution and delivery of this Redevelopment Agreement and to authorize and direct the persons executing this Redevelopment Agreement to do so for and on the Redeveloper's behalf.

(d) No receiver, liquidator, custodian or trustee of Redeveloper has been appointed or is contemplated as of the date of this Redevelopment Agreement, and no petition to reorganize Redeveloper pursuant to the United States Bankruptcy Code or any similar statute that is applicable to the Redeveloper has been filed or is contemplated as of the Effective Date.

(e) No indictment has been returned against any member, manager or officer of Redeveloper.

(f) As of the Effective Date, to the best of Redeveloper's knowledge and belief after diligent inquiry there is no action, proceeding or investigation now pending, nor any basis therefore, known or believed to exist, other than the Malanga Litigation, which (i) questions the validity of this Redevelopment Agreement, Redeveloper's execution hereof, or any action or act taken or to be taken by the Redeveloper pursuant to this Redevelopment Agreement; or (ii) is likely to result in a material adverse change in the Redeveloper's property, assets, liabilities or condition which will materially and substantially impair Redeveloper's ability to perform its obligations pursuant to the terms of this Redevelopment Agreement.

(g) Redeveloper's execution and delivery of this Redevelopment Agreement and its performance hereunder will not constitute a violation of any operating agreement of the Redeveloper or of any other agreement, mortgage, indenture, instrument or judgment to which the Redeveloper is a party.

(h) All factual information and statements submitted by Redeveloper to the Township and its agents (including but not limited to McManimon, Scotland & Baumann, LLC and NW Financial) are complete, true and accurate in all material respects. Redeveloper acknowledges that the facts and representations contained in the information submitted by Redeveloper are incorporated herein by reference, are being relied upon by the Township, and are a material factor in the decision of the Township to enter into this Redevelopment Agreement with Redeveloper.

(i) To the best of Redeveloper's knowledge and belief, at the time of submission thereof to the Township all projections, estimates, *pro formas* and other information submitted by Redeveloper to the Township and its agents (including but not limited to McManimon, Scotland & Baumann, LLC and NW Financial) were materially correct and Redeveloper had no reason to believe any such information to be inaccurate or misleading in any material respect.

(j) Redeveloper is financially and technically capable of developing, designing, financing, constructing, operating and maintaining the Project.

(k) The party or parties signing the Redevelopment Agreement on behalf of Redeveloper is or are fully authorized to sign on behalf of the current members of Redeveloper and to bind them with respect thereto.

(l) As of the Effective Date the respective interests of the Redeveloper are as set forth in the Incumbency Certificate attached at Exhibit E hereto.

Redeveloper's representations and warranties are intended to and shall survive the delivery of a deed to the Public Dog Park and Lot 41.02.

6.2 Representations and Warranties by the Township. The Township hereby makes the following representations and warranties:

(a) The Township has the legal power, right and authority to enter into this Agreement and the instruments and documents referenced herein to which the Township is a party, to consummate the transactions contemplated hereby, to take any steps or actions contemplated hereby, and to perform their obligations hereunder, and as of the Effective Date except as to Financial Agreement and matters relevant thereto the Township has taken all action and is in receipt of all Governmental Approvals required to consummate the transactions contemplated hereunder and to perform its obligations hereunder.

(b) This Agreement is duly executed by the Township, and is valid and legally binding upon the Township and enforceable in accordance with its terms on the basis of Applicable Laws currently in effect and the execution and delivery thereof shall not, with due notice or the passage of time, constitute a default under or violate the terms of any indenture, agreement or other instrument to which the Township is a party.

(c) As of the Effective Date, to the best of the Township's knowledge there is no action, proceeding or investigation now pending nor any basis therefor, known or believed to exist which questions the validity of this Agreement or any action or act taken or to be taken by the Township pursuant to this Agreement, other than the Malanga Litigation.

(d) To the best of the Township's knowledge, there is no pending litigation which affects the Redevelopment Area designation or the Redevelopment Plan.

ARTICLE VII COVENANTS AND RESTRICTIONS

7.1 Description of Covenants. The covenants to be imposed upon Redeveloper, its successors and assigns, are set forth below, and shall be recorded in the form of a Declaration of Covenants and Restrictions (Exhibit F) as of (i) the date Redeveloper takes possession of the Property. The covenants and restrictions shall remain in effect for the period set forth in Section 7.2 below:

(a) In connection with its use or occupancy of the Project, not effect or execute any covenant, agreement, lease, conveyance or other instrument whereby any portion of the Project is restricted upon the basis of age (except as may be permitted pursuant to 42 USC 3607(b)(2)(C), the federal Fair Housing Act for age-restricted residential units), race, color, creed, religion, ancestry, national origin, sex or familial status, and Redeveloper, its successors and assigns, shall comply with all applicable laws prohibiting discrimination or segregation by reason of age, race, color, creed, religion, ancestry, national origin, sex or familial status.

(b) Comply with the applicable provisions and public purposes of the Redevelopment Law and all obligations under this Agreement and shall at all times develop, design, finance, construct and operate the Project or cause the Project to be developed, designed, financed, constructed and operated pursuant to the conditions and requirements of Applicable Laws, Governmental Approvals, this Agreement and the Redevelopment Plan and for a period of thirty (30) years from the issuance of a Certificate of Completion shall construct no other use except that established in the Redevelopment Plan, *provided however*, that Redeveloper shall not be deemed to be in breach if Redeveloper diligently contests, in good faith and by appropriate proceedings, such compliance with any of the aforesaid Applicable Laws. All uses to which the Project may be devoted are controlled by the Redevelopment Plan, the Governmental Approvals, Applicable Laws and this Redevelopment Agreement and that under no circumstances can the Redeveloper undertake any construction or development of the Project not in accordance with the Redevelopment Plan, the Governmental Approvals, Applicable Laws and this Redevelopment Agreement.

(c) In order to effectuate the purposes of this Agreement, make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions with any other persons, firms or Townships and in general do all things which may be requisite or proper for the construction and development of the Project in accordance with the Redevelopment Agreement, the Redevelopment Plan, Governmental Approvals and Applicable Laws, provided however, that Redeveloper shall not be deemed to be in breach of this covenant if Redeveloper diligently contests, in good faith and by appropriate proceedings, such compliance with any of the aforesaid Applicable Laws.

(d) Use diligent efforts to obtain all Governmental Approvals requisite to the construction and development of the Project including evidence satisfactory to the Township that its use of the Project is in compliance with this Agreement, the Redevelopment Plan and all Applicable Laws, and use diligent and commercially reasonable efforts to ensure timely performance of its obligations hereunder, including but not limited to Completion of Construction of the Project within the time periods specified in the Project Schedule.

(e) To use diligent efforts to obtain all Governmental Approvals authorizing the occupancy and uses of the Project for the purposes contemplated herein. Redeveloper shall enter into such other commercially reasonable agreements with respect to its development, financing, construction and management and operation of the Project, containing such provisions as may be required by Applicable Law or as may reasonably be required by Governmental Approvals.

(f) Except as otherwise permitted hereunder in the case of a Force Majeure Event, not suspend or discontinue the performance of its obligations under this Redevelopment Agreement

(other than in the manner provided for herein) for any reason, including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, commercial frustration of purpose, or any damage to or destruction of the Project.

(g) Diligently undertake the construction and development of each individual component of the Project throughout the Construction Period and to use commercially reasonable efforts to complete each component of the Project on or before the applicable Completion Date.

(h) Not encumber, hypothecate or otherwise use the Project, or any part thereof, as collateral for an unrelated transaction; nor sell, lease or otherwise transfer all or any portion of a Project without the Township's consent, except as otherwise specifically set forth in this Agreement.

