

Township of South Hackensack
Bergen County, New Jersey
November 1, 2007 7:30 P.M.
Worksession Meeting
MINUTES

Gary C. Brugger, MayorPresent
Walter Eckel, Jr., Deputy MayorPresent
James AnzevinoPresent
Gene Roman.....Present
Rosina RomanoPresent

Also present:

David V. Nasta, Esq., Municipal Attorney
Linda LoPiccolo, Municipal Clerk

Call of Meeting to Order

Mayor Brugger called the Regular Meeting to order at 7:35 p.m. He advised that pursuant to the Open Public Meetings Act adequate notice of the meetings had been provided to *The Record*, *The Herald and News* and by posting a notice on the bulletin board in the clerk's office where notices are customarily posted. Everyone saluted the flag. The municipal clerk called the roll.

Correspondence

Brugger motioned; Eckel seconded and the Committee unanimously agreed to accept correspondence dated October 24, 2007 from Robert R. Ceberio, Executive Director, NJMC RE: Authorizing amendment to 2007 MAP grant

Eckel motioned; Brugger seconded and the Committee unanimously agreed to accept the recommendation dated November 1, 2007, from Walter Tretiak, P.E., Boswell Engineering, on Bid Result for DPW roof replacement, and to authorize an Agreement with VMG Group d/b/a Mike's Roofing for \$41,856.00.

Old Business - none

New Business

Soccer Fee Increase Request from Little Ferry Borough

Anzevino motioned; Romano seconded and the Committee unanimously approved the request from the Borough of Little Ferry to permit a \$5.00 increase for soccer registration from \$25 to \$30 for one child; \$15 to \$20 for additional children in the same family.

Ordinances - none Resolutions

2007-175 Authorize Developer's Agreement Senior Housing
Offered: Brugger Second: Anzevino
Roll Call Vote: Ayes: Anzevino, Eckel, Roman, Romano, Brugger

2007-176 Closed Executive Session
Offered: Brugger Second: Eckel
Roll Call Vote: Ayes: Anzevino, Eckel, Roman, Romano, Brugger

Committee Reports

Rosina Romano – Advised that there will be a delay in the resurfacing of Vreeland Avenue because Hackensack has underground repair work needed that has not been completed. The final repaving will be done next year. Mrs. Montenegro would like someone to check the sprinkler heads on her property next year. Rosina reported that phase II of the website is almost complete with three more sections added.

James Anzevino – Congratulated Mary Terraccino for passing Tax Collection 1, 2, and 3. She is now eligible to take the state examination. Advised that on November 10th the annual Mayor's Cup soccer tournament will be held in Little Ferry beginning at 5 p.m.

Gary Brugger – Discussed Mr. Nasta's opinion with regard to the installation of a fence at 56 Dyer Avenue. Regarding the correspondence from the NJMC offering plan endorsement services, the Mayor suggested the formation of a sub-committee to meet with NJMC officials to explore the proposal. Eckel and Brugger will meet with NJMC

Mayor Brugger reported that he was contacted by Lodi's administrator Tony Luna who also sits on the executive board of the Passaic Valley Sewage Commission. Mr. Luna would like to see our town's flow into the PSVC metered on the outflow and will contact the Township in the future regarding that matter.

Veterans Day ceremony will be held in the senior citizens center this year on November 11th at 11 a.m. Breakfast with Santa and the tree lighting ceremony will both be held on Sunday, December 2nd.

Public Comments

Chief Frew congratulated Michael Nasta on his promotion to Captain of the Newark Fire Department.

Josephine Riotto, Maria Riotto, 129 Vreeland Avenue – Concerned about safety of pedestrians walking along the sidewalk since she is unable to see while backing out of

her driveway. Mayor Brugger requested that the police department investigate and make a report to the Township Committee.

Lonnie Bedell, 51 Grove Street – Presented the Committee with photos of a ribbon cutting ceremony recently held in another municipality. He advised that Senior Citizen Housing at Grove Street, L.P. received an additional \$250,000 for the senior housing project.

Closed Session

Brugger motioned; Eckel seconded to go into closed session at 8:42 p.m.

