

DEVELOPER'S AGREEMENT

THIS AGREEMENT, made this day of 2013 by the Estate of Hugh M. Forfar, Jr., deceased, with an address of 44 Lincoln Avenue, West Orange, County of Essex, State of New Jersey 07052, hereinafter called "DEVELOPER"; and

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

WITNESSETH

WHEREAS, Hugh M. Forfar of 44 Lincoln Avenue, West Orange, New Jersey, hereinafter referred to as "SUBDIVIDER", has heretofore submitted to the Planning Board of the Township a subdivision plat entitled Final Major Subdivision Map "Lincoln Avenue Extension", Block 175.09, Lots 2 and 4, Township of West Orange, Essex County, New Jersey, Sheet 1 of 1 prepared by Charles J. Stewart, P.E., L.S., Engineers Surveyors Planners, 320 Runnymede Road, Essex Fells, New Jersey 07021; and

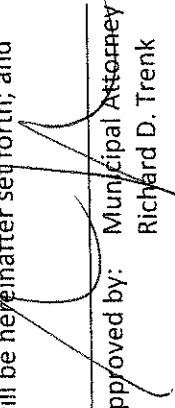
WHEREAS, the Planning Board of the Township of West Orange has recommended preliminary and final approval of the major subdivision proposed by said SUBDIVIDER known as 45-49 Lincoln Avenue, being the north side of Lincoln Avenue between Garfield Avenue and Cleveland Terrace, being know and designated as Lots 2 and 4, Block 175.09 on the tax maps of the Township of West Orange, said resolution having been duly adopted on July 6, 2011, subject to certain conditions as recited therein, a true copy of said resolution is attached hereto as Schedule "A" and made a part hereof; and

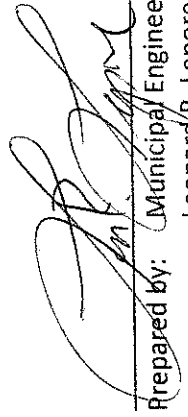
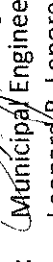
WHEREAS, the DEVELOPER is the owner in fee of real property in the Township of West Orange, designated as Block 175.08, Lots 2 & 4, on the Tax Maps of the TOWNSHIP, commonly known as 43-47 Lincoln Avenue; and

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

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

will be hereinafter set forth; and

Approved by:  Municipal Attorney
Richard D. Trenk


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

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

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

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

1. This subdivision shall be know and designated as "Final Major Subdivision Map" Lincoln Avenue Extension Block 175.09, Lots 2 & 4, and the final plat shall bear such designation.

2. RESERVED

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

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

3.2 RESERVED

3.3 Prior to the start of construction, the DEVELOPER, shall obtain the approval of the Hudson-Essex-Passaic Soil Conservation District.

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

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

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

- 5.01 Improvements include sanitary sewer mains, sanitary sewer service connections, sanitary sewer appurtenances, storm sewers and appurtenances, drainage inlets including water quality inlets where designated, drainage ditches and swales including water quality swales where designated, water mains and fire hydrants, utilities, streets, curbs, sidewalks, street and traffic signs, street lighting, monuments, fencing where required, environmental controls, landscaping and shade trees where required all in accordance with Planning Board's Resolution of Preliminary Approval.
- See Schedule "A"
- 5.1 Sanitary sewers shall be installed as shown on the approved plans and profiles, complete with all manholes, building connections, and other appurtenances necessary to properly complete the work at no cost to the Township. See Schedule "B".
- 5.1.1 Sanitary sewer mains will be installed on the property and within all right-of-way and easements in accordance with the terms and conditions specified in the New Jersey Department of Environmental Protection (NJDEP) Permit if applicable, at no cost to the Township.
- 5.1.2 It is expressly understood that no construction of the sanitary sewer or appurtenances will be permitted without the NJDEP Permits if applicable, and such construction shall be inspected by the TOWNSHIP.
- 5.1.3 It is further understood that no temporary, conditional or final Certificate of Occupancy will be issued until the New Jersey Department of Environmental Protection Sanitary Sewer Operating Permit form WQM-005, if applicable, has been received, reviewed, and approved by the Township Engineer and that the conditions pertaining to the issuance of Certificates of Occupancy as contained in paragraph 14 et seq. are satisfied. Immediately prior to applying to the State for the Operating Permit, sanitary lines may need to be inspected by a closed circuit T.V. camera pulled through the lines performed by the DEVELOPER at no cost to the TOWNSHIP. If any breaks, settlement, misalignment, or other defects, due to inferior materials or workmanship are discovered, repairs shall be completed and the repaired section reinspected all at no cost to the TOWNSHIP.
- 5.1.4 The cost involved in operations and maintaining the sanitary sewer mains and appurtenances shall be borne solely by those using same until such time as the improvements are accepted by the TOWNSHIP by a resolution of the TOWNSHIP Council. The cost of operation shall include labor, materials, equipment, utilities, carrying charges, and all else necessary to properly operate and administer the sewage collection facilities, and shall be at the user's sole responsibility until acceptance by the TOWNSHIP.