(i) During construction of the Project, take commercially reasonable steps to minimize or mitigate impacts on the surrounding neighborhood (such as, for example, noise and dust controls), and keep debris and/or waste materials containerized and/or stored and disposed of, all within normal industry standards.

(j) Cause the Project to be developed, designed, financed and constructed at its sole cost and expense, except as otherwise set forth in this Agreement.

(k) Notify the Township within thirty (30) business days of any material adverse change in its financial condition from the information provided to the Township by the Redeveloper, including any material adverse change in Redeveloper's financial capability to design, develop, finance, construct and operate the Project in furtherance of the Township's consideration in executing this Agreement with Redeveloper if such change will materially impair Redeveloper's ability to perform its obligations pursuant to the terms of this Agreement.

(l) Notify the Township within ten (10) business days of any Event of Default on the part of Redeveloper under any mortgage with respect to any of the Property that have been acquired by Redeveloper, or the commencement or existence of any foreclosure proceedings with respect to any of the Property that have been acquired by Redeveloper. The Redeveloper shall provide copies of any notices of default and/or notices of foreclosure proceedings to the Township within ten (10) days of Redeveloper's receipt thereof.

(m) Keep and maintain in good condition any improvements required under the Governmental Approvals, including but not limited to any landscaping required to be planted or cause an entity in control of the Project (*i.e.* condominium or homeowner association) to maintain such improvements.

7.2 Effect and Duration of Covenants. It is intended and agreed that the agreements and covenants set forth in this Agreement shall be covenants running with the land and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Agreement, be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the Township, their successors and assigns, against the Redeveloper, its successors and assigns and every successor in interest therein, and any party in possession or occupancy of the Project

or any part thereof. The covenants shall cease and terminate when a Certificate of Completion for such improvements has been issued, provided however, that the covenants in Sections 7.1(a), (b), and (m) shall remain in effect without limitation as to time.

ARTICLE VIII PROHIBITION AGAINST ASSIGNMENT AND TRANSFER

8.1 Prohibition Against Transfers of Interests in Redeveloper. Redeveloper recognizes the importance of the Redevelopment Project to the general welfare of the community and that the identity of the Redeveloper and its qualifications are critical to the Township in entering into this Agreement, particularly in view of the public aids that have been or will be made available for the purpose of making such redevelopment possible. The Township considers that a Transfer of the ownership in Redeveloper or of a substantial part thereof, or any other act or transaction involving or resulting in a significant change in the ownership of or with respect to the identity of the parties in control of Redeveloper or the degree thereof, is for practical purposes a Transfer or disposition of the Project. Redeveloper recognizes that it is because of such qualifications and identity that the Township is entering into this Agreement with Redeveloper, and, in so doing, the Township is relying on the obligations of Redeveloper and not some other person or entity for the faithful performance of all undertakings and covenants to be performed by Redeveloper hereunder.

As a result, prior to completion of the Project (or applicable Phase thereof) as evidenced by the issuance of a Certificate of Completion, and without the prior written approval of the Township (which approval shall not be unreasonably withheld) Redeveloper agrees for itself and all successors in interest that there shall be no (i) Transfer of the Property, nor (ii) any direct or indirect change in control of Redeveloper as it exists on the Effective Date, whether by changes in capitalization, merger, or otherwise. The Township recognizes that implementation of the Project is likely to involve one or more joint venture arrangements between Redeveloper and other developers having particular development expertise and financial capabilities. The Township agrees to consider such joint venture arrangements in good faith, and will not unreasonably withhold its consent to any such arrangement provided (i) that such joint venture entity assumes all of the obligations of Redeveloper under the terms of this Agreement and under all applicable Governmental Approvals as to the applicable Phase of the Project, provided that Redeveloper shall not be released from and shall remain liable for the performance of Redeveloper's and the joint venture's obligations; (ii) that the creation and existence of the joint venture does not materially and negatively affect the Township's ability to enforce its rights under this Agreement; and (iii) that the proposed joint venture partner and structure is acceptable to the Township, in its reasonable discretion. The Transfer or Transfers of a non-controlling interest or interests in the Redeveloper that do not result in a change in control of Redeveloper as set forth in the Operating Agreement shall not constitute a prohibited Transfer. The death or incapacity of a principal of the Redeveloper shall not constitute a prohibited Transfer hereunder. With respect to this provision, Redeveloper and the party or parties signing the Redevelopment Agreement on behalf of Redeveloper represent that each has authority to agree to this provision on behalf of the current members of Redeveloper and to bind them with respect thereto.

8.2 Exemption from Prohibited Transfers. Notwithstanding the foregoing, and with prior knowledge of the Township by written notice from Redeveloper, the following shall not constitute a prohibited Transfer, for purposes of Section 8.1: transfer to an entity or entities controlled by Redeveloper, or other urban renewal entity or entities formed by Redeveloper pursuant to *N.J.S.A. 40A:20-4*; *provided, however*, that such successor and assignee of Redeveloper shall assume all of the obligations of Redeveloper hereunder, but Redeveloper shall remain primarily liable for the performance of Redeveloper's obligations; and *provided further*, that (i) a copy of the fully executed written instrument of conveyance and assignment and assumption of this Redevelopment Agreement shall be promptly delivered to the Township; and (ii) such conveyance or assignment does not violate any of the Governmental Approvals.

8.3 Prohibition of Transfer of Redevelopment Agreement. Redeveloper further agrees for itself, its successors and assigns, that prior to the Completion of the Project, as evidenced by the issuance of a Certificate of Completion, Redeveloper will not make or create, or suffer to be made or created, any assignment or other Transfer of its interests in this Agreement, without the prior written approval of the Township, except as provided in Section 8.1 above, Section 8.2 above or Section 8.4 below (including a Transfer as a result of a foreclosure or a deed in lieu given to a lender).

8.4 Consent to Permitted Transfers. The Township hereby consents, without the necessity of further approvals from any entity, to the following Transfers:

(a) a Mortgage or related security granted by Redeveloper to a Mortgagee for the purpose of obtaining the financing necessary to enable Redeveloper to perform its obligations under this Redevelopment Agreement, including any Mortgage or Mortgages and other liens and encumbrances granted by Redeveloper to a Mortgagee for the purpose of financing costs associated with the acquisition, development, construction, or marketing of the Project; *provided, however*, that Redeveloper shall give the Township at least fifteen (15) days prior written notice of such Permitted Transfer, including a description of the nature of such Transfer, and the name(s) and address(es) of the transferee and any parties, individuals or entities involved in such Permitted Transfer; and *provided further*, that Redeveloper shall simultaneously provide to the Township true and complete copies of all Project Schedules and project budgets submitted to such Mortgagee; or

(b) Transfers of easements or dedications of property as may be required as conditions of Governmental Approvals.

(c) Inter-family transfers of interests in the Redeveloper for estate planning purposes.

The Township recognizes and acknowledges that financing of the Project is likely to include one or more of equity participations, "mezzanine" debt, and other financing arrangements in addition to a Mortgage. The Township agrees to consider such financing arrangements in good faith and will not unreasonably withhold or delay its consent to such

arrangements if they do not result in a change in control of Redeveloper or materially and negatively affect the Township's ability to enforce its rights under this Agreement.

8.5 Prohibition Against Speculative Investment. Because of the importance of the Project to the general welfare of the community, Redeveloper represents and agrees that its acquisitions of the Property and Redeveloper's undertakings pursuant to this Redevelopment Agreement are, and will be used, for the purpose of the Redevelopment Project and redevelopment of the Redevelopment Area as provided herein, and not for speculation in land holding.