The minutes of closed session will be released when permitted by law and authorized by the Township Committee.

Eckel motioned; Brugger seconded and the Committee unanimously agreed to re-open the meeting to the public at 8:58 p.m.

Adjournment

Brugger motioned; Eckel seconded and the Committee unanimously agreed to adjourn the meeting at 8:59 p.m.

Respectfully submitted,

Linda LoPiccolo
Municipal Clerk

Resolution 2007-175 Authorize Developer's Agreement with Senior Citizen Housing at Grove Street, L.P.
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WHEREAS, the TOWNSHIP OF SOUTH HACKENSACK. (hereinafter "Township") has entered into a Lease with SENIOR CITIZEN HOUSING AT GROVE STREET, L.P., 555 10th Street, Palisades Park, NJ 07650 (hereinafter "Developer") for its affordable senior citizens housing on real property in the Township of South Hackensack, specifically Lots 9, 10 and 10.1 in Block 2.01 on the tax map of the Township of South Hackensack, and commonly known as 41-43 Grove Street, in the Township of South Hackensack, County of Bergen, State of New Jersey; and,

WHEREAS, SENIOR CITIZEN HOUSING AT GROVE STREET, L.P., 555 10th Street, Palisades Park, NJ 07650 applied to the Planning Board was granted a Final Site Plan Approval on July 16, 2007 which is set forth in a formal Resolution of the Planning

Board and which is now final and has not been challenged or appealed; and,

WHEREAS, as a condition of the approval of the Planning Board, the Township and Developer were to negotiate a Developers Agreement, a copy of which is attached hereto as Exhibit "A" before proceeding with the Development Work and only after execution of the lease for the subject property, which conditions have been satisfied; and,

WHEREAS, the Township and Developer are desirous of entering into the attached Developers Agreement which is satisfactory to all parties.

NOW THEREFORE BE IT RESOLVED, that the Township Committee approves the terms of such Developers Agreement attached hereto as Exhibit "A", and after execution and delivery by SENIOR CITIZEN HOUSING AT GROVE STREET, L.P , they do empower and direct the Mayor of the Township of South Hackensack to execute and sign said agreement on behalf of the Township.

Offered: Brugger

Second: Anzevino

Roll Call Vote: Ayes: Anzevino, Eckel, Roman, Romano, And Brugger

Date: November 1, 2007

DEVELOPER'S AGREEMENT

THIS AGREEMENT, made this _____ day of November, 2007, between:

THE TOWNSHIP OF SOUTH HACKENSACK,
a Municipal Corporation of the State of New Jersey,
having offices located at
227 Phillips Avenue, South Hackensack, New Jersey;
(hereinafter referred to as the "Township"),

and

SENIOR CITIZEN HOUSING AT GROVE STREET, L.P.
having an office located at
555 Tenth Street
Palisades Park, New Jersey 07606
(hereinafter referred to as the "Developer");

WITNESSETH:

WHEREAS, the Developer is the tenant under a lease with the Township and developer of certain property and has made application to the Planning Board of the Township of South Hackensack, New Jersey, for site plan approval to construct a twenty-five (25) unit senior citizen rental affordable housing residential structure for the subject property located in Block 2.01, Lots 9, 10 & 10.1 as depicted on the Tax Assessment Map of the Township of South Hackensack, commonly known as 41-43 Grove Street, South Hackensack, New Jersey; and

WHEREAS, the Planning Board of the Township of South Hackensack granted the Developer site plan approval subject to the terms and conditions as more specifically set forth in the Resolution of the Planning Board of the Township of South Hackensack dated July 16, 2007 which is attached hereto and incorporated herein; and

WHEREAS, as a result of said resolution adopted on July 16, 2007, it is necessary that a Developer's Agreement be entered into as a condition of such Developer proceeding with the work which was the subject of said application; and

WHEREAS, it is mutually desired by the parties hereto that the premises described above shall be improved and developed in such a manner as will insure the protection of the surrounding and neighboring properties, as well as the public roadways in and about the proposed development to the end that said development shall result in a desirable development within the Township of South Hackensack; and

WHEREAS, it is the purpose of this agreement to set forth all of the terms and conditions which shall control such project and the work to be performed pursuant to same; and

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

1. The Developer, its successors, assignees or designees agree that it will comply with all of the conditions set forth in the Resolution of the Planning Board of the Township of South Hackensack, and any amendments thereto, as modified by this Agreement. Copy of said Resolution is annexed hereto as Exhibit "A" and, by reference, made a part hereof.