- 5.2 The Storm sewer System shall be installed as shown on the Construction Plans, and shall include catch basins, yard inlets, building drain connections, water quality inlets and water quality swales where designated, and appurtenances necessary to properly complete this work.
- 5.2.1 The storm sewer collection system will be installed on the property and in existing right-of-way in accordance with the Construction Plans at no cost to the Township.
- 5.2.2 Double block walls on the downstream sides of catch basins and yard drains shall be installed to the extent and in the manner required by the Township Engineer of the Township, if required by the provisions of the aforesaid Construction Plans. Said installation shall take place when called for by the Township Engineer at no cost to the TOWNSHIP.
- 5.2.3 The cost involved in operating and maintaining the storm sewer collection system, culverts, seepage pits and drainage swales shall be borne solely by those using same until such time as the improvements are accepted by the TOWNSHIP by resolution of the TOWNSHIP Council. Upon completion of the development by the DEVELOPERS and acceptance or final approval by the TOWNSHIP, drainage swales seepage pits on private property will be maintained by the benefitting adjoining property owners.
- 5.3 Curb, pavement and sidewalks shall be installed and maintained as shown on the approved plans and profiles at no cost to the Township.
- 5.3.1 All travelways are to be graded behind the curb at a two (2) percent grade for a minimum distance of 10 feet for future sidewalk installation in accordance with the requirements of the Township Engineer. At the direction of the Township Engineer, the DEVELOPER may deviate from the requirements of this Paragraph where the TOWNSHIP desires to preserve existing shade trees within or adjacent to the street right-of-way.
- 5.3.1.2 On streets where sidewalks are to be installed, the location of catch basins at the intersections shall be at either end of the curb return or as approved on the Construction Plans.
- 5.3.2 Street lighting shall meet with approval of the Township Engineer and Public Service Electric and Gas Company.
- 5.3.3 The maintenance of all roads, curbs, sidewalks, and street lighting shall be borne solely by those using same until such time as the improvements are completed and accepted by the TOWNSHIP by resolution of the TOWNSHIP Council. Upon acceptance, the Township will maintain the road, Public Service Electric the street lights and the benefitting and adjoining property owners will maintain their curb and sidewalk.

5.4 The DEVELOPER shall be solely responsible for coordinating all utility installations necessary or desired for this development. The location of sub-surface utilities installed behind the curb shall be marked on the trench backfill with utility identification warning tape and periodic surface markers.

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

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

5.7 Topsoil and seeding shall be installed on site on all non-landscaped, unpaved areas. The DEVELOPER shall water fertilize, and mow lawn areas as required to cultivate a strong growth of turf. Where turf has not become established, the DEVELOPER will be required to install sod to bring the areas up to minimum requirements.

5.7.1 All lots shall be topsoiled and seeded and/or sodded prior to the issuance of a final/permanent certificate of occupancy. Once a certificate of occupancy is issued and title conveyed to the homeowner, the responsibility to maintain the turf shall be the homeowner's. If weather does not permit this, then a cash bond in an amount determined by the Township Engineer shall be posted with the TOWNSHIP.

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

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

5.10 The DEVELOPER, at its sole cost, shall provide all the construction control necessary for the accurate location of all work to be constructed in the development. Grade sheets shall be furnished

to the Township Engineer for review prior to the start of construction for each phase of the improvements.

6. All work shall conform to the standard specification of the TOWNSHIP on file in the office of the Township Engineer or as amended by the Construction Plans.

7. The construction of all improvements shall be completed within two (2) years from the date of the execution of this Agreement, except for any residential structures, unless the time is extended by resolution of the Township Council.

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

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

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

8.1 Inspection Fees: An escrow account shall be established to facilitate payment of engineering services performed by the TOWNSHIP. The account shall be initially funded by the DEVELOPER in the amount of One Thousand and No/100 -----(\$1,000)----- Dollars, and shall be maintained by the DEVELOPER. On a quarterly basis or more frequently, if required, the DEVELOPER shall reimburse the fund to the initial amount in the account. The fund shall not be used for any permits or other payments due the TOWNSHIP. Upon completions and approval of the project, any funds remaining shall be refunded to the DEVELOPER upon written request to the Escrow Agent.

