

## Introduction:

The Township of East Hanover is seeking proposals from experienced developers to design, build, and manage a senior multifamily development on municipally owned land. The site is 9.949 acres and is located at Block 96, Lot 47.03. The site is situated west of the intersection of River Road and Nike Drive and less than a half mile to Route 10. The objective of this RFP is to identify a qualified developer to work with the Municipality to develop a high-quality senior multifamily that will provide safe, affordable, and sustainable housing options for seniors in our community. This property is subject to a deed restriction (attached hereto as **Exhibit A**) which only permits certain uses on the property. However, pursuant to the attached **Exhibit B**, the Township has clarified the use of same with the holder of the deed restriction, and the holder of the deed restriction has acknowledged the deed restriction is not violated by this project.

## Project Overview:

The Municipality is seeking a developer with experience in designing and constructing senior multifamily developments. The development should include a maximum of 120 residential units, inclusive of a 20% affordable housing set-aside, along with community spaces, including:

## Indoor amenities may include:

- Multi-purpose room for dining and/or special events
- A bistro/bar
- Cards/games/activity rooms
- Theater
- Package room
- Yoga/exercise room
- Fitness center
- Lounge
- Pet grooming station

## Outdoor amenities may include:

- Pool
- Hot tub
- Bocce ball court
- Pickle ball court
- Garden

- Dog park
- Outdoor kitchen

Additionally, all units shall include a full kitchen and washer and dryer. The development should be designed to meet the needs of seniors, including accessibility and universal design features. The development should also incorporate green building standards and sustainable practices. Buildings may be up to four stories in height.

The Development will be required to include a 20% affordable housing set-aside compliant with the affordable housing rules, UHAC, East Hanover's Affordable Housing Ordinances.

Proposal Submission Requirements:

Proposals must be submitted in accordance with the following requirements:

1. Cover Letter: A cover letter must be submitted, including a statement of interest, general description of the proposed project, and contact information for the developer's representative.
2. Developer Qualifications: Provide a detailed description of the developer's experience in designing and constructing senior multifamily developments, including a list of relevant completed projects in the northeast with the project address and photographs, along with references.
3. Proposed Development: Provide a detailed description of the proposed development, including conceptual plans, project scope, schedule, and budget. Submissions of conceptual building elevations and floor plans are encouraged.
4. Financing: Provide a financing plan for the proposed development, including sources of funding and a description of how the project will be funded. The respondent shall provide cost estimates for the total project and show availability or capability of securing the financing necessary to cover the cost of the project. A narrative should be provided that outlines the anticipated sources of funding, with a pro forma statement.

Respondents should describe their plans for funding all required improvements, including identifying sources of funds. Such description should include the proportion of equity to debt financing and identify any special restrictions or conditions associated with the financing plan. Respondents should also include a current financial statement, evidence of financing resources and their concurrence with the proposed development program.

Any local, state or federal financial assistance that will be required or is being considered shall be identified. Although it is recognized that public funding may be sought to bring this project to completion, proposals not relying on public subsidies will be received more favorably. To the extent the respondent intends to utilize grant or other public funds, describe the source of such funds and the status of any commitments from the granting agency, and the respondent's experience in obtaining such funds.

5. Community Impact: Provide a detailed description of how the proposed development will positively impact the community, including benefits to seniors, economic benefits, and any potential challenges or concerns that may arise.
6. Proposed purchase price for the land associated with the Development to be paid to the Township of East Hanover.
7. A description of experience in constructing and managing affordable housing.

#### Proposal Evaluation Criteria:

Proposals will be evaluated based on the following criteria:

1. Purchase Price. No offer shall be for lower than the fair market value for the property, determined to be \$3,360,000.
2. Developer Qualifications: The developer's experience in designing and constructing senior multifamily developments, including the successful completion of relevant projects.
3. Proposed Residential Development: The quality and feasibility of the proposed development, including the design, scope, schedule, and budget. The type of proposed indoor amenities, including, but not limited to multi-purposes rooms, activity rooms, exercise rooms, and theater. The type of proposed outdoor amenities, including, but not limited to pool, hot tub, bocce ball court, pickle ball court, garden, outdoor kitchen and dog run.
4. Financing: The viability of the financing plan and the proposed funding sources.
5. Community Impact: The positive impact the proposed development will have on the community, including benefits to seniors and the local economy.

#### Instructions to Bidders:

Sealed proposals shall be received by the Township in accordance with public advertisement as required by law, with a copy of the notice being attached hereto and made a part of these specifications.

Sealed proposals will be received by the designated representative at the time and location as stated in the enclosed Notice to Bidders.

It is the respondent's responsibility that proposals are presented to the Township at the time and at the place designated. Proposals may be hand delivered or mailed; however, the Township disclaims any responsibility for proposals forwarded by regular or overnight mail. Proposals received after the designated time and date will not be considered.

Sealed proposals forwarded to the Township before the time of opening of proposals may be withdrawn upon written application of the respondent who shall be required to produce evidence showing that the individual is or represents the principal or principals involved in the proposal. Once proposals have been opened, they shall remain firm for a period of sixty calendar days.

Proposals containing any conditions, omissions, unexplained erasures or alterations, items not called for in the RFP form, attachment of additive information not required by the specifications, or irregularities of any kind, may be rejected by the Township. Any changes, whiteouts, strikeouts, etc. in the proposal must be initialed in ink by the person signing the proposal.