8.6 Information as to Ownership of Redeveloper. In order to assist in the effectuation of the purpose of this Article 8, Redeveloper represents that the certificate attached to this Agreement as Exhibit E is an incumbency certificate of Redeveloper as of the Effective Date, subscribed and sworn to by a manager or authorized member of Redeveloper, setting forth the name(s) and address(es) of all entities owning at least a 10% interest in Redeveloper, and, as to each such entity, all entities owning at least a 10% interest therein, such disclosure being intended to be the same disclosure that Redeveloper will be required to make in connection with its Governmental Applications for land use approvals pursuant to *N.J.S.A. 40:55D-48.2*.

(a) At such times as reasonably requested by the Township, Redeveloper will update the incumbency certificate and keep Exhibit E current as to Redeveloper as well as to each permitted urban renewal entity or joint venture.

(b) Redeveloper will immediately notify the Township in writing of any and all changes whatsoever in the ownership of Redeveloper and any permitted urban renewal entity or joint venture, legal or beneficial, or of any other act or transaction involving or resulting in any change in such ownership or in the relative distribution thereof, or with respect to the identity of the parties in control of Redeveloper or the degree thereof, of which it or any of its officers or members have been notified or otherwise have knowledge or information.

(c) Redeveloper shall, at such time or times as the Township may request, furnish the Township with a complete statement subscribed and sworn to by managing member of Redeveloper, setting forth all of managing members, or other owners of equity interests of Redeveloper, and of any permitted urban renewal entity or joint venture, and the extent of their respective holdings, and in the event any other parties have a beneficial interest in Redeveloper's entity, their names and the extent of such interest.

8.7 Transfer or Assignment Fee. Any reasonable costs incurred by the Township in connection with a request made by the Redeveloper for the Township's consent to transfer or assign this Redevelopment Agreement shall constitute a Township Cost for purposes of this Agreement.

ARTICLE IX MORTGAGE FINANCING

9.1 Mortgages, Liens, or other Encumbrances. Prior to the issuance of a Certificate of Completion Redeveloper shall promptly notify the Township of any encumbrance or lien that has been created on or attached to the Project, by mortgage or involuntary act of the Redeveloper or others, upon obtaining knowledge or notice of same.

9.2 Obligations of Mortgagee. Notwithstanding any of the provisions of this Redevelopment Agreement, including but not limited to those which are or are intended to be covenants running with the land, the holder of any mortgage authorized by this Redevelopment Agreement (including but not limited to any such holder who obtains title to one or more Property, or to any part thereof as a result of foreclosure proceedings, or action in lieu thereof, but not including (a) any other party who thereafter obtains title from or through any such holder or (b) any other purchaser at foreclosure sale, other than the holder of the mortgage itself) shall in no way be obligated by the provisions of this Redevelopment Agreement to construct or complete the Project or to guarantee such construction or completion; *provided* that nothing in this Article or any other Article or provision of this Redevelopment Agreement shall be deemed or construed to permit or authorize any such holder to devote the Property or any part thereof to any uses, or to construct any project thereon, other than those uses provided or permitted under this Agreement, the Redevelopment Plan, Governmental Approvals and Applicable Laws.

9.3 Notice of Default to Mortgagee and Right to Cure. Subject to *N.J.S.A. 55:17-1 et seq.*, whenever the Township shall deliver any notice or demand to the Redeveloper with respect to any breach or default by the Redeveloper under this Redevelopment Agreement, the Township shall at the same time deliver to each lender (or equity participant in Redeveloper) a copy of such notice or demand, provided that the Redeveloper has delivered to the Township a written notice of the name and address of such lender and equity participant. Each such lender shall (insofar as the rights of the Township are concerned) have the right at its option within ninety (90) days after the receipt of such notice, to cure or remedy, or to commence to cure or remedy, any such default with respect to that portion of the Project which is being financed by such lender and which is subject to being cured and to add the cost thereof to the debt and the lien which it holds, or to the obligations of the lessees under any lease-back or of the guarantor under any other conveyance for financing.

9.4 Estoppel Certificate; Mortgagee Request for Modifications. (a) Within thirty (30) days following written request by the Redeveloper, or of any Mortgagee, lender, purchaser, tenant or other party having an interest in the Project, the Township shall issue a signed estoppel certificate stating (i) that this Agreement is unmodified and in full force and effect as to the Project (excepting only modifications which shall be set forth), (ii) whether to the best knowledge of the Township Redeveloper is in default under this Agreement, and, if so, specifying each such default of which the Township shall have knowledge; and (iii) confirming such other factual matters within the Township's knowledge or control pertinent to this Agreement, as the same relate to, or might affect, the Project or the Property. In the event the estoppel certificate discloses such a default, breach or event, it shall also state the manner in which such default, breach or event may be cured. No more than a reasonable number of estoppel certificates may be requested per year.

(b) In the event that a permitted Mortgagee reasonably requests changes to

this Agreement in order to make the same acceptable to the Mortgagee, the Township agrees to consider such changes in good faith and to consent to such changes if they do not materially and adversely affect the Township's rights nor increase the Township's obligations, which consent will not be unreasonably withheld, conditioned or delayed.

ARTICLE X EVENTS OF DEFAULT ; TERMINATION

10.1 Default Related to Conveyance of the Public Dog Park or Lot 41.02.

(a) If title to the Public Dog Park or Lot 41.02 does not close because of the Township's Default, then the Redeveloper shall be entitled to pursue all other remedies at law or equity available to it by reason of the Township's default (including but not limited to specific performance and recovery of costs); *provided, however*, that failure of the Governing Body to authorize or approve the transaction shall not constitute a Default by the Township, but only a failure of the condition precedent to the conveyance; and *provided further*, that under no circumstances shall the Township be liable for consequential, indirect or special damages of any kind. However, regardless of whether the failure to close title to the Public Dog Park or Lot 41.02 is the result of a Township Default or the Governing Body failing to authorize or approve the transaction, the Redeveloper shall be permitted to proceed with the residential apartment building construction and provide the required Affordable Units or terminate this Agreement.

(b) If title to the Public Dog Park or Lot 41.02 does not close because of the Redeveloper's Default, the Township shall be entitled to terminate this Agreement. Nothing in this Section shall be construed as limiting the ability of the Township to be reimbursed from the Escrow Account for Township Costs incurred through the date of termination.

10.2 Events of Default by Redeveloper. Any one or more of the following shall constitute an “**Event of Default**” hereunder, subject to Force Majeure Extension and tolling as provided elsewhere in this Agreement:

(a) Failure of Redeveloper to observe or perform any covenant, condition, representation, warranty or agreement hereunder and any other failure, act or omission by Redeveloper designated elsewhere in this Agreement as a “Default” or a “default”, and except as otherwise specified below the continuance of such Default for a period of thirty (30) days after Notice from the Township specifying the nature of such Default and requesting that such Default be remedied; *provided, however*, if the Default is one that cannot be completely remedied within thirty (30) days after such Notice, it shall not be an Event of Default as long as Redeveloper is proceeding in good faith and with due diligence to remedy the same as soon as practicable, but in no event later than ninety (90) days after such Notice unless this Agreement specifically provides otherwise.

(b) Redeveloper's failure or refusal to make any payment or deposit of funds required hereunder as and when required, and the failure to make such payment or deposit within fifteen (15) days after Notice from the Township, including but not limited to failure to make timely

payments of real estate taxes or to refresh the Escrow Account or to reimburse the Township for properly reimbursable Township Costs not cured within ten (10) business days of Notice by the Township.