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

8.2.1 The DEVELOPER, at its sole cost, shall provide a plan, prepared, signed and sealed by the New Jersey Licensed Professional Land Surveyor, drawn to a scale of one inch equals 100 feet, conforming to N.J.A.C. 13:40-5.1, with sufficient data to amend the Assessment Maps which must conform to the standards established in the publication prepared by the Department of the Treasury, Division of Taxation, Local Property and Public Utility Branch, entitled "Tax Maps", dated June 2007. This map shall be submitted at the time the final subdivision map is submitted to the TOWNSHIP for signing.

8.2.1.1 RESERVED

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

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

8.3.2 The DEVELOPER, as its sole cost, shall for a period of two (2) years after acceptance or final approval of the improvements as hereinafter set forth, insure that all dead trees on any travelway within said development shall be removed and replaced at the sole cost and expense of the DEVELOPER.

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

9.1 All springs of water emanating there from shall be piped to the nearest available storm sewer, drainage ditch or swale, or stream. The cost of this are to be borne by the DEVELOPER at no cost to the TOWNSHIP.

9.2 Water from leaders and sump pumps shall be piped to the nearest storm drains, drainage ditch or swale, or stream. The costs of this are to be borne by the DEVELOPER at no cost to the TOWNSHIP.

9.3 DEVELOPER, at its sole cost, shall insure that all areas in the said development will be properly graded and properly drained and will in this regard comply with all reasonable instructions of the Township Engineer and/or Construction Official of the TOWNSHIP relating thereto. In this regard, it is understood that all areas shall be graded so that the finished grade slopes away from all sides of the structure at a grade of not less than three (3) percent for a minimum distance of ten (10) feet. Land shall otherwise be graded so as to cause surface runoff to drain toward the curb and/or swales to prevent excess runoff across adjoining lands. Terraces or banks shall not have a slope greater than two to one, and all plans for retaining walls shall be subject to approval by the Construction Official of the TOWNSHIP.

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

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

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

9.7 The DEVELOPER, or those using the same, shall be solely responsible for the maintenance of the roads within the development until such time as the improvements are completed and accepted by resolution of the TOWNSHIP Council. Snow plowing and removal will be performed by the TOWNSHIP. However, the DEVELOPER will be responsible for any damage to Township trucks directly caused by the DEVELOPER.

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

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

workmen and visitors and further shall provide sanitary facilities for said workmen and visitors as required during the course of construction.

10.2 There shall be no burning of debris in the development except as may be approved by a proper official of the Fire Department of the TOWNSHIP, in writing, after two (2) days notice from the DEVELOPER. Under no circumstances shall burning agents or debris productive of noxious odors or heavy smoke be used, and no large size debris shall be burned. The determination as to the foregoing shall be exclusively with the appropriate officer of the Fire Department of the TOWNSHIP, as determined by the Director of said Department.

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

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

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

11.1 DEVELOPER shall appoint a job superintendent, fluent in English, or his designated representative, whose name, home address, and telephone number shall be furnished to both the Township Engineer, the Township Construction Official and the West Orange Police Department, and such job superintendent, or his designated representative, shall be on the job at all times while work is being performed herein and, if not, the job is subject to being shut by the Township Engineer or Construction Official on one (1) hour's oral notice.

11.2 No work shall be performed in the development by DEVELOPER, his agents, servants, employees, representatives, independent contractors or his subcontractors between the hours of 7:00 P.M. and 7:30 A.M. Monday thru Saturday, and no work of any kind, except sales, shall be performed by the DEVELOPER or anyone on his behalf on Sunday.

