

**Special Meeting of Mayor and Council August 8, 2022**  
**Town Hall Council Chambers, 100 Central Avenue**  
**Closed Session 6:30**  
**Public Session 7:00 P.M.**

**MEETING CALLED TO ORDER**

**ATTENDANCE ROLL CALL**

Councilperson:  
Furgione - Present  
Gribbin – Present by Telephone  
Oliva - Present  
Olivo - Present  
Rodio -Present  
Wuillermin - Present  
Mayor DiDonato – Present

**PRESENT ALSO**

Bob Vettese, Public Works Manager  
Brian Howell, Conflict Solicitor  
Brian Peterson Engineer for West End LLC

**EXECUTIVE SESSION Resolution #105-2022**

Motion by Council Person Furgione Second Olivo  
Enter into Executive Session

Motion by Council Person Olivo Second Wuillermin  
Close Executive Session

**RESUME REGULAR MEETING-ROLL CALL**

Councilperson:  
Furgione - Present  
Gribbin – Present by Telephone  
Oliva - Present  
Olivo - Present  
Rodio -Present  
Wuillermin - Present  
Mayor DiDonato – Present

**PRESENT ALSO**

Brian Howell, Conflict Solicitor  
Bob Vettese, Public Works Manager

**PUBLIC NOTICE**

Notice of this meeting has been posted and given to official newspapers. Please familiarize yourselves with the fire exits to the right and rear of the Council Chambers. Please do not proceed beyond the front benches without invitation from the Mayor to do so. Also, each person who wishes to address Council will be allotted 5 minutes.

**PLEDGE OF ALLEGIANCE**

**PUBLIC HEARD FOR AGENDA ACTION ITEMS**

No one desired to be heard

**DISPENSE WITH REGULAR ORDER OF BUSINESS**

**Public Hearing of Ordinance #017-2022 - Registration of Foreclosure Mortgage Properties**

**AN ORDINANCE, CREATING A NEW ARTICLE V OF CHAPTER 211 , OF THE TOWN OF HAMMONTON CODE OF ORDINANCES TO BE ENTITLED, “REGISTRATION OF FORECLOSURE MORTGAGE PROPERTIES”; PROVIDING FOR PURPOSE, INTENT AND APPLICABILITY OF THE ORDINANCE REQUIRING THE REGISTRATION AND MAINTENANCE OF CERTAIN REAL PROPERTY BY MORTGAGEES; PROVIDING FOR PENALTIES AND ENFORCEMENT, AS WELL AS THE REGULATION, LIMITATION AND REDUCTION OF REGISTRABLE REAL PROPERTY WITHIN THE TOWN OF HAMMONTON; PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Hammonton desires to protect the public health, safety, and welfare of the Town and maintain a high quality of life for the citizens of the Town through the maintenance of structures and properties in the Town; and

**WHEREAS**, the Town recognizes properties subject to foreclosure action or foreclosed upon (hereinafter referred to as “Registrable Properties”) located throughout the Town lead to a decline in community and property value; create nuisances; lead to a general decrease in neighborhood and community aesthetic; create conditions that invite criminal activity; and foster an unsafe and unhealthy environment; and

**WHEREAS**, the Town has already adopted property maintenance codes to regulate building standards for the exterior of structures and the condition of the property as a whole; and

**WHEREAS**, the Town recognizes in the best interest of the public health, safety, and welfare a more regulated method is needed to discourage Registrable Property Mortgagees from allowing their properties to be abandoned, neglected or left unsupervised; and

**WHEREAS**, the Town has a vested interest in protecting neighborhoods against decay caused by Registrable Property and concludes that it is in the best interests of the health, safety, and welfare of its citizens and residents to impose registration requirements of Registrable Property located within the Town to discourage Registrable Property and Mortgagees from allowing their properties to be abandoned, neglected or left unsupervised; and

**WHEREAS**, pursuant to N.J.S.A. 40:48-2, the Town is authorized to enact and amend ordinances as deemed necessary for the preservation of the public health, safety and welfare and as may be necessary to carry into effect the powers and duties conferred and imposed upon the Town by law; and

**WHEREAS**, pursuant to P.L. 2021, c. 444, the Town is authorized to adopt or amend ordinances creating a property registration program for the purpose of identifying and monitoring residential and commercial properties within the Town for which a summons and compliant in an action to foreclosure on a mortgage has been filed, regulate the care, maintenance, security and upkeep of such properties, and impose a registration fee on the creditor of such properties.

**NOW THEREFORE**, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF HAMMONTON IN THE COUNTY OF ATLANTIC AND STATE OF NEW JERSEY AS FOLLOWS:

The Town finds that the implementation of the following changes and additions will assist the Town in protecting neighborhoods from the negative impact and conditions that occur as a result of vacancy, absentee ownership, and lack of compliance with existing Town regulations and laws.

SECTION 1. That the foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon the adoption hereof.

SECTION 2. That the Town of Hammonton hereby amends The Code of the Town of Hammonton to add a new Article V, titled "Registration of Foreclosure Mortgage Properties", to Chapter 211, which shall read as follows:

## **CHAPTER 211. ARTICLE V. REGISTRATION OF FORECLOSURE MORTGAGE PROPERTIES**

### **SECTION 1- PURPOSE AND INTENT**

It is the purpose and intent of the Town to establish a process to address the deterioration, crime, and decline in value of Town neighborhoods caused by property with foreclosed mortgages located within the Town, and to identify, regulate, limit and reduce the number of these properties located within the Town. It has been determined that there exist within the Town structures and vacant lots which are or may become in the future substandard with respect to structural integrity, equipment or maintenance or, further, that such conditions, including but not limited to structural deterioration; lack of maintenance of exterior premises and vacant lots; infestation; existence of fire hazards, constitute a menace to the health, safety, welfare and reasonable comfort of the citizens and inhabitants of the Town. It is further found and declared that, by reason of lack of maintenance and ensuing progressive deterioration, certain properties have the further effect of creating blighting conditions and that, if the same are not curtailed and removed, the aforesaid conditions will grow and spread and will necessitate in time the expenditure of large amounts of public funds to correct and eliminate the same and that, by reason of timely regulations and restrictions as herein contained, the growth of blight may be prevented and the neighborhood and property values thereby maintained, the desirability and amenities of dwellings and neighborhoods enhanced, and the public health, safety and welfare protected and fostered. It is the Town's further intent to establish a registration program as a mechanism to help protect neighborhoods from becoming blighted through the lack of adequate maintenance of properties that are in Foreclosure or Foreclosed, and to provide a mechanism to avert foreclosure actions through timely intervention, education, or counseling of property Owners.

### **SECTION 2- DEFINITIONS**

The following words, terms, and phrases, when used in this Article ###, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

**Accessible Property/Structure** - means a property that is accessible through a comprised breached gate, fence, wall, etc. or a structure that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

**Enforcement Officer** shall mean any law enforcement officer, building official, zoning inspector, code enforcement officer, fire inspector, building inspector, or other person authorized by the Town to enforce the applicable code(s).

**Evidence of Vacancy** shall mean any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions may include, but are not limited to: overgrown and/or dead vegetation; past due Utility notices and/or disconnected Utilities; accumulation of trash junk or debris; abandoned vehicles, auto parts and/or materials; the absence of furnishings and/or personal items consistent with habitation or occupancy; the presence of an unsanitary, stagnant swimming pool; the accumulation of newspapers, circulars, flyers and/or mail; statements by neighbors, passers-by, delivery agents or government agents; and/or the presence of boards over doors, windows or other openings in violation of applicable code.

**Foreclosure or Foreclosure Action** shall mean the legal process by which a Mortgagee, or other lien holder, terminates a property Owner's equitable right of redemption to obtain legal and equitable title to the Real Property pledged as security for a debt or the Real Property subject to the lien. This definition shall include, but is not limited to, a complaint and summons filed with respect to foreclosure on a mortgage, a lis pendens filed against it by the lender holding a mortgage on the property, a deed-in-lieu of foreclosure, sale to the mortgagee or lien holder, certificate of title and all other processes, activities and actions, by whatever name, associated with the described process. The legal process is not concluded until the property obtained by the Mortgagee, lien holder, or their designee, by certificate of title, or any other means, is sold to a non-related bona fide purchaser in an arm's length transaction to satisfy the debt or lien.

**Mortgagee** shall mean the creditor, including but not limited to, trustees; mortgage servicing companies; lenders in a mortgage agreement; any agent, servant, or employee of the creditor; any successor in interest; or any assignee of the creditor's rights, interests or obligations under the mortgage agreement; or any other person or entity with the legal right to foreclose on the Real Property, excluding governmental entities as assignee or owner.