(c) (i) Redeveloper shall have applied for or consented to the appointment of a custodian, receiver, trustee or liquidator of all or a substantial part of its assets; (ii) a custodian shall have been legally appointed with or without consent of Redeveloper; (iii) Redeveloper, (1) has made a general assignment for the benefit of creditors, or (2) has filed a voluntary petition in bankruptcy or a petition or an answer seeking an arrangement with creditors or has taken advantage of any insolvency law; (iv) Redeveloper has filed an answer admitting the material allegations of a petition in any bankruptcy or insolvency proceeding; or (v) Redeveloper shall take any action for the purpose of effecting any of the foregoing; (vi) a petition in bankruptcy shall have been filed against Redeveloper, and shall not have been dismissed for a period of ninety (90) consecutive days; (vii) an Order for Relief shall have been entered with respect to or for the benefit of Redeveloper, under the Bankruptcy Code; (viii) an Order, judgment or decree shall have been entered, without the application, approval or consent of Redeveloper, by any court of competent jurisdiction appointing a receiver, trustee, custodian or liquidator of Redeveloper, or a substantial part of its assets and such order, judgment or decree shall have continued unstayed and in effect for any period of ninety (90) consecutive days; or (ix) Redeveloper shall have suspended the transaction of its usual business.

(d) Redeveloper (i) except as otherwise permitted hereunder fails to perform its obligations with respect to acquisition of the Property or the implementation of the Project in accordance with this Agreement and the Project Schedule, the Redevelopment Plan, Governmental Approvals or Applicable Laws, including but not limited to failure to Commence Construction or Complete Construction in accordance with the Project Schedule; or (ii) abandons the Project or substantially suspends construction work without the prior knowledge and consent of the Township (unless such suspension arises out of a Force Majeure Event), and any such failure, abandonment or suspension shall not be cured, ended, or remedied within thirty (30) days after Notice by the Township; *provided, however*, if the Default is one that cannot be completely remedied within thirty (30) days after such Notice has been given, it shall not be an Event of Default as long as the Redeveloper is proceeding in good faith and with due diligence to remedy the same as soon as practicable, but in no event later than ninety (90) days after such Notice.

(e) There is a prohibited Transfer, immediately upon such Transfer with no Notice or opportunity to cure.

(f) Material breach of any warranty or representation made by Redeveloper.

(g) Violation by Redeveloper of any covenant or restriction contained in the Declaration of Covenants and Restrictions.

(h) Redeveloper's failure to pay or delinquency in the payment of real property taxes or assessments, which failure or delinquency is not cured within ten (10) days of Notice by the Township.

(i) Cancellation or termination by reason of any act or omission of Redeveloper of any insurance policy, performance or completion, letter of credit, guaranty or other surety required hereunder to be provided by Redeveloper for the benefit of the Township, immediately upon cancellation or termination thereof if not replaced with no resulting gaps in coverage.

(j) Foreclosure of any of the Property once such parcel has been acquired by the Redeveloper.

(k) Failure of WOOEP to comply with the terms and conditions of the Tax Agreement.

10.3 Events of Default by Township. Any one or more of the following shall constitute an “**Event of Default**” hereunder, subject to Force Majeure Extension and tolling as provided elsewhere in this Agreement:

(a) Failure of the Township to perform its obligations with respect to Redeveloper Protections as set forth in Article V, and the continuance of such Default for a period of thirty (30) days after Notice from the Redeveloper specifying the nature of such Default and requesting that such Default be remedied; *provided, however*, if the Default is one that cannot be completely remedied within thirty (30) days after such Notice, it shall not be an Event of Default as long as the Township is proceeding in good faith and with due diligence to remedy the same as soon as practicable, but in no event later than ninety (90) days after such Notice unless this Agreement specifically provides otherwise.

(b) Material breach of any warranty or representation made by the Township and the continuance thereof for a period of thirty (30) days after Notice from the Redeveloper specifying the nature of such Default and requesting that such Default be remedied; *provided, however*, if the Default is one that cannot be completely remedied within thirty (30) days after such Notice, it shall not be an Event of Default as long as the Township is proceeding in good faith and with due diligence to remedy the same as soon as practicable, but in no event later than ninety (90) days after such Notice unless this Agreement specifically provides otherwise.

(c) Failure to comply with the terms and conditions of the Tax Agreement.

10.4 Remedies Upon Event of Default. Whenever any Event of Default of Redeveloper shall have occurred, the Township may, on written notice to Redeveloper (a “**Termination Notice**”) terminate this Redevelopment Agreement and Redeveloper’s designation as Redeveloper hereunder, and take whatever other action at law or in equity as may appear necessary or desirable to enforce the performance or observance of any rights, remedies, obligations, agreements, or covenants of Redeveloper under this Agreement. Whenever any Event of Default of the Township shall have occurred, Redeveloper or WOOEP, as the case may be, may take whatever action at law or in equity may be available to enforce the performance or observance of any rights, remedies, obligations, agreements, or covenants of the Township under this Agreement. Neither the Township nor the Redeveloper shall be liable for indirect, consequential or special damages of any kind. In the event of a finally adjudicated dispute regarding an Event of Default or Termination Notice, then in addition to damages and other relief the prevailing Party shall be entitled to recover its reasonable attorney’s fees from the other

Party.

10.5 Force Majeure Extension. For the purposes of this Agreement, neither the Township nor Redeveloper shall be considered in breach or in default with respect to its obligations hereunder because of a delay in performance arising from a Force Majeure Event. It is the purpose and intent of this provision that in the event of the occurrence of any such delay, the time or times for performance of the obligations of the Township or Redeveloper shall be extended for the period of the delay; *provided, however*, that such delay is actually caused by or results from the Force Majeure Event. The time for completion of any specified obligation hereunder shall be tolled for a period of time up to but not exceeding the period of delay resulting from the occurrence of a Force Majeure Event plus a reasonable period of time not to exceed sixty (60) days, or such other period of time which may be agreed to by the Township and the Redeveloper, for Redeveloper to re-mobilize its contractors and agents to complete the Project or affected Phase thereof, and Redeveloper's non-performance of such obligation during any such period of time shall not be deemed a default by Redeveloper of its obligations under this Agreement. To invoke the tolling provisions hereunder the party invoking the provisions hereof must give Notice to the other party of the occurrence of a Force Majeure Event as soon as practicable. The tolling period shall be calculated from the date of the Notice.

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

10.7 Remedies Cumulative. No remedy conferred by any of the provisions of this Redevelopment Agreement is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.

10.8 Failure or Delay by Either Party. Except as otherwise expressly provided in this Redevelopment Agreement, any failure or delay by either party in asserting any of its rights or remedies as to any default, shall not operate as a waiver of any default, or any such rights or remedies, or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies as established by this Agreement.

10.9 Termination Rights Related to Litigation. If third party litigation is commenced challenging the validity of (i) the designation of the Redevelopment Area, (ii) the Redevelopment Plan, (iii) execution of this Redevelopment Agreement by the Township, or (iv) a financial agreement or RAB for the Project, the commencement of such litigation shall be a Force Majeure Event effective as of the date of the filing of the summons and complaint if Redeveloper invokes the Force Majeure provisions of Section 10.4; *provided, however*, that (a) if such litigation is finally determined in favor of the plaintiff with no further opportunity for

appeal, then either Party may terminate this Agreement by written notice to the other, and (b) if such litigation is not finally determined (inclusive of the expiration of any applicable appeal period) but the Force Majeure Extension has been in effect for at least eighteen (18) months from the date the complaint was filed, either Party may elect to terminate this Agreement by Notice to the other; provided the Redeveloper remains under contract to acquire the Property, if such contract has terminated and Redeveloper cannot secure an extension, then it may terminate this Agreement.

10.10 Events of Default Specific to Phase. To the extent that a Default by Redeveloper occurs which is specific only to a particular Phase of the Project, such Default shall not be considered a Default with respect to any other Phase which has both Commenced Construction and obtained third-party financing in the form of a Permitted Mortgage. Defaults by Redeveloper which are not specific to a particular Phase of the Project (e.g., failure to make payment of escrow deposits to the Township from time to time) shall be considered a Default with respect to all Phases.