12. DEVELOPER shall make every reasonable effort to preserve shade trees presently growing in this development and will replace trees planted at no cost to the TOWNSHIP in accordance with the landscape plan as to any that may die within two (2) years of planting.
- 12.1 DEVELOPER shall obtain a tree removal permit(s) in conformance with the TOWNSHIP'S Tree Removal Ordinance.
13. The parties do further agree with respect to the issuance of building permits and the commencement of building construction, same to be binding upon the Developer as hereinafter stated:
- 13.1 The issuance of any building permits shall be deferred until final subdivision plat has been signed and filed with the Essex County Register, and the NJDEP has issued a Sanitary Sewer Construction Permit.
- 13.1.1 The commencement of building construction shall be deferred until all Soil Erosion and Sediment Control measures are installed as per the to be approved plan and certified as functional by the Township Engineer.
- 13.2 Building permits in this tract shall be issued on application of the DEVELOPER only or its successor in title.
- 13.3 At the time that the final subdivision plat is submitted to the TOWNSHIP for signing or a building permit or permits are applied for, whichever occurs first, the DEVELOPER shall deposit the amounts tabulated on the quantity take-off, a copy of which is attached hereto as Schedule "D" and made a part hereof, as security for the performance of the unfinished matters contained in the Agreement that remain to be performed.
- 13.3.1 A deposit in cash or certified check, payable to the TOWNSHIP, with the Township Treasurer, in the maximum amount as specified in Schedule "D" or such lesser amount as agreed to by the Township Engineer, based upon the actual work completed by the DEVELOPER.
- 13.3.2 Delivery of a surety bond in a form acceptable to the Township Attorney and executed by a surety corporation authorized to do business in the State of New Jersey, or a Letter of Credit issued by a Bank headquartered in New Jersey and acceptable to the Township Attorney and acceptable to the TOWNSHIP in the maximum amount as specified in Schedule "D" or such lesser amount as agreed to by the Township Engineer based upon the actual work completed by the DEVELOPER.
- 13.3.3 Upon completion of the entire work provided herein, as certified by the Township Engineer in writing, the TOWNSHIP shall discharge the surety bond referred to above and shall return to the DEVELOPER all of the cash deposit held by the Township Treasurer as above referred to, at which time the DEVELOPER shall post a maintenance guarantee in the amount specified in Schedule "D" in the

form of a surety bond acceptable to the Township Attorney, to be retained by the TOWNSHIP for a period of two (2) years from the date of acceptance or final approval of said work, and to also secure the obligation of the DEVELOPER to remove any trees along the travelways involved which may die within two (2) years and to otherwise perform that which is directed by the Township Engineer to be performed or corrected or replaced in connection with the development, or any portion thereof, during the two (2) year period above referred to. Upon the termination of the two (2) year period and provided the DEVELOPER fully discharges all of his obligations with respect to the foregoing and upon written certification by the Township Engineer of his satisfaction with the foregoing, the maintenance guarantee surety bond will be discharged.

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

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

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

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

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

15. DEVELOPER further covenants that they will repair, when so notified by the Township Engineer, in a good and workmanlike manner, at their sole cost and expense, under the supervision of the Township Engineer and to his satisfaction, all faulty construction of roads, curbs, and other items agreed to be performed hereunder, and including, but not limited to any damages done to any public street in the TOWNSHIP by the use thereof by vehicles servicing the development herein mentioned or the construction therein, and will maintain said roads, curbs and other improvements in said development for a period of two (2) years from the date of official acceptance or final approval by the TOWNSHIP.

16. In the event the DEVELOPER shall determine to sell or dispose of the lands involved herein or any portion thereof, upon which a Certificate of Occupancy has not been issued, then and in that event, the DEVELOPER will condition said sale or disposition upon an undertaking on the part of the successor in title to execute and deliver an agreement with the TOWNSHIP under the terms of which said successor in title shall assume and agree to perform all of the obligations recited herein. In addition, said DEVELOPER will promptly notify the TOWNSHIP in writing of the proposed sale and of the date when title is to close with respect thereto, such notice to be sent to the Township Engineer and Township Attorney of the TOWNSHIP. Acceptance by the TOWNSHIP of an assumption agreement made pursuant to the provisions of this paragraph shall not release the DEVELOPER from their obligations thereunder. It is understood that the costs of the preparation and recordation of an assumption agreement as above referred to shall be paid for by the DEVELOPER.

17. DEVELOPER agrees to indemnify the TOWNSHIP, their agents, servants, employees or representatives and to save them harmless from any damages, claims, demands, or suits of any kind or liability of any kind arising out of the performance hereunder by DEVELOPER, their agents, servants, employees, representatives, and subcontractors, in the course of any work done in connection with any of the matters set forth in this Agreement. Further, all contractors hired by the DEVELOPER shall carry and maintain until all of the work herein provided for is fully completed and accepted by the TOWNSHIP, liability insurance, including completed operations coverage, covering all of the development and all work, on all aspects of work in the development including all subcontractors involved herein.

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

19. It is understood that all construction to be completed and performed hereunder by the DEVELOPER shall conform to the specifications and regulations of the applicable building codes and

ordinances of the TOWNSHIP in force at the time of the execution of the agreement and shall be in accordance with the requirements and instructions of the Township Engineer as required by the provisions of the Construction Phase to be filed hereunder.