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**Submission Deadline:**

Proposals must be submitted no later than Thursday, November 14, 2024 at 10am to Nicolette J. Riggi, R.M.C., Township Clerk at 411 Ridgedale Avenue, East Hanover, New Jersey.

Kindly submit five (5) copies of your application, as well an electronic copy. Once you submit your application, the Township may schedule an interview/presentation with the candidate at a mutual time convenient for both parties.

**Additional Terms:**

The Township reserves the following rights, in its sole discretion, with regard to the RFP evaluation process:

1. To abandon the RFP process, including the right to decline to award any contract related to this RFP, for any reason or no reason.
2. To accept the proposals that, in the Township's sole judgment, best serves the interests of the municipality.

3. To waive any condition, requirement or formality that would otherwise have constituted non-conformance with the provisions of this RFP.
4. To reject any or all proposals.
5. To reject incomplete or non-responsive proposals.
6. To change or alter the terms of this RFP.
7. To undertake actions necessary to clarify or verify information provided by any proposer.
8. To interview and/or negotiate with any or all proposers.
9. To negotiate the terms of property conveyance with any proposer.
10. No proposal is awarded unless or until a Memorandum of Understanding is mutually signed.

Conclusion:

The Municipality of East Hanover is excited to work with an experienced developer to create a high-quality senior multifamily development on municipally-owned land. We look forward to reviewing proposals that will provide a safe, affordable, and sustainable housing option for seniors in our community. If you have any questions regarding this RFP, please contact Nicolette J. Riggi, R.M.C., Township Clerk, at 973.888.6008 .

# Exhibit A



2003-181240

**QUITCLAIM DEED**

**THIS QUITCLAIM DEED** made and entered into this ~~24th~~ day of *September* 2003, by and between the **UNITED STATES OF AMERICA**, acting by and through the Deputy Assistant Secretary of the Army (Installations and Housing), (hereinafter "**Grantor**"), under and pursuant to the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, pursuant to Title II, Section 204 of Public Law 100-526, Defense Authorization Amendments and Base Closure and Realignment Act of 1990, Public Law 101-510, as amended, and the National Defense Authorization Act for Fiscal Year 2000, Public Law 106-65, October 5, 1999, Section 2839; and the **TOWNSHIP OF EAST HANOVER**, a municipal corporation of the State of New Jersey, whose address is 411 Ridgedale Ave., East Hanover, New Jersey 07936 (hereinafter "**Grantee**").

**WITNESSETH:** That the Grantor, for no consideration in accordance with the provisions of the National Defense Authorization Act for Fiscal Year 2000, Public Law 106-65, October 5, 1999, Section 2839, for the purpose of developing the parcel for affordable housing and for recreational use, by these presents does convey, by quitclaim deed, unto the Grantee, its successors, and assigns, all of its right, title and interest whatsoever, both in law and in equity, without representation or warranty, express or implied, except as may otherwise be contained in this quitclaim deed that certain real estate together with improvements thereon, known as Livingston, Defense Area Family Housing site and further described as follows:

**ALL THAT** tract or parcel of land known as Lot 50, Block 96, situated in the East Hanover Township, County of Morris, State of New Jersey, and more particularly described as follows:

Beginning at a point in the southwesterly sideline of Nike Drive (variable width right-of-way) and as shown on a certain map entitled "Final Map of Hanover Estates, Township of East Hanover, Morris County, New Jersey", prepared by Johnson Engineering, Inc., and filed in the Morris County Clerk's office as Filed Map No. 5019, said point being distant 275.17 feet along said southwesterly sideline from a point in the centerline of River Road (49.5 foot right-of-way per tax map) and running; thence,

1. Leaving said south westerly sideline and along a westerly line of Lots 48.01 and 48, Block 96, and along a westerly line of a certain map entitled "Final Plat Major Subdivision, Lot 49, Block 96, East Hanover, Morris County, New Jersey", and filed in the Morris County Clerk's office as Filed Map No. 4572, south 42 degrees 01 minutes 57 seconds west, 619.43 feet to a point; thence,
2. Along a northerly line of said Map No. 4572, north 49 degrees 56 minutes 54 seconds west, 457.65 feet to a point; thence,
3. Along the same, north 50 degrees 41 minutes 05 seconds west, 828.52 feet to an iron pipe; thence,

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4. Along an easterly line of said Filed Map No. 4572, north 38 degrees 43 minutes 14 seconds east, 389.87 feet to a point; thence,

5. Along an easterly line of said Filed Map No. 5019, north 39 degrees 46 minutes 57 seconds east, 99.21 feet to a point; thence,

6. Along a southerly line of said Filed Map No. 5019, south 56 degrees 51 minutes 04 seconds east, 633.30 feet to a point; thence,

7. Along a westerly line of said Filed Map No. 5019 and along a chain link fence, south 39 degrees 43 minutes 47 seconds west, 300.00 feet to a point; thence,

8. Along a southerly line of said Filed Map No. 5019 and along said chain link fence, south 49 degrees 58 minutes 52 seconds east, 389.02 feet to a point; thence,

9. Along an easterly line of said Filed Map No. 5019 and along said chain link fence, north 39 degrees 57 minutes 14 seconds east, 364.24 feet to a concrete monument in said Nike Drive southwesterly sideline; thence,

10. Along said southwesterly sideline, south 49 degrees 58 minutes 42 seconds east, 298.24 feet to the point and place of beginning.