ARTICLE XI INSURANCE

11.1 Insurance – General Requirements. At all times during the term of this Agreement the Redeveloper shall maintain, or cause to be maintained, insurance for the mutual benefit of the Township and Redeveloper as their interests may appear:

(a) Loss or damage by fire, and such other risks as may be included in the standard form of extended coverage insurance from time to time available, in amounts sufficient to prevent the Township or Redeveloper from becoming a co-insurer within the terms of the applicable policies, and in any event, in amounts not less than 100% of the then full insurable value of the Project;

(b) War risks, when and to the extent that such insurance is generally obtainable from the United States Government or an agency thereof pursuant to the Terrorism Risk Insurance Act, in an amount sufficient to prevent the Township or Redeveloper from becoming a co-insurer within the terms of the applicable policy, and, in any event, in an amount not less than 100% of the then full such lesser amount as insurable value of either the Project or the amount that the United States Government or an agency thereof limits the insured to obtaining, pursuant to the Terrorism Risk Insurance Act;

(c) All claims for bodily injury and property damage, under a policy of commercial general public liability insurance, with such limits as may reasonably be required by the Township from time to time, but not less than \$1 million per occurrence in respect of injury or death and \$2 million per occurrence for property damage, plus excess (“umbrella”) liability policies with coverage of not less than \$10 million.

(d) Workers compensation insurance in an amount not less than \$1,000,000 or such greater amount as may be required under Applicable Laws for employees of Redeveloper and the Contractors.

(e) Such other hazards and in such amounts as the Township may reasonably require provided that such insurance is then customarily maintained in buildings of similar construction, use and class in the area in which the Township-Owned Property is located.

11.2 Insurance – Restrictions. All insurance provided for under this Agreement will be reasonably effected under valid enforceable policies issued by insurers rated “A” or better by A.M. Best and reasonably acceptable to the Township; *provided, however*, that if such insurance is not commercially available Redeveloper’s failure to procure such insurance shall not constitute a Default hereunder. On or before the first Closing Date, a certificate procured by Redeveloper pursuant to Article 11.1 (or certificates thereof) will be delivered to the Township. At least 30 days prior to the expiration date of any policy, the original renewal policy (or certificates thereof) for such insurance will be delivered by the Redeveloper to the Township as aforesaid, together with satisfactory evidence of payment of the premium thereon. All policies referred to in Article 11.1 will, to the extent then generally obtainable, contain agreements by the insurers that (a) such policies may not be canceled except upon 30 days prior written notice to each named insured and loss payee, and (b) the coverage afforded thereby must not be affected by the performance of any work in or about the Property.

11.3 Township as Insured. Each policy of insurance required herein shall name the Township as an additional insured, as its interests may appear.

11.4 Additional Insurance. Nothing in this Article shall prevent the Redeveloper from taking out insurance of the kind and in the amounts and with companies provided for under Article 11.1 or 11.2 under a blanket insurance policy or policies which can cover other properties as well as the Property; provided, however, that any such policy of insurance provided for under Article 11.1 must (a) specify therein, or the Redeveloper shall furnish the Township with a written statement from the insurers under such policies specifying the amount of the total insurance allocated to the Project, which amount will not be less than the amount required by Article 11.1 to be carried, and (b) not contain any clause which would result in the insured thereunder being required to carry insurance with respect to the property covered thereby in an amount equal to a minimum specified percentage of the full insurable value of such property in order to prevent the insured therein named from becoming a co-insurer of any loss with insurer under such policy.

11.5 Deductibles. All insurance provided under this Article XI may contain loss deductible clauses in such maximum amounts as the Township approves in its reasonable discretion.

11.6 Subrogation. All insurance policies obtained pursuant to this Article must include waivers of subrogation against the Township and Redeveloper.

ARTICLE XII COMMUNITY INITIATIVES

12.1 Equal Employment Opportunity. Redeveloper agrees that during construction

of the Project:

(a) Redeveloper will not discriminate against any employee of Redeveloper or applicant for employment because of race, color, religion, sex, or national origin. Redeveloper will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Redeveloper agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause and any such notices provided by the Township that are consistent therewith.

(b) Redeveloper will, in all solicitations or advertisements for employees placed by or on behalf of Redeveloper, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(c) Subcontractors and suppliers to the Project shall include qualified and certified minority enterprises, to the extent qualified subcontractors and suppliers are available consistent with the Project Schedule.

(d) The obligations contained in this Article shall be binding on all contractors and subcontractors to the extent that any work is done by any contractor or subcontractor, and any contract entered into by Redeveloper shall so provide.

12.2 First Source Employment. The Redeveloper shall make good faith efforts to employ and shall provide in its contracts with its contractors and subcontractors that they must make good faith and commercially reasonable efforts to employ residents of Township in the construction of the Project, consistent with market wages and the financial success of the Project. If so requested by the Township, Redeveloper agrees (i) to cooperate with the Township or its designee in developing a plan to coordinate training programs and employment recruitment efforts for Township residents; (ii) to cooperate with efforts to recruit Township residents for all employment opportunities in connection with the Project, including participation in Township job fairs or similar events; and (iii) to meet with appropriate Township officials to determine the status of recruitment and training efforts, and to plan future employment training and recruitment activities.

12.3 Affirmative Action. Redeveloper during the construction of the Project shall use good faith efforts to comply with, and provide in its contracts with its contractors and subcontractors, the following:

(a) When hiring workers in each construction trade, or when engaging contractors, Redeveloper agrees to use its good faith efforts to employ Minority workers and Township residents.

(b) Redeveloper will undertake a program of local preference to facilitate

entering into contracts with and/or purchasing good and services from local merchants and businesses located within the Township, including preferences for local retail and restaurant businesses;

(c) Where applicable, Redeveloper will at all times conform to the laws, regulations, policies of the State, the Federal government, and other governmental bodies with respect to affirmative action and equal employment opportunities requirements, and particularly those which are imposed as a condition to receipt of any government sponsored funding for the Project, notwithstanding any other provision of this Redevelopment Agreement to the contrary.

12.4 Reporting and Enforcement. During construction of the Project, Redeveloper shall use good faith efforts to provide that:

(a) All contracts entered into by the Redeveloper for the construction of the Project shall contain appropriate language to effectuate this Article.

(b) If and as reasonably requested by the Township, or if otherwise required by Applicable Law, Redeveloper and its contractors and subcontractors shall submit periodic reports regarding their compliance with this Article.

ARTICLE XIII PILOT CONTINGENCY & FINANCIAL AGREEMENT; LITIGATION COSTS; 2017 TAX APPEAL

13.1 PILOT Contingency & Financial Agreement. (a) Redeveloper intends to apply to the Township for approval of a financial agreement with respect to Block 155, Lots 40.02 and 42.02 (the “**Financial Agreement**”) providing for, among other things, payments in lieu of taxes (the “**PILOT**”) pursuant to the Long Term Tax Exemption Law and the Redevelopment Area Bond Financing Law. The Township agrees to consider such application in good faith and to consider and pursue in good faith and in accordance with the criteria set forth in the Applicable Laws the issuance of non-recourse redevelopment area bonds (the “**RAB**”) of not more than a total par amount of Four Million Five Hundred Thousand Dollars (\$4,500,000.00) to provide financial assistance to the Project. The RAB, if issued, may be issued in multiple series, as further described and limited at Exhibit G hereto, and shall comply with the criteria to be set forth in the Financial Agreement and the resolutions, indentures or other agreements to be negotiated providing for and securing the issuance of the RAB. The RAB shall be non-recourse to the Township and shall not in any way require the Township to levy *ad valorem* taxes, whether to pay principal, interest, interest reserves or any other costs or expenses with respect to the RAB. The Redeveloper may utilize the proceeds of the RAB for costs of the Project, including, but not limited to, the construction of Infrastructure Improvements, the construction of the Library Improvements (or in the alternative, payment to the Township of \$1,500,000.00 toward Library Improvements), and construction of the Public Dog Park.