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

21. The subdivision map and construction plans as previously submitted by the DEVELOPER and above referred to may be modified hereafter as required by the Township Engineer of the TOWNSHIP in order to fully comply with the requirements of the Planning Board of the TOWNSHIP, as is evidenced by the resolutions passed by the Planning Board of the TOWNSHIP, as is evidenced by the resolutions passed by the Planning Board. See Schedule "A".

22. DEVELOPER agrees to obtain all necessary approvals from the New Jersey Department of Environmental Protection with respect to the sanitary sewer extension above referred to if applicable, which said development shall be completed in accordance with all applicable ordinances of the TOWNSHIP, and to the satisfaction of the Township Engineer and Township Attorney. Any other permits required by the New Jersey Department of Environmental Protection shall be obtained prior to the commencement of construction but after final subdivision approval.

23. The DEVELOPER agrees to pay to the Township the development's fair share of the costs resulting from off-tract improvements to the to the Municipal sanitary sewer system. These improvements include the construction of the South Mountain Relief Sewer.

23.1 The developer's fair share of the cost of the South Mountain Relief Sewer is \$2,300.00 per residential unit in accordance with Ordinance No. 1328-95. These monies are due upon the issuance of a Certificate of Occupancy for each unit.

24. The DEVELOPER agrees to pay the Township the Development Fee for low and moderate income housing.

25. Innumerable paragraphs of the within agreement, including but not limited to paragraphs 5.1.4, 5.2.3, 5.3.3, 8.3.1, 8.3.2, and 9.7, make reference to the DEVELOPERS, and/or those enjoying the beneficial use of those paragraphs incurring certain costs attendant to what is contemplated, either in those particular paragraphs and elsewhere throughout the Agreement. What is contemplated is that these costs will, under no circumstances, be borne by the Township of West Orange, and should the DEVELOPER, their successors or assigns, or those enjoying the beneficial use of the benefits referred to herein, fail, and/or refuse to comply with that which is contemplated in this

Agreement, the Township of West Orange may impose a special assessment and/or tax in a pro rata fashion on the DEVELOPER and/or its successors or assigns or those then in title for the expenditures incurred, including, but not limited to engineering, planning, zoning, code enforcement/construction official and legal.

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

26.1 The TOWNSHIP may terminate or modify this Agreement if it finds and determines that the applicant or successor in interest has not complied in good faith with its terms or conditions.

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

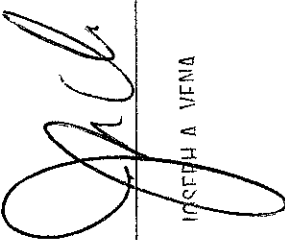
28. It is understood that the effective date of this agreement shall be the date of full execution and delivery thereof by and between parties hereto.

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

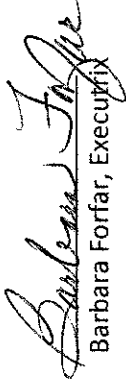
30. This agreement shall be binding upon the respective heirs, executors, successors, administrators and assigns of the parties hereto.

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

ATTEST:


JOSEPH A. VERNA

Estate of Hugh M. Forfar, Jr.


Barbara Forfar, Executrix

ATTEST:

TOWNSHIP OF WEST ORANGE

Robert D. Parisi

~~Sworn to and subscribed before me as to
Township of West Orange, Robert Parisi,
Mayor and Karen Carnevale, Municipal Clerk
This _____ day _____ of _____~~

RICHARD D. TRENK, MUNICIPAL ATTORNEY

STATE OF NEW JERSEY:

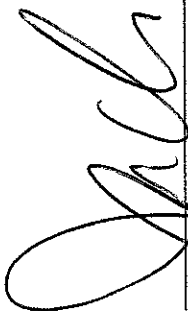
SS

COUNTY OF ESSEX:

BE IT REMEMBERED, that on this 19th day of November in year Two

Thousand and Thirteen before me, the subscriber, personally appeared BRESNA who, I am

satisfied, is the person mentioned in the within Instrument, and she acknowledged that she signed,
sealed and delivered the same as her voluntary act and deed, for the users and purposes therein
expressed.


~~NOTARY PUBLIC~~

JOSEPH A. VENA

An Attorney at Law of the State of New Jersey

SWORN AND SUBSCRIBED TO

BEFORE ME THIS 19th DAY OF November, 2013

AT 155 Prospect Ave, W.O., NJ

STATE OF NEW JERSEY :

SS

COUNTY OF ESSEX :

BE IT REMEMBERED, that on this _____ day of _____, 2013, before me, the

subscriber, personally appeared Karen J. Carnevale, who being duly sworn by me on her oath, doth depose and make proof to my satisfaction that she is the Clerk of the Township of West Orange, the party of the second part named in the within Instrument that Robert D. Parisi, is the Mayor of the Township of West Orange, that the execution, as well as the making of this agreement, has been authorized by a proper resolution of the Council of the Township; and the seal affixed to said Instrument is such corporate seal and was thereto affixed and said instrument signed and delivered by said Mayor as and for his voluntary act and deed and as and for the voluntary act and deed of said Township, in the presence of deponent, who thereupon subscribed his/her name thereto as witness.