**Property Manager** shall mean any party designated by the Mortgagee or Owner as responsible for inspecting, maintaining and securing the property as required in this Chapter.

**Real Property** shall mean any residential or commercial land and/or buildings, leasehold improvements and anything affixed to the land, or portion thereof identified by a property parcel identification number, located in the Town limits.

**Registrable Property** shall mean any Real Property located in the Town, whether vacant or occupied, that is subject to an ongoing Foreclosure Action by the Mortgagee or Trustee, has been the subject of a Foreclosure Action by a Mortgagee or trustee and a judgment has been entered, or has been the subject of a Foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the Foreclosure and any properties transferred under a deed in lieu of foreclosure/sale. The designation of a "foreclosure" property as "registrable" shall remain in place until such time as the property is sold to a non-related bona fide purchaser in an arm's length transaction or the Foreclosure Action has been dismissed.

**Registry** shall mean a web-based electronic database of searchable real property records, used by the Town to allow Mortgagees the opportunity to register properties and pay applicable fees as required in this Chapter.

**Annual Registration** shall mean twelve (12) months from the date of the first action that requires registration, as determined by the Town, or its designee, and every subsequent twelve (12) months the property is Registrable. The date of the initial registration may be different than the date of the first action that required registration.

**Utilities and Services** shall mean any utility and/or service that is essential for a building to be habitable and/or perform a service necessary to comply with all Town codes. This includes, but is not limited to, electrical, gas, water, sewer, lawn maintenance, pool maintenance, and snow removal.

**Vacant** as used in this Article shall mean any parcel of land in the Town that contains any building or structure that is not lawfully occupied or inhabited by human beings. A property also shall be deemed vacant if it is occupied without a valid, unexpired certificate of occupancy or other written authorization for occupancy as may be required by Applicable Laws.

### **SECTION 3 - APPLICABILITY AND JURISDICTION**

This Chapter applies to Foreclosing or Foreclosed property within the Town.

#### **SECTION 4 - ESTABLISHMENT OF A REGISTRY**

Pursuant to the provisions of Section 5 the Town, or its designee, shall establish a registry cataloging each Registrable Property within the Town of Hammonton, containing the information required by this Chapter.

#### **SECTION 5 - INSPECTION AND REGISTRATION OF REAL PROPERTY UNDER FORECLOSURE**

- (a) Any Mortgagee who holds a mortgage on Real Property located within the Town shall perform an inspection of the property upon the filing of a Foreclosure Action or any evidence of an existing foreclosure action or lien holder has obtained ownership of the real property by the Mortgagee.
- (b) Property inspected pursuant to subsection (a) above that remains in Foreclosure, shall be inspected every thirty (30) days by the Mortgagee or Mortgagee's designee. If an inspection shows a change in the property's occupancy status the Mortgagee shall, within ten (10) days of that inspection, update the occupancy status of the property registration.
- (c) Within ten (10) days of the date any Mortgagee files a Foreclosure Action, the Mortgagee shall register the Real Property with the Town of Hammonton Code Enforcement Officer, or designee, on forms or website access provided by the Town, and, at the time of registration, indicate whether the property is Vacant, and if so shall designate in writing a Property Manager to inspect, maintain and secure the Real Property subject to the mortgage in Foreclosure when legally possible. A separate registration is required for each Registrable Property.
- (d) Initial registration pursuant to this section shall contain at a minimum the name of the Mortgagee, the mailing address of the Mortgagee, e-mail address, telephone number and name of the Property Manager and said person's address, e-mail address, and telephone number, regardless of whether it is occupied or vacant.
- (e) At the time of initial registration each registrant shall pay a non-refundable Annual Registration fee of \$500 for each Registrable Property, for foreclosed properties that are vacant the non-refundable Annual Registration fee will be \$2,000.00. Subsequent non-refundable Annual Registrations of properties and fees in the amount of \$500 are due within ten (10) days of the expiration of the previous registration. Said fees shall be used to offset the costs of: (1) registration and registration enforcement, (2) code enforcement and mitigation related to Foreclosure properties, (3) post-closing counseling and Foreclosure intervention limited to Owner-occupied persons in Default, which may not include cash and mortgage modification assistance, and (4) for any related purposes as may be adopted in the policy set forth in this Chapter. Said fees shall be deposited to a special account in the Town's Department dedicated to the cost of implementation and enforcement of this Ordinance, and fulfilling the purpose and intent of this Chapter. None of the funds provided for in this section shall be utilized for the legal defense of Foreclosure Actions.
- (f) If the mortgage and/or servicing on a property is sold or transferred, the new Mortgagee is subject to all the terms of this Chapter. Within ten (10) days of the transfer, the new Mortgagee shall register the property or update the existing registration. The previous Mortgagee(s) will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that Mortgagee's involvement with the Registrable Property.
- (g) If the Mortgagee sells or transfers the Registrable Property in a non-arm's length transaction to a related entity or person, the transferee is subject to all the terms of this Chapter. Within ten (10) days of the transfer, the transferee shall register the property or update the existing registration. Any and all previous unpaid fees, fines, and penalties, regardless of who the Mortgagee was at the time registration

was required, including but not limited to unregistered periods during the Foreclosure process, are the responsibility of the transferee and are due and payable with the updated registration. The previous Mortgagee will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that Mortgagee's involvement with the Registrable Property.

- (h) If the Foreclosing or Foreclosed Property is not registered, or the registration fee is not paid within thirty (30) days of when the registration or renewal is required pursuant to this section, a late fee equivalent to ten percent (10%) of the Annual Registration fee shall be charged for every thirty-day period (30), or portion thereof, the property is not registered and shall be due and payable with the registration.
- (i) This section shall also apply to properties that have been the subject of a foreclosure sale where title is transferred to the Mortgagee as well as any properties transferred to the Mortgagee under a deed in lieu of foreclosure or by any other legal means.
- (j) Properties subject to this section shall remain subject to the Annual Registration requirement, and the inspection, security, and maintenance standards of this section as long as the property remains Registrable.
- (k) Failure of the Mortgagee and/or property Owner of record to properly register or to modify the registration to reflect a change of circumstances as required by this ordinance is a violation of this Chapter and shall be subject to enforcement by any of the enforcement means available to the Town.
- (l) If any property is in violation of this Chapter the Town may take the necessary action to ensure compliance with and/or place a lien on the property for the cost of the outstanding obligation and any additional cost incurred to the property into compliance.
- (m) Registration of foreclosure property does not alleviate the Mortgagee and/or Owner from obtaining all required licenses, permits and inspections required by applicable code or State Statutes. Acquisition of required licenses, permits and inspections or registration of rental property does not alleviate the requirement for the property to be registered under this section. Mortgagee and/or Owner is expected to update the status of the property in the event of a Mortgagee managed rental.

## **SECTION 6 - MAINTENANCE REQUIREMENTS**

- (a) Properties subject to this Article shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspaper circulars, flyers, notices, except those required by federal, state or local law, discarded personal items including, but not limited to, furniture, clothing, large and small appliances, printed material, or any other items that give the appearance that the property is abandoned.
- (b) Registrable Property shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure.
- (c) Front, side, and rear yards, including landscaping, of Registrable Property shall be maintained in accordance with the applicable code(s) at the time registration is required.
- (d) Registrable yard maintenance shall include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod. Acceptable maintenance of yards and/or landscape shall not include weeds, gravel, broken concrete, asphalt or similar material.

- (e) Maintenance shall include, but not be limited to, watering, irrigation, cutting and mowing of required ground cover or landscape and removal of all trimmings.
- (f) Pools and spas shall be maintained so the water remains free and clear of pollutants and debris and shall comply with the regulations set forth in the applicable code(s).
- (g) Failure of the Mortgagee, Owner, and transferees to properly maintain the property as required by this Chapter may result in a violation of the applicable code(s) and issuance of a citation or Notice of Violation. Pursuant to a finding and determination by the Town of Hammonton Enforcement Official, or a court of competent jurisdiction, the Town of Hammonton may take the necessary action to ensure compliance with this Section.
- (h) In addition to the above, the property is required to be maintained in accordance with the applicable code(s).