2. The Developer, its successors, assignees or designees shall comply with all of the terms and conditions imposed and mandated by the Bergen County Planning Board, the Department of Transportation, if applicable, and any and all other Municipal, County, State or Federal bodies, agencies or authorities as may rightfully apply any such terms and conditions.

3. The Developer, its successors, assignees or designees shall within a period of 12 months from the date of commencement of construction of the project, at its sole cost and expense, complete all of the improvements as set forth on certain site plan prepared by Azzolina & Feury Engineering, Inc., last revised June 1, 2007 referred to as Exhibit B and architectural plans prepared by Arcari & Iovino and last revised June 1, 2007 referred to Exhibit C more specifically described as:

(a) Site application for preliminary and final site plan approval. Plan entitled Senior Citizen Housing at Grove Street, L.P., Block 2.01, Lots 9, 10 & 10.1, Township of South Hackensack, Bergen County, New Jersey, Gary Vander Veer, Azzolina & Feury Engineering, Inc. DATED: 9/15/03

LAST REV'D: 6/01/07

(b) Architectural Plans entitled "Grove Gardens 41-43 Grove Street, South Hackensack, NJ" prepared by Arcari & Iovino Architects, P.C.
DATED: 5/16/05REV'D TO: 6/01/07

The Developer, its successors, assignees or designees will further immediately comply with all the requirements set forth by the Township Engineer or as directed during construction. Should the Developer fail to complete improvements to the site within 12 months of the date of commencement of construction of the project, and good cause is not shown by the Developer why the time period should be extended by the Township, then the Township shall have the authority to complete any and all improvements as are reasonably necessary for the public health, safety and welfare without further notice to the Developer and to utilize bond funds. If good cause is shown as to why the premises has not been completed within 12 months, the Borough, at its sole discretion, may extend the time period for construction.

4. In addition, it is agreed by and between the parties to this Agreement that the within plan may be modified only with the consent of the appropriate board and the Township through the Township Committee, and the Developer, its successors, assignees or designees shall install such improvements as may be deemed reasonably necessary to effectuate the intent and purpose of the Ordinances of the Township of South Hackensack, as determined by the Township Engineer or such other agent of the Municipality acting within the scope of his or her authority, it being further agreed that the certification on said plans certifies that the design standards employed in such plans minimally meet the requirements of the Ordinances of the Township of South Hackensack and such other codes and regulations as shall rightfully apply. In the event the Construction Official in conjunction with the Borough Engineer determines that the modifications are not significant and do not impact the approved plans and design and are necessary in order to complete the project as intended and approved by the Board, and the Township has no objections, said Construction Official and Borough Engineer may approve same.

5. Upon the execution of this Agreement by the parties hereto, and prior to the issuance of a building permit, the Developer, its successors, assignees or designees shall make the following deposits in cash or certified check with the Township of South Hackensack:

(a) the sum of \$7,000.00 to reimburse the Township of South Hackensack for engineering and inspection fees expended on account of the review of the site development plan.

(b) the sum of \$4,000.00 to reimburse the Township of South Hackensack for legal fees expended on account of the review of the site development plan and the preparation and review of this agreement.

The amount so deposited pursuant to Paragraph (a) above, which is to be used to reimburse the Township for the expenses incurred by it with respect to the professional review and inspection of the within project is deposited in accordance with the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq. and is to be considered an estimate and shall be increased or decreased at the reasonable exercised discretion of the Township Engineer and the Township Committee from time to time so as to provide sufficient funds to effectuate the purpose of this Agreement. In the event that there shall be any surplus after the work has been certified to have been completed in a good and workmanlike manner and after the acceptance thereof by the Township Engineer and the Township, such surplus shall be promptly returned to the Developer.