SWORN AND SUBSCRIBED TO

BEFORE ME THIS _____

DAY OF _____

2013

AT WEST ORANGE, NEW JERSEY

INDEX OF SCHEDULES

1.	SCHEDULE A	RESOLUTION OF PRELIMINARY APPROVAL
2.	SCHEDULE B	CONSTRUCTION PLANS
3.	SCHEDULE C	AUTHORIZATION TO INSPECT SANITARY SEWER AND STORM SEWER CONNECTIONS
4.	SCHEDULE D	CONSTRUCTION COST ESTIMATE PERFORMANCE AND MAINTENANCE BOND AMOUNTS

SCHEDULE A

RESOLUTION OF PRELIMINARY PLANNING BOARD APPROVAL

RESOLUTION OF APPROVAL
PLANNING BOARD OF THE TOWNSHIP OF WEST ORANGE

Decided: June 1, 2011
Memorialized: July 6, 2011

APPROVAL OF PRELIMINARY AND FINAL MAJOR SUBDIVISION
HUGH FORFAR
45-49 LINCOLN AVENUE
WEST ORANGE, NJ
BLOCK 175.09, LOTS 2, 4
ZONE; R-5
PB-09-28

WHEREAS, Hugh Forfar (hereinafter "the Applicant") is the owner of the property located at 45-49 Lincoln Avenue and designated as Block 175.09, Lots 2 and 4 (hereinafter "the Property") and situated in the R-5 zone; and

WHEREAS, the Applicant filed an application with the Planning Board of the Township of West Orange (hereinafter "the Planning Board") for preliminary and final major subdivision approval; and

WHEREAS, the Applicant submitted the following plans with the application:

Preliminary and Final Subdivision Plans (7 sheets) dated Feb. 24, 2011, last revised March 22, 2011 by GC Stewart Associates, Inc.

WHEREAS, the Planning Board conducted a public hearing on the application on June 1, 2011; and

WHEREAS, the Applicant appeared by his attorney Joseph Vena, Esq. of Mandelbaum Salzberg; and

WHEREAS, the Planning Board considered the submitted plans, the testimony of the Applicant's witnesses Charles J. Stewart, PE who was qualified as an expert in engineering, and Peter Steck, PP, who was qualified as Planner; and

WHEREAS the Board having considered the evidence the Planning Board made the following findings of fact and conclusions of law:

1. The Property is located at 45-49 Lincoln Avenue and presently consists of two tax lots: Lot 2 which is 10,000 sq. ft. and has 100 ft. of frontage and Lot 4 which is 15,000 sq. ft. and has 150 ft. of frontage. The Property is zone R-5 residential. Applicant proposes to combine the existing 2 lots into 1 lot, and then subdivide the new lot into 3 lots.

2. Charles Stewart, PE testified that the Property is located on the eastern ridge line of the 2nd Watchung Mountain and slopes downward from west to east at an average grade of 16%. The Property is presently vacant land. The owner has improved the street Lincoln Avenue and installed gas lines and new paving from Garfield Avenue to Cleveland Terrace. Mr. Stewart introduced into evidence Exhibit A-1 which is the same as page 3 of the Site Plan submitted with the application except the street marked "Cleveland Avenue" was corrected to read "Cleveland Terrace"; and Exhibit A-2 which is a 4 page handout labeled "Typical House Plan" and which includes 3 different floor plans for houses which could be built on the proposed lots.

Mr. Stewart stated that each new lot would have seepage pits to control storm water runoff. He stipulated that Applicant has or will comply with all of the comments in the review letter from Township Engineer Leonard Lepore, PE dated June 1, 2011.

3. Peter Stack, PP testified that the Applicant proposes to create three new lots and the proposed subdivision requires 4 variances:

- (i) Lot Size (10,000 sq. ft. required, 15,000 sq. ft. and 10,000 sq. ft. existing, 9,000 sq. ft., 8,000 sq. ft. and 8,000 sq. ft. proposed)
- (ii) Removal of trees from slope greater than 15% (removal from slope averaging 16% proposed);
- (iii) Disturbing slope greater than 10% (disturbing 16% slope proposed); and
- (iv) Effective Lot Area (Lot 4.02 3,910.07 proposed, Lot 4.01 4,067 proposed, Lot 2 3,662 proposed.