**SECTION 7- SECURITY REQUIREMENTS**

- (a) Properties subject to this Chapter shall be maintained in a secure manner so as not to be accessible to unauthorized persons.
- (b) A “secure manner” shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure. Broken windows, doors, gates, and other openings of such size that may allow a child to access the interior of the property or structure must be repaired. Broken windows shall be secured by re-glazing of the window.
- (c) If a property is Registrable, and the property has become vacant or abandoned, a Property Manager shall be designated by the Mortgagee or Owner to perform the work necessary to bring the property into compliance with the applicable code(s), and the Property Manager must perform regular inspections to verify compliance with the requirements of this Chapter, and any other applicable laws.
- (d) In addition to the above, the property is required to be secured in accordance with the applicable code(s).
- (e) When a property subject to this Chapter becomes Vacant, it shall be posted with the name and twenty-four (24) hour contact telephone number of the Property Manager. The Property Manager shall be available to be contacted by the Town Monday through Friday between 9:00 a.m. and 5:00 p.m., legal holidays excepted. The sign shall be placed in a window facing the street and shall be visible from the street. The posting shall be no less than eighteen (18) inches by twenty-four (24) inches and shall be of a font that is legible from a distance of forty-five (45) feet. The posting shall contain the following language with supporting information:

THIS PROPERTY IS MANAGED BY \_\_\_\_\_.  
 AND IS INSPECTED ON A REGULAR BASIS. \_\_\_\_\_.  
 THE PROPERTY MANAGER CAN BE CONTACTED \_\_\_\_\_.  
 BY TELEPHONE AT \_\_\_\_\_.  
 OR BY EMAIL AT \_\_\_\_\_.

- (f) The posting required in subsection (e) above shall be placed on the interior of a window facing the street to the front of the property so that it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the property so that it is visible from the street or if no

such area exists, on a stake of sufficient size to support the posting in a location that is at all times visible from the street to the front of the property but not readily accessible to vandals. Exterior posting shall be constructed of and printed with weather-resistant materials.

- (g) Failure of the Mortgagee and/or property Owner of record to properly inspect and secure a property subject to this Chapter, and post and maintain the signage noted in this section, is a violation and shall be subject to enforcement by any of the enforcement means available to the Town. The Town may take the necessary action to ensure compliance with this section, and recover costs and expenses in support thereof.

## **SECTION 8 - PROVISIONS SUPPLEMENTAL**

The provisions of this Chapter are cumulative with and in addition to other available remedies. Nothing contained in this Chapter shall prohibit the Town from collecting on fees, fines, and penalties in any lawful manner; or enforcing its codes by any other means, including, but not limited to, injunction, abatement, or as otherwise provided by law or ordinance.

## **SECTION 9 - PUBLIC NUISANCE**

All Registrable Property is at risk of being a public nuisance and if vacant or blighted can constitute a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare, and safety of the residents of the Town.

## **SECTION 10 - ADDITIONAL AUTHORITY**

- (a) If the Enforcement Officer has reason to believe that a property subject to the provisions of this Chapter is posing a serious threat to the public health, safety, and welfare, the code Enforcement Officer may temporarily secure the property at the expense of the Mortgagee or Owner, and may bring the violations before the Town of Hammonton's Code Enforcement Official as soon as possible to address the conditions of the property. Nothing herein shall limit the Town from abating any nuisance or unsafe condition by any other legal means available to it.
- (b) The Town of Hammonton Code Enforcement Official shall have the authority to require the Mortgagee or Owner affected by this section, to implement additional maintenance and/or security measures including, but not limited to, securing any and all doors, windows or other openings, employment of an on-site security guard or other measures as may be reasonably required to help prevent further decline of the property.
- (c) If there is a finding that the condition of the property is posing a serious threat to the public health, safety, and welfare, then the Town of Hammonton Code Enforcement Official may direct the Town to abate the violations and charge the Mortgagee or Owner with the cost of the abatement.
- (d) If the Mortgagee or Owner does not reimburse the Town for the cost of temporarily securing the property, or of any abatement directed Code Enforcement Official, within thirty (30) days of the Town sending the mortgagee the invoice then such amount, together with an administrative fee of Five Hundred Dollars (\$500.00) to address the Town's administrative expenses shall be a lien against the property and recorded and collected as provided by the statutes of the State of New Jersey.
- (e) The Town may contract with an entity to implement this Chapter, and, if so, any reference to the Enforcement Officer herein shall include the entity the Town contracts with for that purpose.



**SECTION 11- OPPOSING, OBSTRUCTING ENFORCEMENT OFFICER; PENALTY**

Whoever opposes obstructs or resists any Enforcement Officer or any person authorized by the enforcement office in the discharge of duties as provided in this chapter shall be punishable as provided in the applicable code(s) or a court of competent jurisdiction.

**SECTION 12 - IMMUNITY OF ENFORCEMENT OFFICER**

Any Enforcement Officer or any person authorized by the Town to enforce the sections here within shall be immune from prosecution, civil or criminal, for reasonable, good faith entry upon Real Property while in the discharge of duties imposed by this Chapter.

**SECTION 13 - PENALTIES**

Unless otherwise provided for in this Chapter, a violation of this Chapter is declared unlawful.

**SECTION 14 - AMENDMENTS**

Registration fees and penalties outlined in this Article may be modified by resolution, administrative order, or an amendment to this Article, passed and adopted by the Town of Hammonton.

**SECTION 15 - SEVERABILITY**

It is hereby declared to be the intention of the Town that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance.

**SECTION 16 - REPEALER**

All ordinances or parts of ordinances in conflict herewith, are hereby repealed and replaced.

**SECTION 17 - CODIFICATION**

It is the intention of the Town of Hammonton, that the provisions of this Ordinance shall become and be made a part of the Town of Hammonton Code of Ordinances; and that the sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section", "chapter", or such other appropriate word or phrase in order to accomplish such intentions.

**SECTION 3. EFFECTIVE DATE.** This ordinance shall take effect immediately upon final adoption and publication as required by law.

**Town of Hammonton  
Code of Ordinances  
Chapter 211  
Article V Section 1**

Fee schedule.

The initial registration fee for each Registerable Property shall be \$500. Vacant foreclosed \$2,000

**Registerable Property Registration Fee Schedule**

Type	Fee
Initial registration	\$500
Initial registration Vacant Foreclosed	\$2000
Each annual renewal	\$500
Each annual renewal Vacant Foreclosed	\$2000

Motion by Council Person Olivo Second Wuillermin  
Ordinance #017 2022 is open for public hearing

Motion by Council Person Olivo Second Gribbin  
Ordinance #0172022 is adopted and approved for final publication

**Roll Call**

Councilperson:  
Furgione – Yes  
Gribbin - Yes  
Oliva – Yes  
Olivo- Yes  
Rodio – Yes  
Wuillermin- Yes  
Mayor DiDonato - Yes

Mayor DiDonato declares motion is carried

**Other items of discussion (possible Ordinance or Resolution may be adopted or introduced)**

**REDEVELOPMENT AGREEMENT**

**THIS REDEVELOPMENT AGREEMENT** (this "Agreement") entered into this \_\_\_\_ day of \_\_\_\_\_, 2022, by and between **THE TOWN OF HAMMONTON**, a municipal corporation of the State of New Jersey having its principal offices at 100 Central Avenue, Hammonton, New Jersey 08037 (hereinafter referred to as the "Town"), and **WEST END DEVELOPMENT ASSOCIATES, LLC**, a New Jersey Limited Liability Company (hereinafter referred to as "Redeveloper") c/o 1535 Chestnut St., Suite 200, Philadelphia, PA 19102 and collectively referred to as the "Parties";

**RECITALS**

**WHEREAS**, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., as amended and supplemented (the "Redevelopment Law"), provides a process for municipalities to participate in the redevelopment and improvement of areas in need of rehabilitation or redevelopment; and

**WHEREAS**, in order to stimulate redevelopment, the Town Council for the Town of Hammonton ("Town Council"), on March 22, 2004 approved the Redevelopment Area Analysis and Redevelopment Area Plan prepared by Peter P. Karabashian Associates, Inc. dated December, 2002 last revised October 2003, designated inter alia, certain blocks and lots as areas in need of redevelopment ("Redevelopment Area") and Redeveloper now proposes to redevelop the following:

Block 2413, Lots 13 & 16 and at Redeveloper's option Lots 10-12

Block 2416, Lots 1& 19

Block 2417, Lot 1

Block 2418, Lots 1, 2, 3, 4, 7 & 8

Block 2418, Lot 7 is to be acquired by the Town and then transferred to the Redeveloper. The Redeveloper agrees to reimburse the Town for all legal fees and costs (along with any other reasonable and necessary fees and costs) upon completion of the acquisition process; and

**WHEREAS**, on March 22, 2004 pursuant to Ordinance No. 5-2004 Town Council adopted the "Redevelopment Plan" (the "Redevelopment Plan") for the Redevelopment Area; and

**WHEREAS**, on November 28, 2011, pursuant to Ordinance No. 24-2011, Town Council amended the Redevelopment Plan (the "Amended Redevelopment Plan") pursuant to a settlement agreement entitled "NIBR, L.L.C. - Town of Hammonton Mount Laurel Litigation Settlement Agreement" (the "Settlement Agreement") dated July 25, 2011; and