Containing 604,613 square feet/13.880 acres of land as described herein (hereinafter, "The Property").

**SUBJECT, HOWEVER,** to all existing easements, including but not limited to, rights-of-way for public roads, highways, railroads, pipelines, and public utilities, if any, whether of public record or not.

#### **1. CERCLA NOTICE AND COVENANTS :**

**A. Notice.** Pursuant to section 120(h)(3) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended (42 U.S.C. 9601 *et seq*), (CERCLA), the grantor hereby notifies the Grantee, its successors and assigns, of the storage, release, and disposal of hazardous substances on the Property. Home heating oil was present on the property. Details regarding disposal are found in Attachment E of the FOST (Finding Of Suitability To Transfer).

#### **B. Covenants**

- (1) The Grantor covenants that all remedial action necessary to protect human health and the environment with respect to any substance remaining on the Property has been taken before the date of this transfer.

- (2) Any additional remedial action related to the prior release of such substances that is found to be necessary after the date of such transfer shall be conducted by the United States of America.
- (3) The Grantor shall not incur liability for additional response action or corrective action, found to be necessary, after the date of transfer, in any case in which the person or entity to whom the property is transferred or other non-Army entities, is identified as the party responsible for contamination of the property.

**C. Access Rights and Easement.** The Government, the United States Environmental Protection Agency (EPA) and New Jersey Department of Environmental Protection and their officers, agents, employees, contractors, and subcontractors have the right, upon reasonable notice to the Grantee, to enter upon the Transferred Premises in any case in which a response action or corrective action is found to be necessary, after the date of transfer of the property, or such access is necessary to carry out a response action or corrective action on adjoining property, including, without limitation, the following purposes:

- (1) To conduct investigations and surveys, including, where necessary, drilling, soil and water sampling, testing-pitting, test soil borings and other activities;
- (2) To inspect field activities of the Government and its contractors and subcontractors;
- (3) To conduct any test or survey related to the environmental conditions at the Property or to verify any data submitted to the EPA or New Jersey Department of Environmental Protection by the Government relating to such conditions;
- (4) To construct, operate, maintain, or undertake any other response or remedial actions as required or necessary including, but not limited to monitoring wells, pumping wells and treatment facilities.

## **2. ENVIRONMENTAL PROTECTION PROVISIONS**

**A. Inclusion of Provisions in Future Deeds.** The person or entity to whom the Property is transferred shall neither transfer the Property, lease the Property, nor grant any interest, privilege, or license whatsoever in connection with the Property without the inclusion of the environmental protection provisions contained herein, and shall require the inclusion of such environmental protection provisions in all future deeds/easements, transfers, leases, or grant of any interest, privilege, or license.

**B. No Liability for Non-Army Contamination.** The Army shall not incur liability for additional response action or corrective action, found to be necessary after the date of transfer, in any case in which the person or entity to whom the

Property is transferred, or other non-Army entities, is identified as the party responsible for contamination of the property.

### **C. Notice of the Presence of Asbestos and Covenant**

(1) The Grantee is hereby informed and does acknowledge that non-friable asbestos or asbestos-containing materials ("ACM") has been found on the Property, as described in the Enhanced Preliminary Assessment Report (November 1989) and Draft Environmental Baseline Survey (September 2002). The ACM on the Property does not currently pose a threat to human health or the environment.

(2) The Grantee covenants and agrees that its use and occupancy of the Property will be in compliance with all applicable laws relating to asbestos; and that the Army assumes no liability for future remediation of asbestos or damages for personal injury, illness, disability, or death, to the Grantee, its successors or assigns, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on the Property, whether the Grantee, its successors or assigns have properly warned or failed to properly warn the individual(s) injured. The Grantee agrees to be responsible for any future remediation of asbestos found to be necessary on the Property.

(3) Unprotected or unregulated exposures to asbestos in product manufacturing, shipyard, and building construction workplaces have been associated with asbestos-related diseases. Both the Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (EPA) regulate asbestos because of the potential hazards associated with exposure to airborne asbestos fibers. Both OSHA and EPA have determined that such exposure increases the risk of asbestos-related diseases, which include certain cancers and which can result in disability or death.

(4) The Grantee acknowledges that it has inspected the Property as to its asbestos content and condition and any hazardous or environmental conditions relating thereto. The Grantee shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of the Property, including, without limitation, any asbestos hazards or concerns.

(5) No warranties either express or implied are given with regard to the condition of the Property, including, without limitation, whether the Property does or does not contain asbestos or is or is not safe for a particular purpose. The failure of the Grantee to inspect, or to be fully informed as to the condition of all or any portion of the Property offered, will not constitute grounds for any claim or demand against the United States.

(6) The Grantee acknowledges that it has inspected the Property as to its asbestos content and condition and any hazardous or environmental conditions

relating thereto prior to accepting the responsibilities imposed upon the Grantee under this section. The failure of the Grantee to inspect, or to be fully informed as to the asbestos condition of all or any portion of the Property offered, will not constitute grounds for any claim or demand against the United States, or any adjustment under this Deed.