The amount so deposited pursuant to Paragraph (b) above, is to be used to reimburse the Township for the expenses incurred by it with respect to the drafting and revision of this agreement, the review of all documentation, and any other legal work as the Township shall deem necessary. Said amount is deposited in accordance with the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. and is to be considered an estimate and shall be increased or decreased at the reasonably exercised discretion of the Planning Board Attorney from time to time so as to provide sufficient funds to effectuate the purpose of this Agreement.

6. It is the intention of both the Developer and the Township that all of the work to be performed and accomplished with respect to this Agreement, shall comply in full with the requirements of the ordinances of the Township as may pertain to the construction to be effected. The Developer, its successors, assignees or designees represents that the plans meet the design standard requirements of the ordinances of the Township. It is therefore agreed between the Developer and the Township that, to the extent that any of the designs relating to the work to be accomplished, shall not meet such standards, and no variance has been granted with respect thereto, that the Township may require the Developer, its successors, assignees or designees, to install such improvements as may be deemed reasonably necessary to effectuate the purposes of the ordinances, as determined by the Township Engineer or other agent of the Township acting within the lawful scope of their authority, so as to accomplish and effect such requirements, subject to the review and approval of the Township Committee.

7. The Developer, its successors, assignees or designees and Borough agree that the Developer shall comply with the recommendations of the Township Engineer.

8. In the event that any drainage easements are created or relocated, the appropriate deeds or amendments thereto shall be prepared by the Developer's attorney and submitted for approval by the Planning Board attorney and Special Counsel for the Township.

9. The Developer, its successors, assignees or designees shall obtain and keep in force during the life of the project, an insurance policy issued by a company licensed in the State of New Jersey and having a Best's rating of A or better. The insurance policy shall carry General Liability limits for Bodily Injury and Property

Damage of not less than One Million (\$1,000,000.00) Dollars per person, One Million (\$1,000,000.00) Dollars. Combined Single Limit or if written on a split limit basis, shall carry limits of one million (\$1,000,000.00) for Bodily Injury on an occurrence basis and two million (\$2,000,000.00) in the aggregates. Property Damage Liability shall be one million (\$1,000,000.00). Said insurance contract shall provide for the liability of all sub-contractors and shall include a provision for Products/Completed Operations Liability with the same applicable limits. A Certificate of Insurance shall be issued to the Township of South Hackensack and shall name the Township of South Hackensack as additional insured. The Certificate of Insurance shall carry a thirty day cancellation notification clause.

10. The Developer shall provide, or cause to be provided by its contractor, a performance bond or letter of credit in the amount of \$140,598.00 as may be modified by the Township Engineer with the approval of the Township Committee, which represents 120 Percent (120%) of the cost of completion of all site improvements contemplated herein as estimated by the Township Engineer. Said guarantee shall remain with the Township until a Certificate of Occupancy is issued. Upon request by the Developer, its successors, assignees or designees, the Township shall grant a partial reduction in the amount of the performance guarantee commensurate with the portion of the site improvements completed by the Developer and approved by the Township Engineer.

11. Upon completion of the improvements and prior to issuance of a Certificate of Occupancy, the Developer, its successors, assignees or designees shall post a maintenance guarantee or letter of credit representing Fifteen Percent (15%) of the cost of completion of all site improvements within the public right of way, or which shall be otherwise dedicated to or maintained by the Township as estimated by the Township Engineer in Exhibit "E" attached hereto. Said guarantee shall remain with the Township for a period of two (2) years from the date a final Certificate of Occupancy is issued. In the event that the amount on deposit or the amount realized from the bond posted with the Township of South Hackensack is insufficient to complete maintenance or repair, the Township of South Hackensack is authorized upon notice to the Developer, to assess the costs thereof against the Developer as a confessed judgment lien and the Developer shall do all actions to sign and execute such documents to evidence and perfect such judgment. Additionally, if such amounts are insufficient it shall constitute a breach or the undertakings and lease between the Township and the Developer.