**WHEREAS**, the Redevelopment Law, N.J.S.A. 40A:12A-8(f), authorizes the Town Council to arrange or contract with a redeveloper for the planning, construction or undertaking of any project or redevelopment work in a Redevelopment Area for which a Redevelopment Plan has been adopted; and 2

**WHEREAS**, Redeveloper proposes to develop a residential townhome community consisting of a minimum of 60 units, generally consistent with the Conceptual Site Plan, attached hereto as Exhibit A or Exhibit B and with exteriors generally consistent with the Townhouse Renderings, attached hereto as Exhibit C (the "Project"); and

**WHEREAS**, in the event the Redeveloper is successful in acquiring Block 2413, Lots 10-12, the Project may consist of up to 65 units; and

**WHEREAS**, Town Council and Redeveloper have engaged in negotiations concerning the construction of the Project in the Redevelopment Area and Town Council has satisfied itself that Redeveloper has demonstrated its ability to implement the Redevelopment Plan; and

**WHEREAS**, Town Council, via Resolution #106-2022, has designated West End Development Associates, LLC as Redeveloper for the Project (the "Redeveloper"); and

**WHEREAS**, the Redevelopment Plan and the Amended Redevelopment Plan shall set forth the zoning requirements for the Redevelopment Area, including: permitted uses; area, yard and bulk requirements; and design standards for the construction of the dwellings; and

**WHEREAS**, the Project, which includes the obtaining of governmental approvals, the site preparation of the Property, construction, completion, and management of all Project Improvements contemplated under this Agreement shall be completed pursuant to the provisions of this Agreement, the Redevelopment Plan, the Settlement Agreement and the Amended Redevelopment Plan; and

**WHEREAS**, the Parties desire to enter into this Agreement for the purpose of setting forth their respective undertakings, rights and obligations in connection with the Project and the Property; and

**WHEREAS**, in order to effectuate the public purpose set forth in the Redevelopment Plan, and to set forth the terms and conditions under which the parties shall carry out their respective obligations with respect to construction of the Project, the Parties have determined to execute this Agreement.

**NOW, THEREFORE**, for and in consideration of the premises and of the mutual representations, covenants and agreements herein set forth, and to implement the purposes of the Redevelopment Law and the Redevelopment Plan, the parties hereto, each binding itself, its successors and assigns, do mutually promise, covenant and agree as follows:

## **ARTICLE 1**

### **1.1 Definitions.**

The following words and phrases shall have the meanings set forth below, which definitions shall be applicable to both singular and plural forms:

**"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.

**"Agreement"** has the meaning set forth in the introductory sentence to this Agreement.

**"Applicable Law"** means any statute, law, case law, constitution, charter, ordinance, resolution, judgment, order, decree, rule, regulation, directive, interpretation, standard or similarly binding action which, in any case, shall be enacted, adopted, promulgated, issued or enforced by any Governmental Body and/or court of competent jurisdiction that relates to or affects the Parties, the Rehabilitation Area, the Project, or the performance of the Parties of their respective obligations or the exercise of their respective rights under this Agreement.

**"Business Day"** means any day other than a Saturday, Sunday, or holiday under the laws of the State.

**"Certificate of Completion"** means a certificate or certificates of the Town, approved by a resolution of the Town Council, certifying that the Project Improvements relating to the Project (or any portion thereof) have been completed under this Agreement issued pursuant to §2.7 below. "Certificate of Occupancy" means a Certificate of Occupancy or Certificate of Approval, as such terms are defined in Title 23 of the New Jersey Administrative Code, or its equivalent, issued to allow occupancy (whether temporary or final) with respect to the Project in its entirety (or a portion thereof), upon Completion of the Project (or a portion thereof).

**"Completion," "Complete," or "Completed"** means with respect to the Project (or any portion thereof), that (a) all proposed work to the relevant portion of the Project has been completed, acquired, or installed in accordance with this Agreement and in compliance with Applicable Law so that such portion of the Project may be used and operated for its intended purpose; and (b) all permits, licenses and approvals, including a Certificate of Occupancy, can be issued.

**"Construction"** means all physical onsite work necessary to build and install the Project Improvements, as approved by the Joint Land Use Board (as defined below).

**"Control"** (including the correlative meanings of the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person, whether

through the ownership of voting securities or by contract or otherwise.

**"Effective Date"** means the date set forth above, such date being the date on which this Agreement is fully executed and delivered, or such other date as may be mutually agreed to by the parties.

**"Environmental Law"** shall mean all federal, regional, state, county or local laws, statutes, ordinances, decisional law, rules, regulations, codes, orders, decrees, directives and judgments relating to (i) pollution, damage to or protection of the environment, environmental conditions, releases or threatened releases of Hazardous Substances into the environment or the use, manufacture, processing, distribution, treatment, storage, generation, disposal, transport or handling of Hazardous Substances; and/or (ii) remediation, remediation activities and/or remediation standards; as the same are in effect on the date this Agreement is executed, together with any amendments or modifications to the same and new enactments adopted, promulgated or enacted thereafter, including but not limited to, the Federal Water Pollution Control Act, 33 U.S.C. §§ 1231-1387; the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901-6991; the Clean Air Act, 42 U.S.C. §§7401-7642; the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. §§ 9601-9675; the Toxic Substances Control Act, 15 U.S.C. §§ 2601-2629; the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10- 23.11 et seq.; the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.; the New Jersey Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq.; the Industrial Site Recovery Act, N.J.S.A. 13:1K-6 et seq.; and the New Jersey Environmental Rights Act, N.J.S.A. 2A:35A-1 et seq.; and any and all rules and regulations promulgated thereunder.

**"Financial Agreement"** means any tax exemption agreement pursuant to the terms and conditions of the Five-year Exemption and Abatement Law, N.J.S.A. 40A:21-1, et seq.

**"Force Majeure Events"** has the meaning set forth in Section 7.1 hereof.

**"Government Applications"** has the meaning set forth in Section 2.1(a) thereof.

**"Government Approvals"** has the meaning set forth in Section 2.1(a) thereof.

**"Governmental Body"** means any federal, state, county or local agency, department, commission, authority, court, or tribunal and any successor thereto, exercising executive, legislative, judicial, or administrative functions of or pertaining to government, including, without limitation, the Town and the State.

**"Hazardous Substance"** means any toxic or hazardous substance, pollutant or contaminant, element, compound, mixture or solution emissions, contaminants, chemicals, materials, wastes or substances, as any of those terms are defined from time to time, in or for the purposes of, any relevant Environmental Law.

**"Joint Land Use Board"** means the Joint Land Use Board of the Town of Hammonton. "MLUL" means the Municipal Land Use Law, N.J.S.A. 40:55D-1 to -163, as may be amended.

**"Party"** means either the Town or the Redeveloper, as the context requires.

**"Permitted Transfer"** has the meaning set forth in Section 5.3 hereof. 5

**"Person"** means any individual, sole proprietorship, corporation, partnership, joint venture, limited liability company or corporation, trust, unincorporated association, institution, public or Governmental Body, or any other entity.

**"Project Completion Date"** has the meaning set forth in Section 2.5(a). "Project" has the meaning set forth in the Preamble.

**"Property"** has the meaning set forth in the Preamble. "Redeveloper" has the meaning set forth in the introductory sentence to this Agreement. "Redevelopment Area" has the meaning set forth in the Preamble.

**"Redevelopment Law"** has the meaning set forth in the Preamble.

**"Redevelopment Plan"** has the meaning set forth in the Preamble.

**"Site Plan"** means one or more minor or major site plans, and any amendments thereto, as submitted to the Joint Land Use Board for preliminary or final approval and as commonly defined in and governed by the MLUL.

**"State"** means the State of New Jersey.

**"Town"** means the Town of Hammonton, Atlantic County, New Jersey. "Town Council" has the meaning set forth in the Preamble.

**"Town Indemnified Parties"** means the Town and its officers, agents, employees, contractors, and consultants.

**"Transfer"** has the meaning set forth in Section 5.2 hereof.

**"Unreasonably Withheld"** or "Unreasonably Withhold" shall mean to be withheld or denied in a manner that is arbitrary, capricious, or unreasonable.

**1.2 Interpretation and Construction.** All statements in the Recitals are hereby repeated in their entirety as if set forth at length herein, unless the context otherwise requires:

(a) The terms "hereby", "hereof", "hereto", "herein", "hereunder" and any similar terms, as used in this Agreement refer to this Agreement, the term "hereafter" means after the date of execution of this Agreement, and the term "heretofore" means before the execution of this Agreement.