4. Mr. Steck stated that the 2 variances relating to the slope of the Property should be granted as “c(1)” hardship because they arise from the existing slope. He stated that all 4 variances should be granted for “c(2)” reasons because the benefits outweigh the detriments in that the housing which could then be built on the new lots would be modest in scale due to the reduced lot size required by the slope ordinance and would therefore be more in keeping with the surrounding houses. He referred to his report submitted with the application to the Planning Board dated July 12, 2010 which on page 3 detailed that the majority of the lots in the surrounding neighborhood were less than 8,000 sq. ft. so the new lots would not be out of character and would in fact be among the larger ones in the area. He further noted that in order to get to the Property the access on Lincoln Avenue is through an R-6 zone east of Roosevelt Avenue where the lot frontages are between 50 – 60 ft. He also noted that the Property is in the PA-1 Planning Area in the State Plan where development is encouraged because existing infrastructure is already in place. As such he opined that granting the variances would not pose a substantial detriment to the public good or a substantial detriment to the zone plan or ordinance.

5. The Board expressed concern that the size of the houses to be built on the new lots would not be too large for the neighborhood. The Applicant noted that the house sizes would be

smaller because the effective lot area was reduced by the slope therefore the building footprints would be smaller.

6. Applicant stipulated that it would clear the property of debris within 30 days.

WHEREAS, the Board, having reviewed the application for preliminary and final major subdivision approval with “c” variances and having considered the impact of the proposed application on the Township and its residents and the surrounding property owners, and having considered whether the proposal complies with and furthers the goals of the master plan and zoning ordinances of the Township of West Orange and the Municipal Land Use Law; hereby concludes that good cause has been shown to approve the application and the “c” variances therein;

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Township of West Orange that the application for preliminary and final subdivision approval with four “c” variances as set forth in the plans, reports, representations, testimony, stipulations and Exhibits offered by the Applicant is hereby approved as amended during the hearing subject to the following conditions:

1. The Applicant shall comply with all applicable Township, County, State and Federal laws, ordinances, regulations and directives, including without limitation, obtaining all applicable local, state and federal approvals and/or permits.
2. In the event that any other required regulatory approval conflicts with the terms and conditions hereof, or materially alters the same, or the terms and conditions hereof are materially altered by any change in applicable law or regulation other than those municipal regulations for which change is prohibited by the Municipal Land Use Law (MLUL), or in the event Applicant or its successors or assigns construct or attempt to construct any improvement in conflict with or in violation of the terms of this approval, the Board hereby reserves the right to withdraw, amend or supplant the instant approval.

3. All use and development of the property shall be in conformance with the plans approved herein, all representations of the Applicant and its witnesses during the public hearing, all exhibits introduced by the Applicant, and all terms and conditions of this resolution.

4. The Applicant shall pay all outstanding taxes, tax liens, application fees and technical review fees, as well as any inspection fees that may be required hereunder. The Applicant shall pay any additional fees or escrow deposits which may be due and owing within thirty (30) days of notification or this approval shall be deemed withdrawn.

5. Building coverage and impervious coverage shall be based upon effective lot area as follows:

	<u>Lot Size</u>	<u>Effective Lot Area</u>	<u>Buildable Lot Area</u>
Lot 4.02	9,000	3,910.07 sq. ft.	1,368.50 sq. ft.
Lot 4.01	8,000	4,067 sq. ft.	1,423.45 sq. ft.
Lot 2	8,000	3,662 sq. ft.	1,281.70 sq. ft.

6. No less than 6 evergreen trees, 6 to 8 ft. in height, shall be planted along the property line in a staggered fashion between proposed Lot 2 and Lot 12 in Block 175.09. The Town Forrester shall determine the exact number of trees needed to provide a screening buffer between Lot 2 and Lot 12.

7. The maximum height of the structures to be built on the new lots shall be based upon the current zoning ordinance, in effect on the date of the memorialization of this Resolution which is 2½ stories and not exceeding 35 feet, and is measured from the highest elevation to the lowest elevation of the land immediately adjacent to the structures. The elevation of the land shall be determined by the topography.