12. All performance and/or maintenance guarantees or letters of credit, including but not limited to, guarantees for monuments, improvements and landscaping shall be in a form approved by the Planning Board Attorney and the Special Counsel for the Township..

13. The Developer, its successors, assignees or designees agree that should it damage the pavement, curb, sidewalks, or any other real or personal property not wholly owned or leased by the Developer, that they shall be required to repair or replace same within twenty (20) days of notice by the Township to the Developer at the address first set forth above, unless weather does not permit same or the Township shall have the right

to make the repairs and deduct the cost of same from the bond. It is further agreed that during the course of construction , the Developer shall sweep clean all the surrounding streets which may be cluttered with debris as a result of its construction on a regular basis. The Developer, its successors, assignees or designees shall implement, with Township approval and review, a regular schedule of street cleaning and sweeping in the area of the job site for the purpose of removing such debris. Additionally, the Developer, it successors, assignees or designees shall install gravel strips at all driveways into the site for the purpose of cleaning vehicle tires upon egress from the site. The Developer, its successors, assignees or designees shall take all precautions for the safety of pedestrians and vehicular traffic in the immediate area of the job site to protect the same from falling debris and to provide adequate and safe walkways as required by law if so designated by the Police Department or Construction Code Official for the protection of the general public during the course of construction.

14. The Developer, its successors, assignees or designees agree with the Township to hold the said Township harmless for any damage or liability that might arise due to the discharge of surface waters upon, or the alteration of lateral support from, the lands adjacent to the property being developed, caused by such development or the work required by this Agreement, and agree to assume any and all liability so caused for the discharge of waters upon, or the removal of lateral support from, the lands abutting the property being developed as shown on said plans hereinabove and hereinafter referred to, and further agree to alleviate any and all conditions so caused that may arise by reason of the discharge of water, soil or dirt upon said abutting properties or the removal of lateral support from said abutting properties. The Developer, its successors, assignees or designees further agree to grade the entire premises so as to avoid the collection of water or drainage causing gullies or erosion and the deposit of soil on abutting properties and to create and construct any and all retaining walls necessary to maintain adequate lateral support to properties owned by surrounding property owners. Any plan to control the drainage, collection, direction or flow of surface or sub-surface waters, must be approved by Township Engineer and Township Committee. Any plan to construct any system of lateral support including, but not limited to, retaining walls and beams shall be approved by the Township Engineer and Township Committee prior to construction.

15. During and at the conclusion of the construction of improvements, the Developer, its successors, assignees or designees shall clean all drainage facilities impacted by the project of silt and debris at Developer's sole cost and expense and restore the same to its design section and volume prior to the acceptance by the Township Engineer.

16. The Developer, its successors, assignees or designees shall furnish off-street parking for any and all tradesman, contractors or sub-contractors and employees thereof, or any individual or party whatsoever performing any work or labor upon the job site, including, but not limited to, any and all trucks or vehicles delivering materials or equipment to the site and shall do everything necessary to prevent the congestion of traffic in the area of the job site and to facilitate the progress of the same. There shall be no off-loading of materials or equipment on the public street.

17. No additional structures or buildings of any type shall be constructed on said premises without further approval of the Township of South Hackensack, except those referred to in the plans presently on approved and on file with the Township of South Hackensack.

18. Should it become necessary as a result of this development to enlarge or install any utility line such as water, gas, electric, telephone or sewer lines located in or upon the public streets, the Developer, its successors, assignees or designees shall do so at its own cost and expense. The Developer, its successors, assignees or designees shall obtain all necessary permits to open the street and install such improvements.

19. The Developer, its successors, assignees or designees shall be limited to the hours between 8:00 AM and 6:00 PM on weekdays and 9:00 AM and 5:00 PM on Saturdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Building Inspector, which permit may be granted for a period not to exceed three (3) days or less while the emergency continues and which permit may be renewed for a period of three days or less while the emergency continues. If the Building Inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways during any other period of time and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within any other period of time upon application being made at the time the permit for the work is awarded or during the progress of the work.