(b) Any headings preceding the text of the several Articles and Sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

(c) Unless otherwise indicated, all approvals, consents and acceptances required to be given or made by any party hereunder shall not be unreasonably withheld, conditioned, or delayed. The words "consent" or "approve" or words of similar import, shall mean the prior written consent or approval of Town Council or Redeveloper, as the case may be, unless expressly stated to the contrary herein.

(d) Each right of the Town Council or other Town officials to review or approve any actions, plans, specifications, or other obligations hereunder shall be exercised by the Town Council or Town official(s) with the legal authority to conduct such review or grant such approvals. Any review contemplated by this Agreement shall be made in a timely manner, and as otherwise provided herein.



(e) All notices to be given hereunder and responses thereto shall be given, unless a certain number of days is specified, within a reasonable time.

(f) Unless otherwise indicated, any fees and expenses shall be required to be customary and reasonable.

(g) Gender-specific words mean and include every other gender and words that are singular in number mean and include the plural number and vice versa.

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

## **ARTICLE 2 REDEVELOPER'S OBLIGATIONS**

2.1 **Agreement to Undertake Project**. Redeveloper agrees to prepare the Property and to plan, develop, and construct thereon the Project in conformity with the provisions of the Redevelopment Plan and Amended Redevelopment Plan and in compliance with the terms and conditions of this Agreement, the Settlement Agreement and any Governmental Approvals. The Project shall also include all site preparation and on- and off-site improvements and infrastructure necessary to service the Project in accordance with Governmental Approvals, including but not limited to storm drainage, municipal water and sewer service and other utility services, buffers and landscaping.

(a) Redeveloper will cause to be prepared and filed such plans, drawings, documentation, presentations and applications (collectively called "Governmental Applications") as may be necessary and appropriate for the purpose of obtaining any and all final and unappealable Governmental Approvals required to complete the Project, including but not limited to Site Plan approvals, water and sewer allocation and connection permits, approvals from the New Jersey Department of Transportation, construction plans and specifications; environmental approvals, if necessary; and any and 7 all other necessary permits, licenses, consents and approvals (hereinafter collectively called the "Governmental Approvals"). All of the Governmental Applications shall be in conformity with the Redevelopment Plan, the Amended Redevelopment Plan, the Settlement Agreement and this Agreement and all Exhibits, and any and all federal, State, County, and municipal statutes, laws, ordinances, rules and regulations applicable thereto,

subject to the Redevelopment Law. The Town shall use its best efforts to fully cooperate with Redeveloper obtaining all Governmental Approvals.

(b) Redeveloper agrees to submit substantially complete applications necessary to obtain the Governmental Approvals. Redeveloper shall obtain all Governmental Approvals necessary to start Construction of the Project within 12 months of the Effective Date of this Agreement.

(c) If Redeveloper, despite its diligent efforts to obtain all approvals necessary, does not commence construction during the timeframe set forth in 2.1(b) hereinabove, Redeveloper may request the Town's approval of a reasonable extension up to six (6) months, which approval shall not be unreasonably delayed or denied. The Town, in the exercise of its reasonable discretion, may grant further extensions for good cause upon timely written application by Redeveloper setting forth the status of the Governmental Approvals and the reasons for requesting additional time.

(d) Redeveloper agrees to provide quarterly reports to Mayor and Council which reports shall inform Mayor and Council of Redeveloper's progress on the project and any issues which pose the potential for any delays in the project along with any other relevant information that insures Mayor and Council are fully informed of the status of the project.

2.2 **Project Compliance**. The Project shall be constructed substantially similar to the Concept Plan which is annexed hereto and made a part hereof as **Exhibit "A"** (60 units) or **Exhibit "B"** (65 units). The Redeveloper shall notify the Town if the Redeveloper seeks to make a material modification to Exhibit A or Exhibit B, and/or if Redeveloper intends to file any government application in which the project presented therein is not substantially similar to the Concept Plan. Notwithstanding the foregoing, any changes required by the Joint Land Use Board or Pinelands Commission shall not be deemed to be material, nor any changes that do not require variances or waivers.

2.3 **Site Control**. The Redeveloper represents that it is the contract purchaser of the Property.

2.4 **Environmental Compliance**. To the extent applicable, Redeveloper shall obtain all necessary environmental clearances and approvals and shall satisfy all requirements of any Environmental Laws relating to the Property and any Governmental Approvals. Under no circumstances, shall the Town be required to contribute any funds toward Environmental Remediation of the Property.

## 2.5 Schedule; Delays and Extensions.

(a) Redeveloper shall apply for a construction permit within 12 months of receipt of all necessary Governmental Approvals to permit commencement of construction of the Project. Redeveloper shall have 36 months after issuance of the first building permit in which to Complete the Project. The end date of this period shall be referred to as the "Project Completion Date." If Redeveloper needs an extension beyond the Project Completion Date, the Redeveloper may apply to the Town in writing before the Project Completion Date stating in detail the reasons for requesting the extension. The Town shall not unreasonably withhold or delay its consent to the Redeveloper's timely request conditioned on the Redeveloper having proceeded diligently to meet the Project Completion Date.

(b) "Substantial Completion" is defined to mean Completion of the Project as evidenced by a certificate of the Town in recordable form ("Certificate of Completion") accepting the terms of a certificate of the Redeveloper stating that: (a) the Redeveloper has substantially Completed the Project in accordance with the final Site Plan approval and (b) the Redeveloper has obtained a temporary or permanent Certificate of Occupancy and other permissions required, if any, of the Governmental Body for the occupancy and use of the Project and all parts thereof. The Town shall not be required to issue a Certificate of Completion or Certificate of Occupancy for the Project until such time as Redeveloper has paid to the Town all outstanding amounts owed the Town unless those costs have been contested. If the reason for the refusal to issue a Certificate of Completion is confined to the immediate availability of specific minor finish items, the Town will issue its Certificate of Completion upon the posting of a bond (or other reasonably satisfactory security) by the Redeveloper with the Town in an amount representing the fair value of the work not yet completed. If the sole reason for the refusal to issue a Certificate of Occupancy or Certificate of Completion is a dispute over municipal charges due from Redeveloper, the Town will issue the certificate(s) in question if Redeveloper deposits the disputed amount into escrow. The time for Completion of the Project may be extended for a period of time equal to any delay in Construction due to any of the Force Majeure events set forth in Article 7 of this Agreement.

(c) Notwithstanding anything in the Agreement to the contrary, if, with respect to the Project (i) any Government Body (other than the Town in enforcing this Agreement) declares or effects (whether it be de jure, de facto or

otherwise) any moratorium on, or other impediment to, the Project that in any way prohibits or impairs the Redeveloper in any respect from developing or building, selling or renting, the units in the Project, or (ii) any litigation is brought seeking or challenging the Project in any regard or any Governmental Approvals are denied, the Redeveloper shall have the right to suspend its obligation under this Agreement for up to twenty-four (24) months, per occurrence but in any event only for so long as the moratorium or impediment prohibits or impairs Redevelopment's Performance hereunder. In the event any moratorium or litigation or other impediment causing the Redeveloper to invoke its rights hereunder has not expired within twenty-four (24) months of the applicable occurrence, then either party hereto may terminate this Agreement.

2.6 **Certificate(s) of Occupancy.** Upon completion of any residential unit, which is then suitable by law for occupancy, Redeveloper shall apply to the appropriate governmental officer or Governmental Body for a temporary Certificate of Occupancy or a permanent Certificate of Occupancy, as appropriate under the circumstances according to the appropriate law or regulation. The Certificate of Occupancy, when issued, shall constitute evidence that Redeveloper has fully performed its obligations under applicable laws with respect to the construction of the unit for which the Certificate of Occupancy is issued.

2.7 **Certificate of Completion.**

(a) Upon Notice (as defined in Article 9) from the Redeveloper and subject to the requirements set forth in Section 2.5(b) above, the Town agrees to issue a Certificate of Completion in form and content satisfactory to counsel for the Redeveloper and in proper form for recording which shall acknowledge that the Redeveloper has constructed the Project in accordance with this Agreement, the Redevelopment Plan and all other agreements referred to herein and/or annexed. Such Certificate of Completion shall constitute a recordable, conclusive determination of the satisfaction and termination of the Redeveloper's obligations pursuant to this Agreement to construct the Project and Project Improvements.

(b) The Certificate of Completion shall also constitute a conclusive determination that the conditions that were found and determined to exist at the time the Property 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(a) shall be deemed to have been satisfied with respect to the Redevelopment Area and Project Area and

shall no longer be subject to eminent domain as a result of the said designation, provided, however, that the Project shall be deemed to continue for purposes of any tax abatement ordinance requirements for so long as any financial agreement referenced herein shall be in effect.