(b) The Township agrees to consider and pursue Redeveloper’s PILOT applications and RAB issuance in good faith, but Redeveloper acknowledges that the Township retains discretion

under Applicable Laws as to whether to grant the PILOT or issue the RAB. If the terms of a mutually acceptable Financial Agreement, RAB financing, and all applicable State approvals in connection therewith have not been obtained by the Contingency Satisfaction Deadline, then either Party may elect to terminate this Agreement by providing Notice to that effect to the other Party (the “**PILOT Contingency**”).

13.2 Litigation Costs. (a) All litigation costs incurred by the Township arising out of or in connection third party litigation challenging this Agreement or any RAB, PILOT or Financial Agreement hereunder or implementation thereof (including but not limited to reasonable attorneys’ fees and other reasonable out of pocket costs incurred in the defense of such litigation or dispute resolution in connection therewith, “**Litigation Costs**”) shall constitute Township Costs that Redeveloper is obligated to pay pursuant to the terms of this Agreement. The Township agrees to cooperate with Redeveloper in the defense of such litigation.

(b) With respect to third party litigation challenging (i) designation of the Redevelopment Area as an area in need of redevelopment; or (ii) the Redevelopment Plan, then from time to time during the pendency of such litigation and as requested by the Township Redeveloper shall deposit into the Escrow Account an amount reasonably estimated by the Township to cover one half (1/2) of the Litigation Costs in connection therewith. If such litigation is finally and conclusively resolved in favor of the Township, Redeveloper shall reimburse the Township for the Township’s share of the Litigation Costs. The reimbursement obligations of the Parties pursuant to this Section 13.2 shall survive termination of this Agreement.

13.3 Redeveloper’s Indemnification of Township. In amplification and not limitation of the definition of Township Costs and any other indemnity obligation pursuant to this Agreement, and except as otherwise set forth above in Section 13.2(b) with regard to certain Litigation Costs, Redeveloper hereby agrees to indemnify and shall pay, protect and hold the Township harmless from and against all liabilities, losses, claims, demands, costs, expenses (including reasonable attorneys’ fees and expenses) and judgments of any nature arising, or alleged to arise, from or in connection with this Agreement; *provided, however*, that such liability, loss, claim, demand, cost or expense is not the result of gross negligence or willful misconduct of the Township or its officers, employees, agents or representatives. Redeveloper’s obligation to indemnify the Township pursuant to this Section shall survive conveyance of title to the Acquisition Parcels to Redeveloper and any termination of this Redevelopment Agreement.

13.4 Township's Indemnification of the Redeveloper. Township hereby agrees to indemnify and shall pay, protect and hold the Redeveloper harmless from and against all liabilities, losses, claims, demands, costs, expenses (including reasonable attorneys' fees and expenses) and judgments of any nature arising, or alleged to arise, from or in connection with the Public Dog Park or Library Improvements, arising or caused after the conveyance of the Public Dog Park and Lot 41.02, provided however, that such liability, loss, claim, demand, cost or expense is not the result of gross negligence or willful misconduct of the Redeveloper or its officers, employees, agents or representatives. The Township's obligation to indemnify the Redeveloper pursuant to this Section shall survive conveyance of the Public Dog Park and Lot 41.02 to the Township and any termination of this Redevelopment Agreement post-closing on the Public Dog Park and Lot 41.02.

13.5 2017 Tax Appeal Liability. WOOEP shall be responsible for any and all refunds of overpaid real estate taxes, the reasonable fees of experts retained by the Township, including but not limited to a real estate appraiser, and the reasonable fees of an attorney retained by the Township (at an hourly rate not to exceed \$350) that are incurred by the Township in connection with its defense of the 2017 real estate tax appeals pending in the Tax Court of New Jersey (the "**Tax Court**") challenging the assessments on Lots 40.02, 41.02, 42.01 and 42.02 in Block 155 (the "**2017 Tax Appeals**"). WOOEP agrees to pay, or reimburse the Township for, such expenses upon presentation of reasonably detailed invoices. The Township agrees not to settle the 2017 Tax Appeals, or any of them, without the prior written consent of the Redeveloper and WOOEP. If the Redeveloper and WOOEP instruct the Township to settle the 2017 Tax Appeals, or any of them, the Township agrees to settle same in accordance with such instructions. If requested by the Redeveloper or WOOEP, the Township agrees to defend any appeal from a judgment or judgments entered in the Tax Court and to appeal, and prosecute such appeal to conclusion, and to appeal from, and prosecute such appeal to conclusion, any adverse decision with respect to the 2017 Tax Appeals, or any of them (which appeal(s) shall be at WOOEP's expense), upon receipt of instructions from WOOEP or the Redeveloper to do so. WOOEP reserves the right to appoint co-counsel to the Township of WOOEP's choosing to assist in the defense of the 2017 Tax Appeals, or any of them, at the trial level and to assist in the prosecution or defense of any appeal from a judgment or judgments entered in the Tax Court, at WOOEP's sole cost and expense. Under no circumstances shall WOOEP be entitled to any monies, refunds, interest or other benefits in the event of a judgment or other resolution of the 2017 Tax Appeals.

ARTICLE XIV MISCELLANEOUS

14.1 Cooperation. The Parties hereto agree to cooperate with each other and to provide all necessary and reasonable documentation, certificates, consents in order to satisfy the terms and conditions hereof and the terms and conditions of this Agreement. The Township further agrees to cooperate as may be reasonably requested by any mortgagee of the Redeveloper in connection with obtaining financing for the Project; *provided, however*, that all costs and expenses of such cooperation by the Township shall constitute Township Costs.

14.2 Conflict of Interest. No member, official or employee of the Township shall have any direct or indirect interest in this Redevelopment Agreement or any Project, nor participate in any decision relating to the Redevelopment Agreement or any Project which is prohibited by law.

14.3 No Consideration For Agreement. The Redeveloper warrants it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Redevelopment Agreement, other than normal costs of conducting business and costs of professional services such as architects, engineers, financial consultants and attorneys. The Redeveloper further warrants it has not paid or incurred any obligation to pay any officer or official of the Township, any money or other consideration for or in connection with this Redevelopment Agreement.

14.4 Non-Liability of Officials and Employees of the Township. No member, official or employee of the Township shall be personally liable to the Redeveloper, or any successor in interest, in the event of any default or breach by the Township, or for any amount which may become due to the Redeveloper or its successor, or on any obligation under the terms of this Redevelopment Agreement.

14.5 Non-Liability of Officials and Employees of the Redeveloper. No member, officer, shareholders, director, partner or employee of the Redeveloper, and no member, officer, shareholders, director, partner or employee of the members of the Redeveloper or the members of the Redeveloper shall be personally liable to the Township, or any successor in interest, in the event of any default or breach by the Redeveloper or for any amount which may become due to the Township, or their successors, on any obligation under the terms of this Redevelopment Agreement.

14.6 Inspection of Books and Records.

(a) The Township shall have the right upon reasonable request and at all reasonable times to inspect the books and records of the Redeveloper pertinent to the purposes of this Redevelopment Agreement.

(b) The Redeveloper shall have the right at all reasonable times to inspect the books and records of the Township pertinent to the purposes of this Redevelopment Agreement.