(7) The Grantee further agrees to indemnify and hold harmless the Grantor, its officers, agents and employees, from and against all suits, claims, demands or actions, liabilities, judgments, costs and attorneys' fees arising out of, or in any manner predicated upon, exposure to asbestos on any portion of the Property after this conveyance of the Property, to the Grantee or any future remediation or abatement of asbestos or the need thereof. The Grantee's obligation hereunder shall apply whenever the United States incurs costs or liabilities for actions giving rise to liability under this section.

**D. Notice of the presence of Polychlorinated Biphenyls (PCB) and Covenant**

(1) The Grantee is hereby informed and does acknowledge that equipment containing polychlorinated biphenyls (PCBs) may exist on the Property to be conveyed, described as follows: seven telephone pole-mounted electrical transformers. Any PCB contamination or spills related to such equipment have been properly remediated prior to conveyance in accordance with applicable federal and state laws and regulations. The PCB equipment does not currently pose a threat to human health or the environment.

(2) The Grantor has furnished the Grantee any and all records in its possession related to such PCB equipment necessary for the continued compliance by the Grantee with applicable laws and regulations related to the use and storage of PCBs or PCB-containing equipment.

(3) The Grantee covenants and agrees that its continued possession, use and management of any PCB-containing equipment will be in compliance with all applicable laws relating to PCBs and PCB-containing equipment, and that the Grantor assumes no liability for the future remediation of the electrical transformers or damages for personal injury, illness, disability, or death to the Grantee, its successors or assigns, or to any other person, including members of the general public arising from or incident to future use, handling, management, disposition, or other activity causing or leading to contact of any kind whatsoever with the transformers, whether the Grantee, its successors or assigns have properly warned or failed to properly warn the individual(s) injured. The Grantee agrees to be responsible for any future remediation of PCBs or PCB containing equipment found to be necessary on the Property.

**E. Notice of the Presence of Lead-Based Paint and Covenant**

(1) The Grantee is hereby informed and does acknowledge that all structures on the Property, which were constructed or rehabilitated prior to 1978, are presumed to contain lead-based paint (LBP). Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Every purchaser of any interest in Residential Real Property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women.

(2) The seller of any interest in residential real property is required to provide the buyer with any information on LBP hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known LBP hazards. "Residential Real Property" means dwelling units, common areas, building exterior surfaces, and any surrounding land, including outbuildings, fences and play equipment affixed to the land, available for use by residents but not including land used for agricultural, commercial, industrial, or other non-residential purposes, and not including paint on the pavement of parking lots, garages, or roadways and buildings visited regularly by the same child, 6 years of age or under, on at least two different days within any week, including day-care centers, preschools and kindergarten classrooms.

(3) The Grantee acknowledges that it has received the opportunity to conduct its own risk assessment or inspection for the presence of LBP and/or LBP hazards prior to execution of this document.

(4) The Grantee, its successors and assigns, covenant and agree that it shall not permit the occupancy or use of any buildings or structures on the Property as Residential Real Property, as defined above, without complying with this section and all applicable federal, state, and local laws and regulations pertaining to lead-based paint and/or lead-based paint hazards. Prior to permitting the occupancy of the Property where its use subsequent to sale and transfer is intended for residential habitation, the Grantee specifically agrees to perform, at its sole expense, the Grantor's abatement requirements under Title X of the Housing and Community Development Act of 1992 (Residential Lead-Based Paint Hazard Reduction Act of 1992) (hereinafter, "Title X").

(5) The Grantee, its successors and assigns, shall, after consideration of the guidelines and regulations established pursuant to Title X: (a) Perform a re-evaluation of the risk assessment if more than 12 months have elapsed since the date of the last risk assessment; (b) Comply with the joint HUD and EPA Disclosure Rule (24 CFR 35, Subpart A, 40 CFR 745, Subpart F), when applicable, by disclosing to prospective purchasers the known presence of lead-based paint and/or lead-based paint hazards as determined by previous risk assessments; (c) Abate lead dust and lead-based paint hazards in pre-1960 residential real property,

as defined above, in accordance with the procedures in 24 CFR 35; (d) Abate soil-lead hazards in pre-1978 residential real property, as defined above, in accordance with the procedures in 24 CFR 35; (e) Abate lead-soil hazards following demolition and redevelopment of structures in areas that will be developed as residential real property; (f) Comply with the EPA lead-based paint work standards when conducting lead-based paint activities (40 CFR 745, Subpart L); (g) Perform the activities described in this paragraph within 12 months of the date of the lead-based paint risk assessment and prior to occupancy or use of the residential real property; and (h) Send a copy of the clearance documentation to the Grantor.

(6) In complying with these requirements, the Grantee covenants and agrees to be responsible for any abatement or remediation of lead-based paint or lead-based paint hazards on the Property found to be necessary as a result of the subsequent use of the property for residential purposes. The Grantee covenants and agrees to comply with solid or hazardous waste laws that may apply to any waste that may be generated during the course of lead-based paint abatement activities.

(7) The Grantee further agrees to indemnify and hold harmless the Army, its officers, agents and employees, from and against all suits, claims, demands, or actions, liabilities, judgments, costs and attorney's fees arising out of, or in a manner predicated upon personal injury, death or property damage resulting from, related to, caused by or arising out of lead-based paint or lead-based paint hazards on the Property if used for residential purposes.