(c) Nothing contained in the Certificate of Completion shall modify in any way any other covenants, provisions or continuing obligations of the Redeveloper under this Agreement or any other provisions of those documents which are incorporated in this Agreement, which such covenants, provisions and obligations shall remain in full force and effect and the Project shall continue until such time as all such obligations of the Redeveloper shall be satisfied and all such agreements are terminated. In the event that the Town shall fail or refuse to provide such Certificate of Completion within thirty (30) days after written request by the Redeveloper, the Town shall provide the Redeveloper with a Notice setting forth in detail the respects in which it believes that the Redeveloper has failed to complete the Project Improvements in accordance with the provisions of this Agreement or is otherwise in default under this Agreement or any other applicable agreement and what measures or acts will be necessary in the opinion of the Town in order for the Redeveloper to be entitled to such Certificate of Completion.

(d) Redeveloper shall have the right to seek a comprehensive Certificate of Completion for the Project Improvements for the entire Project, even if separate Certificates of Completion have been issued for any portion of the Project Improvements.

(e) If the Town fails to issue a Certificate of Completion within the time period specified herein, or to state its reasons for failing to do so, Redeveloper shall have the right to elect to commence summary proceedings against the Town in a court of competent jurisdiction for specific performance.

### **ARTICLE 3 TOWN'S OBLIGATIONS**

#### **3.1 Supports for Redeveloper.**

The Town shall:

(a) Authorize Redeveloper's participation in the Town's Five-Year Tax Abatement Ordinance.

(b) Authorize a reduction in the water, sewer and meter fees from \$4,700.00 per unit to \$3,500 per dwelling unit (with the Town supplying at its expense the necessary meters, horns and/or saddles consistent with existing equipment.

(c) Acquire through a tax sale foreclosure, block 2418, lot 7 and convey such property to the Redeveloper for use in the Project. Redeveloper shall reimburse the Town for the costs and fees incurred in the foreclosure action.

(d) Authorize a Financial Agreement related to Redeveloper's participation in the Town's Five-Year Tax Abatement Program. The parties shall use good faith efforts to execute all necessary documents within 45 days of the Effective Date of this Agreement.

3.2 **Cooperation with respect to Governmental Applications.** To the extent permitted by law, the Town will use best efforts in cooperating with Redeveloper's efforts to make timely Governmental Applications for the Project and will lend assistance to the Redeveloper in an attempt to gain support for the Project from other governmental authorities, if necessary. The foregoing shall be at no out of pocket expense to the Town.

3.3 **Affordable Housing Obligation.** Payment of \$8,000.00 per unit paid at the time of issuance of a Certificate of Occupancy for such unit provided, however, that the per unit charge shall be adjusted based upon final unit count.

3.4 **Delinquent Tax Obligations.** The Redeveloper acknowledges that the entity from which it is acquiring the premises entered into an agreement with the Town of Hammonton on July 25, 2011 which requires it to reimburse the Town for unpaid taxes in the amount of \$207,000.00, or such lesser amount as reflected by the deduction of any payments previously made towards the total amount. A condition of this Agreement is that the Town shall have received payment in that amount (\$207,000.00 or such lesser amount to reflect prior payments) prior to this Agreement becoming effective.

**ARTICLE 4**  
**COVENANTS AND RESTRICTIONS**

4.1 **Nondiscrimination Covenants**. The Redeveloper, its successors and assigns shall:

(a) Not 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, affect ional preference or sex in the sale, lease, sublease, transfer, use, occupancy or enjoyment of the Property nor shall the Redeveloper itself, or any Affiliate 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;

(b) Not effect or execute any covenant, agreement, lease, conveyance or other instrument whereby the Project, including any building or structure erected or to be erected thereon which may be used for residential purposes, is restricted upon the basis of age, race, color, creed, religion, ancestry, national origin, sex or marital status, and Redeveloper, its successors and assigns shall comply with all federal, State and local laws prohibiting discrimination or segregation by reason of age, race, color, creed, religion, ancestry, national origin, sex or marital status.

4.2. **Redeveloper Covenants**. The covenants and restrictions to be imposed upon Redeveloper, its successors and assigns, pursuant to this Agreement, and in accordance with N.J.S.A. 40A:12A-9, shall be the following covenants and restrictions:

(a) To construct only the uses established in the Redevelopment Plan, as may be amended, except for deviations in accordance with any variances or exceptions therefrom that may be granted, which covenant shall run with the land;

(b) Subject to Force Majeure Events, to commence construction of the Project in accordance with the Construction Commencement Date and in accordance with this Agreement, all applicable Government Approvals and Applicable Law;

(c) Except as may otherwise be permitted by this Agreement and to the extent not inconsistent with the provisions of Article 5 hereof, to not sell, lease or otherwise Transfer the Property, or any portion thereof, without consent of the Town, which consent shall not be Unreasonably Withheld, conditioned or delayed;

(d) To not 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, affect ional preference or sex in the sale, lease, sublease, transfer, use, occupancy or enjoyment of the Property nor shall the Redeveloper itself, or any Affiliate 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;

(e) Redeveloper covenants that its undertakings pursuant to this Agreement shall be for the purpose of redevelopment of the Property and not for speculation in land holding;

(f) Redeveloper shall undertake the Project at its sole cost and expense using any public and/or private resources that may be available; provided, however, that the Town shall in no way be obligated to provide such resources except as specifically provided for herein;

4.3. **Town Covenants.** The Town hereby covenants with Redeveloper that it shall:

(a) Cooperate with Redeveloper to obtain all Government Approvals;

(b) Cooperate with Redeveloper as may otherwise be required by this Agreement; and

(c) Use its best efforts and cooperate with Redeveloper to acquire all easements, rights of access, rights-of-way, licenses and other rights and/or the termination or modification of existing easements, rights of access, rights-of-way, licenses and other rights reasonably required in order to permit the use and operation of the Project Site. Redeveloper agrees to reimburse any reasonable fees or costs incurred by the Town in providing such assistance.



4.4. **Effect and Duration of the Covenants.**

(a) It is intended and agreed, that the covenants set forth in this Article 4 shall remain in effect until the date that the Project in its entirety, or the applicable portion of the Project, shall be Completed, and such covenants 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 Applicable Law and equity, for the benefit and in favor of, and enforceable by, the Town, Redeveloper, and their respective successors and assigns.

(b) Notwithstanding anything contained in this Agreement to the contrary, the provisions of this Agreement and this Article 4 shall terminate as to any portion of the Project, upon Completion thereof.

(c) After Completion of the Project (or portion thereof), the Completed Project (or portion thereof) shall cease to be governed by this Article 4.

**ARTICLE 5  
PROHIBITION AGAINST ASSIGNMENT AND TRANSFER**

5.1 **Prohibition against Speculative Development.**

Because of the importance of the redevelopment of the Redevelopment Area to the general welfare of the Town, Redeveloper represents and agrees that the Redevelopment Area and Redeveloper's undertakings pursuant to this Agreement are, and will be used, for the purpose of the redevelopment of the Property as provided herein and not for speculation.

5.2 **Prohibition against Transfers.** Redeveloper recognizes that the Town regards both the Project and the qualifications and identity of the Redeveloper and its principals as being of great importance to the general welfare of the Town. Accordingly, except for Permitted Transfers, as set forth in Section 5.3, prior to the issuance of a final Certificate of Completion for the Project or any part thereof, Redeveloper shall not, without the prior written consent of the Town in the ownership or control of Redeveloper: (a) assign or attempt to assign this Agreement or any rights herein, or (b) make any total sale, lease, transfer or conveyance of the whole of its interest in the Project or the Property (collectively a "Transfer").

5.3 **Permitted Transfers.** The Redeveloper may affect the following Transfers, to which the Town hereby consents upon receipt of notice thereof, without the necessity of further action by the Town (the "Permitted Transfers"): (a) a mortgage or related security (including conditional assignments to mortgagees or holders of a mortgage interest on the Redevelopment Area required as a condition to the closing of the financing so secured) granted by Redeveloper to a holder of a mortgage interest for the sole purpose of financing the costs associated with, or incurred in connection with the acquisition, development and construction of the Redevelopment Area and the Project; (b) utility and other development easements; (c) conveyance of the Redevelopment Area or assignment of this Agreement provided Redeveloper retains a 51% interest; and (d) conveyance of one or more lots to NVR, Inc. d/b/a Ryan Homes for the purpose of such builder constructing one or more dwelling units for sale.