(c) Such inspections must be for a legitimate business purpose affecting the material interest of the party seeking the inspection.

(d) Such inspections must be performed at a time and in a manner as to not unreasonably interfere with the business operations of the party whose books and records are being inspected.

14.7 Time of the Essence. Any other provision of this Agreement notwithstanding, the Township reserves its right to serve a “time of the essence” notice as permitted under and in accordance with Applicable Law.

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

14.9 Notices. A notice, demand or other communication required to be given under this Redevelopment Agreement by any Party to the other (the “**Notice**”) shall be in writing and shall be sufficiently given or delivered if dispatched by United States Registered or Certified Mail, postage prepaid and return receipt requested, or delivered by overnight courier or delivered personally (with receipt acknowledged), or by facsimile transmission (with receipt acknowledged) to the parties at their respective addresses set forth herein, or at such other address or addresses with respect to the parties or their counsel as any party may, from time to time, designate in writing and forward to the others as provided in this Section.

As to the Township:

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

With copies to:

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

As to the Redeveloper:

Green Essex Partners Urban Renewal, LLC
c/o BNE Real Estate Group
16 Microlab Road, Suite A
Livingston, New Jersey 07039

With a copy to:

Francis X. Regan, Esq.
DeCotiis, FitzPatrick, Cole & Giblin, LLP
Glenpointe Centre West
500 Frank W. Burr Boulevard, Suite 31
Teaneck, New Jersey 07666

From time to time either party may designate a different person or address for all the purposes of this Notice provision by giving the other party no less than ten (10) days' notice in advance of such change of address in accordance with the provisions hereof. Notices shall be effective upon receipt or rejection of delivery by the addressee.

14.10 Titles of Articles and Sections. The titles of the several Articles and Sections of this Redevelopment Agreement, as set forth in the Table of Contents or at the heads of said Articles and Sections, are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

14.11 Severability. The validity of any Articles and Section, clause or provision of this Redevelopment Agreement shall not affect the validity of the remaining Articles and Section, clauses or provisions hereof.

14.12 Successors Bound. This Redevelopment Agreement shall be binding upon the respective parties hereto and their permitted successors and assigns.

14.13 Governing Law; Jurisdiction and Venue; Jury Trial Waiver. This Redevelopment Agreement shall be governed by and construed and enforced pursuant to the laws of the State of New Jersey, without regard to its conflict of laws principles. Any action hereunder shall be brought exclusively in a court of the State of New Jersey or in a United States Court having jurisdiction in the District of New Jersey, in either case sitting in Essex County, New Jersey, and Redeveloper hereby waives all objections to such venue. Redeveloper, Guarantor and the Township, for themselves and their successors and assigns, hereby waive trial by jury in any action arising out of or in connection with this agreement.

14.14 Counterparts. This Redevelopment Agreement may be executed in counterparts. All such counterparts shall be deemed to be originals and together shall constitute but one and the same instrument.

14.15 Exhibits. Any and all Exhibits annexed to this Redevelopment Agreement are hereby made a part of this Redevelopment Agreement by this reference thereto.

14.16 Entire Agreement. This Redevelopment Agreement constitutes the entire Redevelopment Agreement between the parties hereto and supersedes all prior oral and written agreements between the parties with respect to the subject matter hereof.

14.17 Waiver. No waiver made by any party with respect to any obligation of any other party under this Redevelopment Agreement shall be considered a waiver of any other rights of the party making the waiver beyond those expressly waived in writing and to the extent thereof.

14.18 No Survival. None of the rights and obligations of the Parties or WOOEP survive termination of this Agreement unless expressly provided otherwise.

14.19 Dispute Resolution. Unless emergent relief is needed, any party may initiate mediation to resolve a dispute by sending the other parties a notice in writing. The party

requesting mediation shall provide a list of three or more people to serve as mediator, all of which who have no monetary or personal relationship with the lawyers or parties. The other parties have 10 days from receipt of the list to pick one of the three people listed to serve as mediator, which selection shall be communicated in writing to the other party. In the event the other party does not pick one of the three people listed to serve as mediator, the party requesting mediation may select from the list. The hourly rate for the mediator shall not exceed \$600.00 per hour, which shall be split pro rata between the parties. If the mediation has not been resolved to conclusion within thirty (30) days from the notice initiating mediation, then any party may initiate litigation.

IN WITNESS WHEREOF, the parties hereto have caused this Redevelopment Agreement to be properly executed and their corporate seals affixed and attested as of the date first written above.

**TOWNSHIP OF WEST ORANGE,
NEW JERSEY**

Attest

By: _____
Robert D. Parisi, Mayor

Witness:

**GREEN ESSEX PARTNERS URBAN
RENEWAL, LLC**

By: _____

The undersigned joins in this Agreement solely for the purpose of agreeing to perform its express obligations under Article III, Section 10.2k and Section 13.5 of this Agreement, subject however, to the terms and conditions of this Agreement and the performance by the Parties of their respective obligations hereunder.

Witness:

**WEST ORANGE OFFICE EXECUTIVE
PARK, LLC**

By: _____

EXHIBIT A
PUBLIC DOG PARK
APPROXIMATE LOCATION ON PROPERTY

EXHIBIT B
LOT 41.02 METES AND BOUNDS

EXHIBIT C
INFRASTRUCTURE IMPROVEMENTS

EXHIBIT D
PROJECT SCHEDULE

Estimated Construction Schedule

Estimated project schedules if constructed in one phase

Submission of site plan application	3/1/2020
Receipt of all approvals for project	4/1/2021
Commencement of construction	6/1/2021
Completion of construction	6/1/2024

Estimated Project Schedule if the project is Phased

Submission of site plan application	3/1/2020
Receipt of all approvals for project	4/1/2021
Phase 1 Commencement of Construction (Approximately 300 units)	6/1/2021
Phase 1 Completion of Construction	9/1/2023
Phase 2 Commencement of Construction (Approximately 125 units)	1/1/2025
Phase 2 Completion of Construction	1/1/2027

EXHIBIT E
INCUMBENCY CERTIFICATE

EXHIBIT F
FORM DECLARATION OF COVENANTS AND RESTRICTIONS

Record and Return to:
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue, Second Floor
Roseland, New Jersey 07068
Attention: Richard Trenk, Esq.

DECLARATION OF COVENANTS AND RESTRICTIONS

Block 155, Lots 40.02 and 42.02 in the Township of West Orange, New Jersey (the “**Property**”)

This Declaration of Restrictions is made this ____ day of _____, 2019 by and between the **TOWNSHIP OF WEST ORANGE** (the “**Township**”), a municipal corporation of the State of New Jersey having its offices at 66 Main Street, West Orange, New Jersey 07052, in its capacity as redevelopment entity pursuant to *N.J.S.A. 40A:12A-4(c)*;

and

GREEN ESSEX PARTNERS URBAN RENEWAL, LLC, a limited liability company of the State of New Jersey, with an address of c/o BNE Real Estate Group, 16 Microlab Road, Suite A, Livingston, New Jersey 07039 8 (together with permitted successors or assigns hereinafter provided, referred to as the “**Redeveloper**”).