20. The Developer, its successors, assignees or designees further agrees to comply with additional recommendations by the appropriate Township Committee or official concerning the proper police and fire protection for the construction site, including the hiring of special police officers as may be required during the course of construction to ensure the public safety.

21. Any and all sanitary and storm sewer facilities, on or off the site, including, but not limited to the installation of sewer and storm basins and hookups, and pump stations and equipment specified in the plans referenced herein, are to be constructed at the sole cost of the Developer, its successors, assignees or designees shall be done only with the approval and review of the Township Engineer, Township Committee, and the relevant authorities of the County of Bergen and the Department of Environmental Protection. Said approval and review shall include, but not be limited to, the Developer obtaining a Department of Environmental Protection Treatment Works Approval, if required.

22. Upon the execution of this Agreement and the posting of the cash deposits as aforesaid, a building permit may be issued to the Developer, its successors, assignees or designees by the Construction Code Official of the Township upon approval of the complete building plans, payment of all fees, proof of insurance, bonds and escrows and any other requirements set forth herein.

23. Improvements shown on the plans herein referred to shall be constructed in accordance with such plans and such applicable Ordinances of the Township of South Hackensack.

24. Whether or not stated herein, the Developer, its successors, assignees or designees shall perform all the work in a good and workmanlike manner and at all times comply with all laws and/or regulations of the Federal Government, the State of New Jersey and all Ordinances of the Township as well as such other reasonable requirements as may be imposed by the Township Engineer and the Township Committee.

25. Prior to the commencements of demolition, installation and construction of any of the improvements required by this Agreement, the Developer, its successors, assignees or designees shall submit and have approved by the Township Engineer, detailed plans of same. In no case shall demolition or construction work be commenced on any part of the development until such detailed plans have been submitted and approved. In the event that the Township Engineer, in his opinion, reasonably requires further details to existing plans, the Developer, its successors, assignees or designees shall furnish said details within a reasonable time of the request by the Township Engineer.

26. The Township contemplates and the Developer, its successors, assignees or designees agree to the inspection of all facilities to be constructed by the Developer. The Township Engineer shall inspect the installation of improvements as set forth in the hereinabove cited plans as the same may now exist or shall be amended or revised in the future. The Developer, its successors, assignees or designees shall notify the Township Engineer at least forty-eight (48) hours prior to the commencement of demolition or construction of any such facilities. In the event of temporary suspension, the Engineer shall be notified of the renewed starting date thereof. Backfilling, after the laying of any drainage or sanitary sewer pipes, or other facilities in connection therewith, shall be absolutely forbidden except after inspection and approval by the Township Engineer or his duly authorized representatives.

27. Prior to the final release of any security herein required by this Agreement, and prior to the issuance of a Certificate of Occupancy, the Developer, its successors, assignees or designees shall submit "as built" plans prepared and certified by a licensed New Jersey professional land surveyor which plans shall be approved by the Township Engineer and Township Committee and the Township Engineer shall certify to the Governing Body and to the Construction Code Official that all of the work required by this Agreement has been contemplated in a good and workmanlike manner and in compliance with local Ordinances and regulations.

28. Any and all aids to additional drainage, including on-site grading, contour landscaping, swales and retaining walls and/or piping that may be reasonably deemed necessary by the Township Engineer and/or the Township Board of Health, or the Township Committee shall be installed by the Developer, its successors, assignees or

designees at its sole cost, where conditions may warrant, whether or not the present plans provide for the same, as a condition of the release of the Developer, its successors, assignees or designees and the surety from the performance obligation, provided the present plans are approved by the Township Engineer and provided the additional drainage is necessary to accomplish the intent and purpose of the applicable Ordinances of the Township of South Hackensack or other governmental entity.

29. Nothing herein contained shall be construed in any way to render the Township of South Hackensack liable for any damages, costs or debts for material, labor or other expenses incurred in making the improvements, but this Agreement shall be construed only as permission of said Developer, its successors, assignees or designees so as to make improvements upon the compliance with the terms thereof.