5.4 **Transfers of Interests in Which Control is Transferred.** Except for transfers pursuant to Section 5.3(d), with the express prior written consent of the Town, which consent shall not unreasonably be withheld, conditioned or delayed if Redeveloper complies with the requirements of this Section and submits all information set forth herein, Redeveloper may effect a Transfer of title to all or a portion of the Redevelopment Area and/or the Project to a transferee that has the qualifications and financial responsibility necessary and adequate, as may be reasonably determined by Town, to fulfill the obligations to be undertaken in this Agreement by Redeveloper. As part of the Town's consideration of any Transfer pursuant to this Article, the proposed transferee must provide the following information and satisfy any other conditions as reasonably determined by the Town:

(a) Evidence that the proposed transferee possesses the qualifications and financial responsibility necessary and adequate to fulfill the obligations undertaken in this Agreement with respect to the Project by Redeveloper and other obligations pursuant to Governmental Approvals, or any part of such obligations that may pertain to the transferred interest or the transferred portion of the Redevelopment Area and/or Project, as determined from evidence of experience on comparable projects and letters of recommendation from reputable parties for whom the prospective transferee has undertaken a comparable development, stating that the proposed transferee or assignee possesses the competence and integrity to undertake the Project or part thereof.

(b) Written documentation by the proposed transferee, in form and content reasonably satisfactory to the Town, for itself and its successors and assigns, and for the benefit of the Town, by which the proposed transferee (i) expressly assumes all of the obligations of Redeveloper under this Agreement applicable to the property interest conveyed with such sale, assignment or Transfer and (ii) agrees to be subject to all the conditions and restrictions to which Redeveloper is subject under this Agreement, including restrictions regarding the right to subsequent Transfers.

5.5 **Transfers Void.** Any Transfer of Redeveloper's interest in violation of this Article 5 is an Event of Default of Redeveloper and shall be null and void ab initio. The Town shall notify Redeveloper of such default and provide thirty (30) days in which the Redeveloper shall have an opportunity to cure such default. Any such Event of Default shall entitle the Town to seek all remedies available under the terms hereof. In the absence of Permitted Transfers or specific written consent by the Town, no such sale, Transfer, conveyance or assignment of the Redevelopment Area or Project, or any part thereof, shall be deemed to relieve Redeveloper from any obligations under this Agreement.

## **ARTICLE 6 DEFAULT, CURE, REMEDIES AND TERMINATION**

6.1 **Events of Default.** Occurrence of any one or more of the following events shall constitute an "Event of Default" hereunder, unless such event results from the occurrence of a Force Majeure Event: Redeveloper or Town fails to observe and perform any obligation, covenant, condition or other provision in this Agreement in a material respect, and such failure continues for a period of thirty (30) days after receipt by the defaulting Party of written notice specifying the nature of such failure and requesting that such failure be remedied (the "Default Notice"). However, if the breach of any such covenant, condition or agreement is one that cannot be completely remedied within thirty (30) days after such Default Notice has been given, it shall not be an Event of Default as long as the defaulting Party is proceeding with due diligence to remedy the same and the default is fully remedied not later than one hundred twenty (120) days after issuance of the Default Notice. If the defaulting Party is unable to cure the default within the 120 days after the issuance of the Default Notice but has commenced to cure such default and diligently proceeds to prosecute such cure to completion, the non-defaulting Party will not unreasonably withhold its approval of the defaulting Party's request for a further extension.

6.2 **Remedies.** Upon the occurrence of any Event of Default, the non-defaulting Party shall have the right to institute whatever action, at law or in equity, it may deem desirable, to cure and remedy such default, including the seeking of damages and specific performance. In addition, the non-defaulting Party shall have the right to terminate this Agreement. If this Agreement is terminated, the Town shall terminate the Redeveloper's designation as the Redeveloper of the Redevelopment Area.

6.3 **No Waiver by Delay.** The failure of either party to avail itself of any remedy provided for in this Agreement, or any delay in seeking such remedy, shall not be deemed a waiver of the rights to be enforced thereby or of any right of enforcement that may accrue in the future.

## **ARTICLE 7 FORCE MAJEURE**

7.1 **Force Majeure Events.** Performance by either Party hereunder shall not be deemed to be in default where delays or failure to perform are the result of any of the following acts, events or conditions or any combination thereof ("Force Majeure Events") that (i) have had or may reasonably be expected to have a direct, material, adverse effect on the rights or obligations of the Parties to this Agreement and (ii) are beyond the reasonable control of the party relying thereon as justification for not performing an obligation or complying with any condition required of such Party under the terms of this Agreement:

(a) An act of God, lightning, blizzards, earthquake, acts of a public enemy, war, terrorism, blockade, freight embargoes, epidemics, pandemics, supply delays, insurrection, economic emergency, riot or civil disturbance, sabotage or similar occurrence; but not including reasonably anticipated weather conditions for the geographic area of the Project other than those set forth above (such events being required to physically affect a Party's ability to fulfill its obligations hereunder); the consequential effect of such events (e.g., impact on market conditions) shall not be considered a Force Majeure Event);

(b) A fire, explosion, flood, or similar occurrence not created by an act or omission of the Party relying thereon;

(c) The order, judgment, action and/or determination of any federal, State or local court, administrative agency or Governmental Body with jurisdiction within the Town, excepting decisions interpreting federal, State and local tax laws generally applicable to all business taxpayers, adversely affecting the construction of the Project; provided, however, that such order, judgment, action and/or determination shall not be the result of the willful, intentional or negligent action or inaction of the Party relying thereon and that neither the contesting of any such order, judgments, action and/or determination, in good faith, nor the reasonable failure to so contest, shall constitute or be construed as a willful, intentional or negligent action or inaction by such Party;

(d) The suspension, termination, interruption, denial or failure of or delay in renewal or issuance of any Governmental Approval which is required for the Project (as evidenced by written notices from the Governmental Body having jurisdiction over such matter), or a third party challenge to any Governmental Approval, but (i) any such suspension, termination, interruption, denial or failure of renewal or issuance, or any third party appeal of an approval shall not be the result of the action or inaction of the Party relying thereon and (ii) neither the contesting of any such suspension, termination, interruption, denial or failure of renewal or issuance, in good faith, nor the reasonable failure to so contest, shall constitute or be construed as a willful, intentional or negligent action or inaction by such Party;

(e) Strikes or similar labor action by equipment manufacturers, suppliers of material and/or transporters of same; or

(c) Acts or omissions of another Party, except in conformance with this Agreement or, as to the Redeveloper, acts or omissions of the Town.

## **ARTICLE 8 REPRESENTATIONS AND WARRANTIES**

8.1 **Redeveloper's Representations.** Redeveloper represents and warrants the following to the Town for the purpose of inducing the Town to enter into this Agreement and to consummate the transactions contemplated hereby, all of which shall be true as of the Effective Date of this Agreement:

(a) Redeveloper is a company organized under the laws of the State of New Jersey, is in good standing under the laws of the State of New Jersey and has all requisite power and authority to carry on its business as now and whenever conducted, and to enter into and perform its obligations under this Agreement.

(b) Redeveloper has the legal power, right and authority to enter into this Agreement and the instruments and documents referenced herein to which Redeveloper is a party, to consummate the transactions contemplated hereby, to take any steps or actions contemplated hereby, and to perform its obligations hereunder.

(c) This Agreement has been duly authorized, executed and delivered by Redeveloper, and is valid and legally binding upon Redeveloper and enforceable in accordance with its terms. The execution and delivery of this Agreement shall not constitute a default under or violate the terms of any indenture, agreement or other instrument to which the Redeveloper is a party.

(d) The Redeveloper has not been declared ineligible from doing business with any state or the federal government.

(e) There is no pending, or to the best of Redeveloper's knowledge, threatened litigation which would prevent Redeveloper from performing its duties and obligations hereunder or have a material adverse effect on its financial condition.

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

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

(h) All materials and documentation submitted by Redeveloper and its agents to the Town and its agents were, at the time of such submission, and as of the date of this Agreement unless subsequently modified,

materially accurate, and Redeveloper shall continue to inform the Town of any material and adverse changes in the documentation 17 submitted. Redeveloper acknowledges that the facts and representations contained in the submitted information are a material factor in the Town's decision to enter into this Agreement.

(i) Redeveloper, is capable of developing, designing, financing and constructing the Project.

8.2 **Delivery of Documents by Redeveloper.**

Simultaneously with the execution of this Agreement, Redeveloper shall deliver to the Town certified copies of the Redeveloper's Certificate of Incorporation (or Certificate of Formation) and Certificate of Good Standing. The Town hereby acknowledges the receipt of these documents.