W I T N E S S E T H

WHEREAS, the Township, adopted Resolution 17-18 on January 9, 2018 designating, Block 155, Lots 40.02, 40.03, 41.02, 42.02, and Block 155.21, Lot 40 as a non-condemnation “area in need of redevelopment” (the “**Redevelopment Area**”) pursuant to the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the “**Redevelopment Law**”); and

WHEREAS, in accordance with the Redevelopment Law, the Township adopted Ordinance 2573-19 on June 11, 2019 enacting a redevelopment plan for the Redevelopment Area entitled “Essex Green-Executive Drive Redevelopment Plan” and dated May 1, 2019 (as further amended and supplemented from time to time, the “**Redevelopment Plan**”); and

WHEREAS, the Redeveloper is the contract purchaser of Block 155, Lots 40.02 and 42.02 (the “**Property**”) and submitted a proposal to the Township to be designated by the Township as redeveloper for the Property; and

WHEREAS, the Redeveloper entered an agreement in order to develop, construct and implement that certain Project defined in the redevelopment agreement executed by and between the Township and the Redeveloper dated _____ (the “**Redevelopment Agreement**”) in accordance with N.J.S.A. 40A:12A-8(f) of the Redevelopment Law; and

WHEREAS, N.J.S.A. 40A:12A-9(a) of the Redevelopment Law requires that all agreements, leases, deeds and other instruments between a municipality and a redeveloper shall contain a covenant running with the land requiring, among other things, that “. . . the owner shall construct only the uses established in the current redevelopment plan . . .”; and

WHEREAS, the Redevelopment Agreement requires that such covenants be memorialized in a Declaration of Restrictions and said declaration be recorded in the office of the Essex County Clerk,

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

Section 1. Defined terms not otherwise defined herein shall have the meaning assigned to such terms in the Redevelopment Agreement.

Section 2. Redeveloper covenants and agrees that, subject to the terms of the Redevelopment Agreement:

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

(b) Redeveloper shall not use the Property or any part thereof in a manner that is not in all material respects consistent with the Redevelopment Plan, the Approvals and the Redevelopment Agreement. Redeveloper will construct only those uses established in the Redevelopment Plan or as the Redevelopment Plan may be modified, in writing, by the Township from time to time in accordance with the Redevelopment Law.

(c) Except as permitted in paragraph (d) below, prior to the issuance of a Certificate of Completion for the Project or any part thereof, pursuant to N.J.S.A. 40A:12A-9(a), Redeveloper shall not, without the prior written consent of the Township, which the Township shall not unreasonably withhold, condition or delay: (i) effect or permit any change, directly or indirectly, in the majority ownership of more than fifty percent (50%) of control of Redeveloper (whether in one transaction or by virtue of the combined effect of more than one transaction), provided, however, that the Township will not unreasonably withhold consent to a transfer of a majority or greater interest in Redeveloper (or in an Affiliate of Redeveloper) to a reputable financial institution for *bona fide* financing purposes, provided that the current members of Redeveloper remain in day-to-day control of the entity, (ii) assign or attempt to assign the Redevelopment Agreement or any rights therein or in the Property, (iii) make any total or partial sale, lease, transfer or conveyance of the whole or any part of its interest in the Property or the Redevelopment Project; or (iv) pledge, or transfer all or substantially all of its assets

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

(d) Redeveloper, without violating the provisions of paragraph (c), may, subject to the requirements of N.J.S.A. 40A:12A-9(a) effect the following Transfers, to which the Township hereby consents upon receipt of notice thereof, without the necessity of further action by the Township (the “**Permitted Transfers**”): (i) Transfers to an Affiliate of Redeveloper; (ii) leases to residential tenants; (iii) mortgages to secure Institutional Financing for the construction of the Redevelopment Project; (iv) environmental covenants and restrictions imposed by DEP as a condition of any permit or Approval; (v) any direct or indirect transfer of any interest in Redeveloper to a Person not presently holding an interest in Redeveloper, provided that the transfer is for less than fifty percent (50%) of the ownership interest of Redeveloper and otherwise does not change the control of Redeveloper; (vi) granting of easements, deed restrictions and licenses required for utilities or in connection with any Approvals; (vii) transfers by means of inheritance, devise or bequest or by operation of law upon an Immediate Family Member, or a trust established for the benefit of such Immediate Family Member; and (viii) any contract or agreement which effectuates any of the foregoing exceptions. With respect to any of the Permitted Transfers listed in this Section, Redeveloper shall provide to Township written notice within thirty (30) days of such Permitted Transfer, including a description of the nature of such Permitted Transfer, and the name(s) and address(es) of the transferee parties, individuals and/or entities involved.

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

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

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

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

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

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

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

Attest:

TOWNSHIP OF WEST ORANGE

Township
Clerk

By:_____
Name: Robert D. Parisi
Title: Mayor

Attest:

**GREEN ESSEX PARTNERS URBAN
RENEWAL, LLC**

By:_____
Name:
Title:

STATE OF NEW JERSEY :

: ss.:

COUNTY OF ESSEX :

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

Notary or Attorney At Law
The State of New Jersey

STATE OF NEW JERSEY :

: ss.:

COUNTY OF :

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

Notary or Attorney At Law
The State of New Jersey

EXHIBIT G
PILOT AND RAB

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

LTTE PILOT
Calculation:

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

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

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

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

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

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

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

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

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

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

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

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

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

RAB Amount:	Not to exceed \$4.5 million
Bond:	\$4.5 million
RAB Term:	30 years
Security:	Pledged Annual Service Charges RABs will be non-recourse to the Township
RAB Issuance:	Within 30 days after the acquisition of Block 155, Lots 40.02 and 42.02 by the Redeveloper. The Bond, or pro rata portion on a per unit basis (see Exhibit G1 for examples), shall begin to accrue interest upon issuance of a Certificate of Occupancy for the Project, or a portion of the Project.
Costs of Issuance:	All costs of issuance of the Bonds, including all reasonable costs of all professionals of the Township, including bond counsel, municipal advisor, general counsel and any other professional reasonably required in order to lawfully authorize and issue the Bond, shall be paid by WOOEP, either from Bond proceeds, WOOEP payments, or a combination of both. The professionals shall be compensated in accordance with their fee agreements with the Township at the time of issuance.
Interest Rate:	5.75%
Proceeds:	The Bond proceeds will be used to pay, in the following order: (1) \$1.5 million to the Township for construction of the Library Improvements, and (2) subject to payment of the costs of issuance (above), the remainder

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

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

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

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

EXHIBIT H
TAX AGREEMENT

EXHIBIT I
FORM RIGHT OF ENTRY AGREEMENT

Right of Access Agreement

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

- and -

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

Background

A. Owner is the owner of the premises listed in Exhibit A attached hereto (the “Premises”).

B. In anticipation of a possible acquisition of the Premises, Entrant desires a right of access to the Premises for itself and its consultants (“Consultants”) for the purpose of performing certain investigatory activities at the Premises.

C. Owner is willing to grant Entrant and Consultants a limited right of access to the Premises upon the terms and conditions set forth in this Agreement.

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

Definitions

A. “Business Day” means any day other than a Saturday, Sunday or a day on which national banking associations are authorized or required to close.

B. “Effective Date” shall mean the date of this Agreement, as provided below.

C. “Environmental Documents” means all documentation in the possession or under the control of Entrant, its employees, agents, contractors, environmental consultants, or all of them, concerning the environmental condition of the Premises or its environs.

D. “Environmental Laws” means each and every federal, state, county and municipal statute, ordinance, rule, regulation, order, directive or requirement, now existing or hereafter enacted or promulgated, together with all amending and successor statutes, ordinances, rules, regulations, orders, directives or requirements, of any Governmental Authority, in any way related to any solid, liquid, gaseous or thermal contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, waste, petroleum products or byproducts, asbestos, PCBs, phosphates,

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

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

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

Right and Conditions of Access

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4820-6507-4092, v. 8

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

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

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

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

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

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

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

20. Entrant and Consultant shall not record this Agreement.

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

In Witness Whereof, the parties have duly executed and delivered this Agreement as of December _____, 2018.

Owner

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

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

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

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

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

Entrant

**TOWNSHIP OF WEST ORANGE,
NEW JERSEY**

By: _____
Robert D. Parisi, Mayor