8. Completion of the improvement obligations specified in the June 1, 2011 letter from Leonard R. Lepore, Director/Township Engineer, which includes two (2) storm drainage structures with connecting piping on Lincoln Avenue at Garfield Avenue (said drainage

1. Final Major Subdivision Map
"Lincoln Avenue Extension"
Block 175.09, Lots 2 & 4
Township of West Orange,
Essex County, New Jersey
Sheet 1 of 1, Dated 1/30/12
2. Coversheet
Preliminary/Final Major Subdivision
"Lincoln Avenue Extension"
Block 175.09, Lots 2 & 4
Tax Map Sheet Number 48.01
Township of West Orange, Essex County, New Jersey
Sheet 1 of 7, Dated 2/24/11
3. Existing Conditions Map
"Lincoln Avenue Extension"
Block 175.09, Lots 2 & 4
Dated 2/24/11
4. Final Major Subdivision Map
"Lincoln Avenue Extension"
Block 175.09, Lots 2 & 4
Dated 2/24/11
5. Steep Slopes Map
"Lincoln Avenue Extension"
Block 175.09, Lots 2 & 4
Dated 2/24/11
6. Preliminary Plat
"Lincoln Avenue Extension"
Block 175.09, Lots 2 & 4
Dated 2/24/11
7. Soil Erosion, Sediment Control and Stabilization Plan
"Lincoln Avenue Extension"
Block 175.09, Lots 2 & 4
Dated 2/24/11
8. Construction Details
"Lincoln Avenue Extension"
Block 175.09, Lots 2 & 4
Dated 2/24/11

All plans prepared by:

Charles P. Stewart, Land Surveyor
Charles J. Stewart, Professional Engineer & Land Surveyor
GC Stewart Associates Inc.
Engineers Surveyors Planners
Fells Professional Building
320 Runnymede Road
Essex Fells, New Jersey 07021

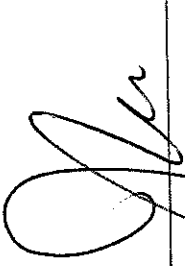
SCHEDULE C

AUTHORIZATION TO INSPECT SANITARY SEWER SYSTEM FIXTURE
CONNECTIONS AND STORM DRAIN SYSTEM CONNECTIONS

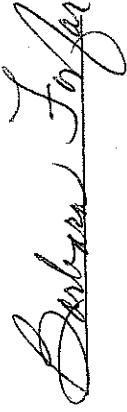
DEVELOPER'S AUTHORIZATION TO TOWNSHIP
ENGINEER TO INSPECT SANITARY SEWER SYSTEM
AND STORM DRAIN SYSTEM

The DEVELOPER, the Estate of Hugh M. Forfar, Jr. an individual, hereby authorizes the TOWNSHIP ENGINEER or his representative to inspect all sanitary sewer system fixture connections and appurtenances and storm drain system connections and appurtenances within the structure on site during regular business hours.

ATTEST:

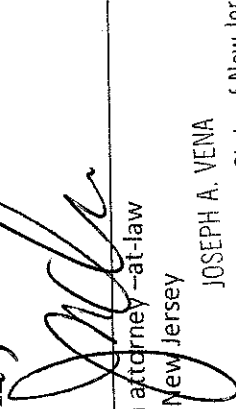


JOSEPH A. VENA



Barbara Forfar, Executrix

Sworn to and subscribed
Before me this 19th day of
2013



An attorney-at-law
of New Jersey
JOSEPH A. VENA

An Attorney at Law of the State of New Jersey

SCHEDULE D
IMPROVEMENT COST ESTIMATE

ENGINEER'S COST ESTIMATE LINCOLN AVENUE EXTENSION MAJOR SUBDIVISION BLOCK 175.09, LOTS 2 & 4 LINCOLN AVENUE					
ITEM NO.	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT
1	Maintenance & Protection of Traffic	LS	LS	\$500.00	\$500.00
2	Bit Conc. Surface Course, 2" Thick	155	TONS	\$85.00	\$13,175.00
3	Storm Inlet Retention Chamber	2	UNIT	\$7,500.00	\$15,000.00
4	HDPE Pipe	26	L.F.	\$27.00	\$702.00
5	Soil Erosion Control	LS	LS	\$500.00	\$500.00
6	Shade Trees	5	EA	\$250.00	\$1,250.00
7	Monuments	4	EA	\$200.00	\$800.00
8	Concrete Sidewalk, 4 & 6 Inches Thick	110	SY	\$45.00	\$4,950.00
			TOTAL		\$36,877.00
				20%(NJSA 40:55D-53a.(1)	\$7,375.40
				TOTAL PERFORMANCE GUARANTEE	\$44,252.40

10% CASH GUARANTEE
90% LETTER OF CREDIT
15% MAINTENANCE GUARANTEE

\$4,425.24
\$39,827.16
\$6,637.86