8.3 **Town's Representations.** The Town represents and warrants the following to Redeveloper for the purpose of inducing Redeveloper to enter into this Agreement and to consummate the transactions contemplated hereby, all of which shall be true as of the Effective Date of this Agreement:

(a) The Town is a municipal entity authorized to exercise certain powers pursuant to the Redevelopment Law. The Town, through its Town Council, has reserved to itself the power to act as the redevelopment entity pursuant to the Redevelopment Law.

(b) The Town has the legal power, right and authority to enter into this Agreement and the instruments and documents referenced herein to which the Town is a party, to consummate the transactions contemplated hereby, and to perform its obligations hereunder.

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

(d) There is no pending, or to the best of the Town's knowledge, threatened litigation which would prevent the Town from performing its duties and obligations hereunder.

(e) Any prior designations of developer, redeveloper or likewise are of no further force and effect and no other person or entity, other than Redeveloper, has any development or redevelopment rights to the Redevelopment Area.

**ARTICLE 9  
NOTICE**

9.1 A notice, demand or other communication under this Agreement by any Party to the other shall be sufficiently given or delivered if: (i) e-mailed; or (ii) sent by United States Registered or Certified Mail, postage prepaid and return receipt requested; or (iii) delivered by overnight courier or delivered personally (and receipt acknowledged) to the other Party at its 18 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 Article 9.

If to Town:

Municipal Clerk  
Town of Hammonton Town Hall  
100 Central Avenue  
Hammonton, NJ 08037  
Phone: (609) 567-4300, Ext. 121  
Email: [townclerk@townofhammonton.org](mailto:townclerk@townofhammonton.org) or current email of the City Clerk

With a Copy to:

Brian G. Howell, Esquire  
Howell & Bertman  
P.O. Box 679, 231 Bellevue Avenue  
Hammonton, NJ 08037  
Phone: (609) 567-2600  
Email: [howellbg@comcast.net](mailto:howellbg@comcast.net)

With a Copy to:

Frank Zuber, Municipal Clerk  
Town of Hammonton  
100 Central Avenue Hammonton, New Jersey 08037  
Phone: (609) 567-4300  
Email: [fzuber@townofhammonton.org](mailto:fzuber@townofhammonton.org)



With a Copy to:

Robert A. Vettese PE, LP, MSE, Public Works Manager  
Town of Hammonton  
100 Central Avenue Hammonton, New Jersey 08037  
Phone: (609) 567-4300 ext. 101  
Email: [rvettese@townofhammonton.org](mailto:rvettese@townofhammonton.org)

With a Copy to:

Denise Mazzeo, Aide to the Mayor, Communications,  
Recreation  
Town of Hammonton  
100 Central Avenue  
Hammonton, New Jersey 08037  
Phone: (609) 567-4300 ext. 107  
Email: [dmazzeo@townofhammonton.org](mailto:dmazzeo@townofhammonton.org)

If to Redeveloper:

West End Development Associates, LLC  
c/o Lee Brahin  
1535 Chestnut Street, Suite 200  
Philadelphia, PA 19102  
Phone: 215-913-2223  
Email: [lbrahin@brahin.com](mailto:lbrahin@brahin.com)

With a Copy to:

Nicholas F. Talvacchia, Esquire  
c/o Cooper Levenson  
1125 Atlantic Avenue  
Atlantic City, NJ 08401  
Phone: (609) 344-3161  
Email: [ntalvacchia@cooperlevenson.com](mailto:ntalvacchia@cooperlevenson.com)

**ARTICLE 10  
MISCELLANEOUS**

10.1 **Title of Articles and Sections.** The titles of the several Articles of this Agreement, as set forth at the heads of said Articles, and titles of Sections as set forth at the head of each Section, are inserted for convenience of reference only and shall be disregarded in construing or interpreting this Agreement.

10.2           **Severability.** The validity of any Article, clause or provision of this Agreement shall not affect the validity of the remaining Articles, clauses or provisions hereof. If any term or provision of this Agreement, or any application thereof to any person or circumstance shall, to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to person or circumstance other than those to which it is held invalid or unenforceable, shall not be affected thereby. Each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law, except to the extent that may frustrate the entire purpose of this Agreement.

10.3           **Successors Bound.** All agreements and covenants required under this Agreement shall be binding on Redeveloper itself, each owner and successor in interest, or any part thereof, and each party in possession or occupancy, respectively, only for such period as Redeveloper or such successor or party shall have title to, or an interest in, or possession or occupancy of the building or structure or any part thereof. Additionally, this Agreement shall be binding upon the Town's successors in interest.

10.4           **Waiver.** No waiver made by the Town with respect to the performance (including the manner or time of performance) of any obligation of any other Party, or with respect to the satisfaction of any condition to the waiving party's own obligations under this Agreement, shall be considered a waiver of any rights of the Party making the waiver, except with respect to those rights expressly waived in writing. Moreover, no such written waiver shall constitute a waiver with respect to any other rights of the waiving Party or any other obligations of any other Party.

10.5           **Cooperation and Compliance.** The Parties agree to cooperate with each other and to provide all necessary and reasonable documentation, certificates, and consents in order to satisfy the terms and conditions hereof and the terms and conditions of this Agreement. The reasonable cost of any such action shall be borne by the Redeveloper.

10.6           **Governing Law.** This Agreement shall be governed by and construed under the laws of the State of New Jersey.

10.7 **Counterparts.** This 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.

10.8 **Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto as to the subject matter hereof and supersedes all prior oral and written agreements between the Parties, except as otherwise provided herein. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by all parties.

#### **EXHIBITS**

The Exhibit annexed to this Agreement is hereby made a part of this Agreement by this reference thereto. The following exhibit is attached to this Agreement:

Exhibit A: Concept Plan (60 units)

Exhibit B: Concept Plan (65 units)

Exhibit C: Townhouse Renderings

#### **Resolution #106-2022- Approving Redevelopment of West End Avenue**

##### **RESOLUTION APPROVING REDEVELOPMENT AGREEMENT AND NAMING WEST END DEVELOPMENT ASSOCIATES, LLC AS THE REDEVELOPER**

**WHEREAS**, the Town of Hammonton entered into a Settlement Agreement with NIBR, LLC following a builder's remedy suit and thereafter adopted an Amended Redevelopment Plan for the development of certain parcels in the vicinity of West End Avenue, Pleasant Street and Orchard Street; and

**WHEREAS**, NIBR, LLC and West End Development Associates, LLC have entered into an agreement for the potential sale of those parcels; and

**WHEREAS**, the sale is conditioned on the Town of Hammonton and West End Development Associates, LLC entering into a Redevelopment Agreement; and

**WHEREAS**, a committee appointed by the Mayor has, through conflict counsel, negotiated a Redevelopment Agreement; and

**WHEREAS**, it is the recommendation of that committee to adopt the Resolution approving that Agreement and authorizing the Mayor to execute same; and

**WHEREAS**, it is the opinion of the committee that the proposed development as set forth in the Redevelopment Agreement is in the best interest of the Town of Hammonton and is consistent with the provisions of the Settlement Agreement in that it shall assist in providing significant funds for the Town's Affordable Housing Program.

**NOW THEREFORE IT IS ON THIS 8TH DAY OF AUGUST, 2022 that:**

1. The Redevelopment Agreement, a copy of which is attached hereto, shall be and hereby is approved by Mayor and Council.
2. The Mayor is authorized to execute the Redevelopment Agreement on behalf of the Town of Hammonton

**Motion by Council Person Wuillermin Second Olivo  
Resolutions #106 is approved.**

Roll Call

Councilperson:

Furgione – Yes

Gribbin - Yes

Oliva – Yes

Olivo- Yes

Rodio – Yes

Wuillermin - Yes

Mayor DiDonato - Yes

Mayor DiDonato declares motion is carried

**Motion by Council Person Gribbin Second Oliva**

**Approval of Brian Howells fee for the redevelopment work.. Hourly rate of \$300.00**

Roll Call

Councilperson:

Furgione – Yes

Gribbin - Yes

Oliva – Yes

Olivo- Yes

Rodio – Yes

Wuillermin - Yes

Mayor DiDonato - Yes

Mayor DiDonato declares motion is carried

**PUBLIC HEARD**

**Lee Bran from West End LLC- spoke** about the project and what the plan is. Also gave references to other projects that they have completed.

**Mike Wiseburger from West End LLC-** Also spoke about the project and the investment they are putting into this project.

**Susanne Cruz 232 S. Washington Street-** Asked what the price range of the homes will be? Answer was Low \$300,000.00

Councilmen Furgione- Made an announcement about the water use curtly happening. Please try to conserve the water usage is correctly very High

**MEETING ADJOURNED**

Motion by Council Person Oliva Second Furgione