30. Until the completion of improvements to the site and of this Agreement and the acceptance thereof by the Township, the Developer, its successors, assignees or designees shall be and remain liable for any and all damage occasioned by any neglect, wrongdoing, omission or commission, by any person, corporation or partnership arising from the making of said improvements and shall save, indemnify and hold harmless the borough from any and all actions at law or in equity, charges, liens, debts or encumbrances which may arise there from or thereby.

31. Upon the completion of all of the work on site and prior to the issuance of a Certificate of Occupancy, the Developer, its successors, assignees or designees shall fill and grade pursuant to the plans referenced herein and to the satisfaction of the Township Engineer, all excavations as exist on the site and which were created at any time whatsoever. In the event that the final fill and grade is not to the satisfaction of the Township Engineer, or is not performed by the Developer, its successors, assignees or designees the Township may turn to the funds deposited under the performance guarantee or letter of credit as set forth above for the completion of the grading and filling of all such site excavation.

32. The parties hereto agree that a memorandum of this Agreement may be placed on record in the Office of the County Clerk of the County of Bergen and shall fully cooperate in the execution of all appropriate documents to effectuate same. All recording fees shall be paid by the Developer, its successors, assignees or designees. In the event said memorandum is recorded it shall be released upon the issuance of a Final Certificate of Occupancy. However, such memorandum shall specifically state that this Agreement and any liens or charges created hereunder against the property, or any portion thereof, shall be subject and subordinate to any construction or permanent mortgage now or hereafter to be placed on said property to the extent

that said mortgage funds are used for the actual construction of site improvements on the property, including engineering, architectural, legal and land acquisition, and all other costs related thereto.

33. The parties hereto agree that the terms and conditions of this Agreement shall be binding upon them, their heirs, successors and assigns, until such time as all work required hereto has been performed in a good and workmanlike manner and has been so certified to the Borough by the Township Engineer. Wherever used herein, the term "Developer" shall mean and include the Developer named above, its successors, assignees and/or designees.

34. The parties hereto mutually agree to perform and undertake any necessary action and execute and deliver any and all documents which may now or in the future become necessary in order to effectuate the intent and purpose of this Agreement.

35. It is agreed by the Developer, its successors, assignees or designees that this Agreement shall not be transferred or assigned to any other third parties without the prior consent of the Township.

36. In the event that by reason of the negligence of Developer, its successors, assignees or designees in the construction of this development, litigation arises and the Township is made a party defendant to any lawsuit so instituted, alleging that the Township has, in any way, participated in the negligence of the Developer, its successors, assignees or designees and not by reason of allegations concerning the actions of the Township in and of itself, and by reason of the necessity of the Township to defend such suit, the escrow funds provided for in paragraph 6 are not deemed to be sufficient to pay the continuing bills for services rendered to the Township by its Special Counsel and/or engineer, the Township may serve a written notice by certified mail, return receipt requested, upon Developer at the address set forth at the head of this Agreement, requiring the Developer, its successors, assignees or designees to deposit in escrow, within 10 days thereafter, such additional fund as the Township may deem necessary for the completion of the development and the defense of any such lawsuits. Developer, shall, within said 10 days, deposit such additional funds in escrow, as required. Should Developer fail to do so within the required period of time, the Township may direct its building inspector to place a stop notice on all of the lots in the development which have not received a Certificate of Occupancy and all sums incurred shall become a judgment lien as set forth above.

37. Nothing herein contained shall be construed as preventing the Township from exercising in any court of law or elsewhere any right or duties which it may have by statute, ordinance, or other law. Nothing herein contained shall be deemed a waiver by any party or any ordinance or state statute or other law, or be construed as an abridgement, preemption or waiver of the powers of any Township Board, Agency or Public Body. This clause shall not operate to confer upon any such public body any powers, rights or duties it does not now possess, nor abridge the right of the Developer vis-a-vis any such public body.

38. Nothing herein contained shall be construed to render the Township or any of its officers, board members, or employees liable for any charges, cost, or debts for material, labor or other expenses incurred in the making of the improvements.

39. The Developer, its successors, assignees or designees shall complete all terms and conditions of this Agreement as specified herein. In the event that the Developer cannot complete same due to a force majeure, the time for contemplation of this Agreement shall be extended for a period equal to the duration of the said force majeure.