(8) The covenants, restrictions, and requirements of this Section shall be binding upon the Grantee, its successors and assigns and all future owners and shall be deemed to run with the land. The Grantee on behalf of itself, its successors and assigns covenants that it will include and make legally binding, this Section, in all subsequent transfers, leases, or conveyance documents.

#### **F. Groundwater Restrictions and Conditions**

(1) Restrictions: The Grantee covenants for itself, its successors, and assigns not to access or use groundwater underlying the Classification Exception Area (CEA) as defined in the October 2002 Finding of Suitability to Transfer ("FOST") of the Property for the duration of the CEA for any purpose. For the purpose of this restriction, "groundwater" shall have the same meaning as in Section 101(12) of CERCLA. The Grantee, for itself, its successors or assigns covenants that it will not undertake nor allow any activity on or use of the Property that would violate the restrictions contained herein. These restrictions and covenants are binding on the Grantee, its successors and assigns; shall run with the land; and are forever enforceable.

(2) Enforcement. The restrictions and conditions stated in this Section benefit the public in general and the territory surrounding the Property, including lands retained by the United States, and, therefore, are enforceable by the United States government. The Grantee covenants for itself, its successors, and assigns that

it shall include and otherwise make legally binding, the restrictions in this Section and in all subsequent lease, transfer or conveyance documents relating to the Property subject hereto.

(3) Grantor Access. The Grantor and its representatives shall, for all time, have access to the Property for the purpose of installing and/or removing groundwater monitoring wells, and to perform continued monitoring of groundwater conditions, allowing chemical and/or physical testing of wells to evaluate water quality and/or aquifer characteristics. The Property owner shall allow ingress and egress of all equipment necessary to accomplish the same.

### **G. UNEXPLODED ORDNANCE (UXO)**

Based on a review of existing records and available information, none of the buildings or surrounding land proposed for transfer is known to contain UXO. In the event the Grantee, its successors and assigns, should discover any ordnance on the Property, it shall not attempt to remove or destroy it, but shall immediately notify the local police department. A competent Government (or Government designated) explosive ordnance professional will be dispatched promptly to dispose of such ordnance. The Grantee, its successors and assigns, will provide access to the Grantor, at no expense to the Government, for the purpose of removal of Ordnance and Explosive (OE). The Grantee is aware that in correspondence dated 16 September 1999, the Corps of Engineers, Huntsville Center Director, Ordnance and Explosives Team indicated that there, "...is no concern for ordnance and explosive contamination at the Livingston Stand Alone Housing Area."

### **3. RADON NOTIFICATION**

A. The Grantee acknowledges that it has had the opportunity to inspect the Property as to radon levels prior to accepting the Property. Failure of the Grantee to inspect or to be fully informed as to the radon levels of the Property will not constitute grounds for any claim or demand against the United States.

B. The Grantee shall indemnify and hold harmless the United States, its officers, agents and employees from and against all suits, claims, demands, or actions, liabilities, judgments, costs and attorneys' fees arising out of, or in any manner predicated upon, exposure to radon on any portion of the Parcels after conveyance of the Property or any future redemption or abatement of radon or the need therefore. The Grantee's obligation hereunder shall apply whenever the United States incurs costs or liabilities for actions giving rise to liability under this section. The obligations of the Grantee under this section are solely those of the Grantee and not its successors and assigns.

### **4. AIR NAVIGABLE AIRSPACE RESTRICTION**

A. Livingston Family Housing is within six nautical air miles of the Morristown public airport. The Air Navigable Airspace Restriction is applicable in accordance with 14 CFR 77, "Objects Affecting Navigable Airspace," or under the authority of the Federal Aviation Act of 1958, as amended.

B. Grantee, its successors, and assigns are restricted from all future construction, improvements and/or alteration of any existing structure on the Property by a change in its height (including appurtenances) or lateral dimensions, of whatever type or nature without prior review and formal approval by the Federal Aviation Administration (FAA) for compliance with the regulations set forth in 14 CFR 77, entitled "Objects Affecting Navigable Airspace," issued under the authority of the Federal Aviation Act of 1958, as amended.

**5. NOTICE OF NON-DISCRIMINATION.** With respect to activities related to the Property, the Grantee shall not discriminate against any person or persons or exclude them from participation in the Grantee's operations, programs or activities conducted on the Property because race, color, religion, sex, age, handicap or national origin.

**6. INDEMNIFICATION.** The Grantor recognizes its obligation to hold harmless, defend, and indemnify the Grantee and any successor, assignee, transferee, lender, or lessee of the Grantee or its successors and assigns, as required and limited by Section 330 of the Department of Defense Authorization Act of 1993, as amended, and to otherwise meet its obligations under law.

**7. ANTI-DEFICIENCY ACT.** The Grantor's obligation to pay or reimburse any money for activities under this Deed is subject to the availability of appropriated funds to the Department of the Army, and nothing in this Deed shall be interpreted to require obligations or payments by the Grantor in violation of the Anti-Deficiency Act.

**8. EXCESS PROFITS COVENANT.** By executing the acceptance of this Deed, the Grantee agrees to the following "Excess Profits" Covenant for Negotiated Sales to Public Bodies in accordance with Public Law 106-65, Section 2839:

A. This covenant shall run with the land for a period of three (3) years from the date of conveyance. With respect to the Property described in this deed, if at any time within a three year period beginning from the date of transfer of title by the Grantor, the Grantee, or its successors and assigns, shall sell and transfer either in a single transaction or in a series of transactions, it is covenanted and agreed that all proceeds received or to be received in excess of the Grantee's or a subsequent seller's actual allowable costs will be remitted to the Grantor. In the event of a sale and transfer of less than the entire Property, actual allowable costs will be apportioned to the Property based on a fair and reasonable determination by the Grantor.

B. For the purposes of this covenant, the Grantee's or subsequent seller's allowable costs shall include the following:

- (1) The purchase price of the real property;
- (2) The direct costs actually incurred and paid for improvements which serve only the Property, including road construction, storm and sanitary sewer construction, other public facilities or utility construction, building rehabilitation and demolition, environmental requirements, landscaping, grading, and other site or public improvements;
- (3) The direct costs actually incurred and paid for design and engineering services with respect to the improvements described in (B) (2) of this section; and;
- (4) The finance charges actually incurred and paid in conjunction with loans obtained to meet any of the allowable costs enumerated above.

C. None of the allowable costs described in paragraph (B) of this section will be deductible if defrayed by Federal grants or if used as matching funds to secure Federal grants.

D. In order to verify compliance with the terms and conditions of this covenant, the Grantee, or its successors or assigns, shall submit an annual report for each of the subsequent three (3) years to the Grantor on the anniversary date of the deed. If no resale and transfer has been made, the report shall so state. Otherwise, each report will identify the Property involved in the sale and transfer transaction and will contain such of the following items of information as are applicable at the time of submission:

- (1) A description of each portion of the Property that has been resold and transferred;
- (2) The sale price of each such resold portion;
- (3) The identity of each purchaser;
- (4) The proposed land use; and
- (5) An enumeration of any allowable costs incurred and paid that would offset any realized profit.

E. The Grantor may monitor the Property involved and inspect records related thereto to ensure compliance with the terms and conditions of this covenant and may take any actions which it deems reasonable and prudent to recover any excess profits realized through the resale of the Property within such three (3) year period.

THE Property is conveyed "As Is" and "Where Is" without representation, warranty and guaranty, as to quantity, quality, character, condition, size or kind, or that the same is in the condition or is fit to be used for the purpose for which intended.

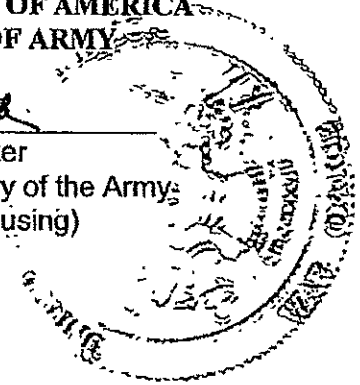
**TO HAVE AND TO HOLD** the foregoing Property, together with all the privileges and appurtenances thereto, unto Grantee, its successors and assigns forever, as the property of the Grantee.

**THIS QUITCLAIM DEED** is not subject to Title 10, United States Code, § 2662, and is exempt from real estate transfer fee by reason of New Jersey Statute. § 255.

IN WITNESS WHEREOF, the Grantor has caused this deed to be executed in its name by the Deputy Assistant Secretary of the Army for Installations and Housing, and the seal of the Department of the Army to be hereunto affixed the day and year first above written.

UNITED STATES OF AMERICA  
DEPARTMENT OF ARMY

BY: Joseph W. Whitaker  
Joseph W. Whitaker  
Deputy Assistant Secretary of the Army  
(Installations and Housing)



**ACKNOWLEDGMENT**

Commonwealth of Virginia)  
):ss  
County of Arlington)

Before me, a Notary Public in and for the Commonwealth of Virginia, County of Arlington, personally appeared Joseph W. Whitaker, Deputy Assistant Secretary of the Army, to me known to be the identical person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the said instrument in the capacity therein stated for the purpose therein expressed as the act and deed of the United States of America.

Given under my hand and seal this 24th day of September 2003

Yasua A. Cooper  
Notary Public


(Seal)

My commission expires 30 November 2006

**ACCEPTANCE BY GRANTEE:**

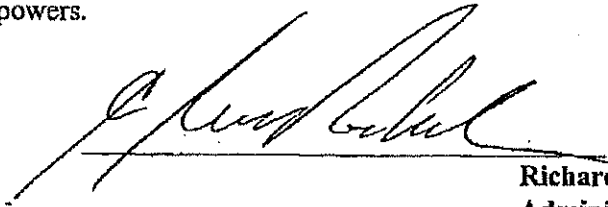
The foregoing conveyance is hereby accepted and the Township of East Hanover, acting by and through its Mayor, agree by this acceptance to assume and be bound by all the obligations, conditions, covenants and agreements therein contained. The terms and conditions of this deed of conveyance are hereby accepted this 16<sup>th</sup> day of September, 2003.

**EAST HANOVER TOWNSHIP,  
NEW JERSEY**

BY:   
LAWRENCE COLASURDO  
Mayor

**CERTIFICATION**

I, Richard Paduch, certify that I am the Administrator for the East Hanover Township of East Hanover, named as Grantee in the foregoing quitclaim deed, I certify that Lawrence Colasurdo is the Mayor for the East Hanover Township, New Jersey and was on September 16, 2003 duly authorized to accept the foregoing quitclaim deed on behalf of the East Hanover Township, New Jersey; and that said acceptance was duly signed for on behalf of the East Hanover Township, New Jersey by authority of its governing body and within the scope of its delegated powers.