40. This Agreement may only be modified or amended by a written instrument signed by all parties hereto and duly approved according to law.

41. Each of the provisions set forth herein shall have the same force and effect as if set forth at length as conditions of the granting of site plan approval.

IN WITNESS WHEREOF, the Township has caused this instrument to be signed by its Mayor, attested by its Township Deputy Clerk and its Municipal Seal to be hereunto affixed, pursuant to the Resolution of the Township passed for that purpose, and the Developer has likewise signed and sealed this Agreement on the day and year first above written.

Resolution 2007-176 Authorizing Executive Session
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A Resolution Providing for a Meeting Not Open to the Public in Accordance with the Provisions of the New Jersey Open Public Meetings Act, N.J.S.A. 10:4-12.

Whereas, the Township Committee of the Township of South Hackensack is subject to certain requirements of the *Open Public Meetings Act*, N.J.S.A. 10:4-6, et seq., and

Whereas, the *Open Public Meetings Act*, N.J.S.A. 10:4-12, provides that an Executive Session, not open to the public, may be held for certain specified purposes when authorized by Resolution, and

Whereas, it is necessary for the Township Committee of the Township of South Hackensack to discuss in a session not open to the public certain matters relating to the item or items authorized by N.J.S.A. 10:4-12b and designated below:

_____(1) *Matters Required by Law to be Confidential*: Any matter which, by express provision of Federal law or State statute or rule of court shall be rendered confidential or excluded from the provisions of the Open Public Meetings Act.

_____(2) *Matters Where the Release of Information Would Impair the Right to Receive Funds*: Any matter in which the release of information would impair a right to receive funds from the Government of the United States.

_____(3) *Matters Involving Individual Privacy*: Any material the disclosure of which constitutes an unwarranted invasion of individual privacy such as any records, data, reports, recommendations, or other personal material of any educational, training, social service, medical, health, custodial, child protection, rehabilitation, legal defense, welfare, housing, relocation, insurance and similar program or institution operated by a public body pertaining to any specific individual admitted to or served by such institution or program, including but not limited to information relative to the individual's personal and family circumstances, and any material pertaining to admission, discharge, treatment,

progress or condition of any individual, unless the individual concerned (or, in the case of a minor or incompetent, his guardian) shall request in writing that the same be disclosed publicly.

 (4) *Matters Relating to Collective Bargaining Agreements:* Any collective bargaining agreement, or the terms and conditions which are proposed for inclusion in any collective bargaining agreement, including the negotiation of the terms and conditions thereof with employees or representatives of employees of the public body.

 (5) *Matters Relating to the Purchase, Lease or Acquisition of Real Property or the Investment of Public Funds:* Any matter involving the purchase, lease or acquisition of real property with public funds, the setting of banking rates or investment of public funds, where it could adversely affect the public interest if discussion of such matters were disclosed.

 (6) *Matters Relating to Public Safety and Property:* Any tactics and techniques utilized in protecting the safety and property of the public, provided that their disclosure could impair such protection. Any investigations of violations of possible violations of the law.

 X (7) *Matters Relating to Litigation, Negotiations and the Attorney-Client Privilege:* Any pending or anticipated litigation or contract negotiation in which the public body is, or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is require in order for the attorney to exercise his ethical duties as a lawyer.

 X (8) *Matters Relating to the Employment Relationship:* Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all the individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting.

 (9) *Matters Relating to the Potential Imposition of a Penalty:* Any deliberations of a public body occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit belonging to the responding party bears responsibility.

Now, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of South Hackensack, assembled in public session on this date, that an Executive Session closed to the public shall be held in the South Hackensack Township Municipal Complex, 227 Phillips Avenue, South Hackensack, New Jersey, for the discussion of matters relating to the specific items designated above.

It is anticipated that the deliberations conducted in closed session may be disclosed to the public upon the determination of the Township Committee that the public interest will no longer be served by such confidentiality.

The foregoing resolution was duly adopted by the Township Committee of the Township of South Hackensack at a public meeting held on November 1, 2007.

Linda LoPiccolo
Township Clerk