**Richard Paduch, Township  
Administrator**

JOAN BRAMHALL - MORRIS COUNTY CLERK  
DATE 11 03 2003 TIME 09 34 AM PAGES 14  
CONSIDERATION LESS THAN 100.00  
95.00 COFE COUNTY FEES  
75.00 STPG STATE PAGE FEE  
170.00 TOTAL RECORDING FEES  
.00 TOTAL TRANSFER TAX FEES  
SK PDCK 16095

STATE OF NEW JERSEY AFFIDAVIT OF CONSIDERATION OR EXEMPTION (c. 49, P.L. 1968) or PARTIAL EXEMPTION (c. 176, P.L. 1975)

To Be Recorded With Deed Pursuant to c. 49, P.L. 1968 as amended by c. 308, P.L. 1991 (N.J.S.A. 46:15-6 et seq.)

STATE OF NEW JERSEY

COUNTY OF ESSEX

} SS.

FOR RECORDER'S USE ONLY

Consideration \$ \_\_\_\_\_ Realty Transfer Fee \$ \_\_\_\_\_ \* Date \_\_\_\_\_ By \_\_\_\_\_

\* Use symbol "C" to indicate that fee is exclusively for county use.

(1) PARTY OR LEGAL REPRESENTATIVE (See Instructions #3, 4 and 5 on reverse side)

Deponent, Noah Bronkesh, being duly sworn according to law upon his/her oath deposes and says that

he/she is the attorney for the Grantee on a deed dated September 24, 2003

(State whether Grantor, Grantee, Legal Representative, Corporate Officer, Officer of Title Co., Lending Institution, etc.)

transferring real property identified as Block No. 96 Lot No. 50

located at Nike Drive East, Hanover, New Jersey 07936

(Street Address, Municipality, County)

and annexed hereto.

(2) CONSIDERATION (See Instruction #6)

Deponent states that, with respect to deed hereto annexed, the actual amount of money and the monetary value of any other thing of value constituting the entire compensation paid or to be paid for the transfer of title to the lands, tenements or other realty, including the remaining amount of any prior mortgage to which the transfer is subject or which is to be assumed and agreed to be paid by the grantee and any other lien or encumbrance thereon not paid, satisfied or removed in connection with the transfer of title is \$ 1.00

(3) FULL EXEMPTION FROM FEE

Deponent states that this deed transaction is fully exempt from the Realty Transfer Fee imposed by c. 49, P.L. 1968, for the following reason(s): Explain in detail. (See Instruction #7.) Mere reference to exemption symbol is not sufficient.

7(a) consideration is less than \$100.

(4) PARTIAL EXEMPTION FROM FEE

NOTE: All boxes below apply to grantor(s) only. ALL BOXES IN APPROPRIATE CATEGORY MUST BE CHECKED. Failure to do so will void claim for partial exemption. (See Instructions #8 and #9.)

Deponent claims that this deed transaction is exempt from the increased portion of the Realty Transfer Fee imposed by c. 176, P.L. 1975 for the following reason(s):

A. SENIOR CITIZEN (See Instruction #8)

- Grantor(s) 62 years of age or over.\* Owned and occupied by grantor(s) at time of sale.
One- or two-family residential premises. Owners as joint tenants must all qualify except in the case of a spouse.

B. BLIND (See Instruction #8)

- Grantor(s) legally blind.\*
One- or two-family residential premises.
Owned and occupied by grantor(s) at time of sale.
No owners as joint tenants other than spouse or other qualified exempt owners.

DISABLED (See Instruction #8)

- Grantor(s) permanently and totally disabled.\*
One- or two-family residential premises.
Receiving disability payments.
Not gainfully employed.
No owners as joint tenants other than spouse or other qualified exempt owners.

\* IN THE CASE OF HUSBAND AND WIFE, ONLY ONE GRANTOR NEED QUALIFY

C. LOW AND MODERATE INCOME HOUSING (See Instruction #8)

- Affordable According to HUD Standards. Reserved for Occupancy.
Meets Income Requirements of Region. Subject to Resale Controls.

D. NEW CONSTRUCTION (See Instruction #9.)

- Entirely new improvement. Not previously occupied.
Not previously used for any purpose.

Deponent makes this Affidavit to induce the County Clerk or Register of Deeds to record the deed and accept the fee submitted herewith in accordance with the provisions of c. 49, P.L. 1968.

Subscribed and sworn to before me this 30th day of October, 2003. YESENIA HERNANDEZ NOTARY PUBLIC OF NEW JERSEY Commission Expires 3/3/2008

Signature of Deponent: Noah Bronkesh, Esq. Name of Grantor:
Address of Deponent: Newark, New Jersey 07102 Address of Grantor at Time of Sale:

END OF DOCUMENT

FOR OFFICIAL USE ONLY

Instrument Number \_\_\_\_\_ County \_\_\_\_\_
Deed Number \_\_\_\_\_ Book \_\_\_\_\_ Page \_\_\_\_\_
Deed Dated \_\_\_\_\_ Date Recorded \_\_\_\_\_

# Exhibit B

DURKIN & DURKIN, LLC  
ATTORNEYS AT LAW  
1120 BLOOMFIELD AVENUE  
P.O. BOX 1289  
WEST CALDWELL, NEW JERSEY 07007-9452

(973) 244-9969  
TELECOPIER (973) 227-4676

PARTNER  
M. Murphy Durkin, Esq.  
(Member of NJ Bar)

FOUNDER  
Thomas E. Durkin, Jr.  
(1953 - 2014)

June 14, 2021

VIA Federal Express Overnight Mail  
Carla K. Coulson  
Deputy Assistant Secretary of the Army  
(Installations, Housing and Partnerships)  
110 Army Pentagon  
Room 3E475  
Washington, DC 20310-0110

**Re: Request for Acknowledgement on Nike Project at the former Livingston,  
Defense Area Family Housing site,  
Lot 50, Block 96, East Hanover, New Jersey**

Dear Ms. Coulson:

Please be advised that I am Town Attorney for the Township of East Hanover (the "Township").

By this letter, the Township seeks your acknowledgement below that the planned development of the above site, commonly referred to as the "Nike Site" or the "Nike Project", if implemented in accordance with a Court approved Housing Element and Fair Share Plan (HEFSP), would be consistent with provisions of the quit claim deed executed September 24<sup>th</sup>, 2003 between your office and the Township of East Hanover for the purpose of developing said parcel for affordable housing and recreational use in accordance with section 2839 of Public Law 106-65, October 5, 1999. As part of this request, this correspondence will serve as a summary of the Nike

affordable housing project located at the corner of River Road and Nike Drive, which is of vital importance to the Township relative to meeting its constitutional affordable housing obligations. By way of background, municipalities in New Jersey are required to provide a realistic opportunity for the construction of a certain allocation of regional affordable housing need – referred to as “fair share” or in other words, access to housing within the means of a low or moderate income household as defined by federal or state law.

There are a menu of compliance techniques available for municipalities to hit that number, which include traditional “inclusionary zoning” whereby market-rate units internally subsidize the affordable units and various municipally-sponsored programs, which simply means that the project lacks sufficient internal market-rate subsidy to generate the requisite affordable housing yield and that, as a result, the municipality must adopt a “resolution of intent to fund shortfall” for funding gaps associated with the project. A specific type of program or use that qualifies for affordable housing under New Jersey law (N.J.A.C. 5:93-5.16) are a percentage of qualifying bedrooms associated with assisted living facilities – typically 10% of the total number of bedrooms.

The Township of East Hanover (“Township”) has an approved Housing Element and Fair Share Plan (HEFSP), which articulates the way in which it will comply with its affordable housing obligations. Central to that plan, is the hybrid “Municipally-Sponsored” affordable housing project for the production of 55 affordable units at the Nike Site. The technique would work as a hybrid because it would combine two compliance techniques in order to maximize affordable housing yield – the technique would work as follow:

- The Nike Site, currently owned by the Township and subject to a Federal deed restriction for the purpose of affordable housing and recreational use, would be subdivided into two lots.
- One lot would be deeded (at little to no cost) to a non-profit 100% affordable housing developer for the production of purely affordable units. Roughly 40 affordable units will be required, with no market rate units (the “100% Parcel”).
- The other half would be sold for profit for an assisted living facility, which would not only produce its own affordable housing in the form of 10% of total bedrooms (roughly 15 units), but which under the HEFSP would produce land-sale income that would be utilized to subsidize the production of affordable housing on the “100% Parcel”.

- Thus, the Township would provide the land to the 100% affordable housing developer, plus over \$2 million in its Affordable Housing Trust Fund dollars while the for-profit assisted living facility would produce its own internal affordable housing plus subsidize a large portion of the 100% Parcel. These requirements will be imposed as part of the conveyance to the 100% affordable housing developer and the for-profit assisted living facility developer with controls and deed restrictions requiring a specific number of affordable units for 30 years.

In short, the Nike project as implemented in accordance with the HEFSP would efficiently and effectively yield significant affordable housing and would be used exclusively for techniques that have been approved as credit-worthy affordable housing mechanisms in the state of New Jersey.

If you should have any additional questions or concerns, please feel free to contact me via email at [mdurkin@durkinlawfirm.com](mailto:mdurkin@durkinlawfirm.com) or phone at 973-244-9969. If the pertinent terms of the HEFSP summarized above substantially change prior to implementation, the Township will request further acknowledgment from you.

Very truly yours,  
**DURKIN & DURKIN, LLC**

By:   
M. Murphy Durkin

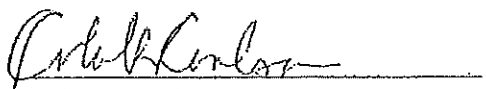
MMD: mma

Cc: Mayor, Township of East Hanover  
Business Administrator, Township of East Hanover

**[ACKNOWLEDGMENT ON FOLLOWING PAGE]**

Acknowledged:

**United States of America,  
Acting by and through the  
Deputy Assistant Secretary of the Army  
(Installations, Housing and Partnerships)**

By:   
Carla K. Coulson,  
Deputy Assistant Secretary of the Army  
(Installations, Housing and Partnerships)