

MODIFICATION AGREEMENT

By and Between

THE TOWNSHIP OF WEST ORANGE

as Redevelopment Entity

and

PRISM GREEN ASSOCIATES IV, LLC,

as Redeveloper

Dated as of _____, 2015

This Modification to Redevelopment Agreement (the “**Modification Agreement**”) entered into this ____ day of _____, 2015 constitutes a modification of and amendment to that certain Redevelopment Agreement dated December 20, 2006, as amended by letter agreement dated May 8, 2007, June 21, 2007, September 11, 2007 and October 27, 2009 (collectively, the “**Redevelopment Agreement**”, a copy of which is attached as Exhibit A hereto) entered into by and between **THE TOWNSHIP OF WEST ORANGE, NEW JERSEY** (the “**Township**”), a public body corporate and politic of the State of New Jersey having its offices at 66 Main Street, West Orange, New Jersey 07052, in its capacity as redevelopment entity pursuant to *N.J.S.A. 40A: 12A-4(c)*, and **PRISM GREEN ASSOCIATES IV, LLC**, a limited liability company of the State of Delaware authorized to do business in the State of New Jersey, having offices at c/o Prism Capital Partners, LLC, 200 Broadacres Drive, Suite 180, Bloomfield, New Jersey 07003 (“**Prism Green**”) (all capitalized terms used in this Agreement not otherwise defined herein shall have the meaning specified in the Redevelopment Agreement).

W I T N E S S E T H

WHEREAS, the Redevelopment Agreement defined the “Project or Redevelopment Project” as the construction or rehabilitation of a total of 609 residential units comprising approximately 538 “for sale” market rate residential units and uses attendant and necessary thereto; up to 71 low and moderate income affordable residential units pursuant to the applicable regulations of the NJ Council on Affordable Housing (“**COAH**”) and the Township’s growth share obligations thereunder; together with up to approximately 50,200 square feet of commercial space and other amenity support space; a parking structure containing not less than 590 spaces and such other parking areas as may be approved by the Planning Board in accordance with the provision of the Redevelopment Plan to accommodate parking for residential and retail uses as hereinafter provided; public infrastructure and improvements, including utilities, roadways, pathways, sidewalks, public rights of way and open spaces; and

WHEREAS, the Redevelopment Agreement defined “Phase 1” of the Project in relevant part as “the redevelopment of the Edison Battery Building, retail development and construction of the Parking Deck, and includ[ing] the construction of approximately 300 residential units.” (collectively, the “**Original Phase 1 Project**”); and

WHEREAS, due to certain financial market conditions, the Township and Prism Green desired to revise the Original Phase 1 Project so that the first phase would contain: (i) approximately 333 residential rental units; (ii) approximately 18,500 square feet of commercial retail space; (iii) approximately 31,700 square feet of other amenity support space; (iv) a parking structure containing approximately 635 spaces (the “**Parking Deck**”); and (v) such other parking areas as may be approved by the Planning Board in accordance with the provisions of the Redevelopment Plan to accommodate parking for residential and retail uses as hereinafter provided; together with certain public infrastructure and improvements relating thereto, including utilities, roadways, pathways, sidewalks, public rights of way and open space, and other amenities on the Edison Battery Parcels (collectively, hereinafter the “**Phase 1 Project**”); and

WHEREAS, in furtherance of the foregoing, on August 8, 2014, the Township and Prism Green entered into that certain Modification Agreement for the Phase 1 Project (hereinafter the “**Phase 1 Modification Agreement**”); and

WHEREAS, another developer (the “**Phase 1 Redeveloper**”) has submitted an application to the Township in connection with its interest in the redevelopment of the Phase 1 Project; and

WHEREAS, on the date hereof, the Township and the Phase 1 Redeveloper entered into that certain Phase 1 Redevelopment Agreement governing the redevelopment of the Phase 1 Project; and

WHEREAS, for the purposes of facilitating the other Phases of the Project (exclusive of the Phase 1 Project as heretofore revised, the “**Revised Project**”), the Parties now wish to enter into this Modification Agreement.

NOW, THEREFORE, the Parties hereby agree as follows:

ARTICLE I DEFINITIONS AND CONSTRUCTION

Section 1. Redeveloper Designation. The Parties agree that as of the date hereof, the designation of Prism Green as redeveloper of the Phase 1 Project is hereby rescinded. The Township hereby reconfirms its designation of Prism Green as the exclusive redeveloper for the Revised Project. As a result, and subject to the terms of this Agreement, Prism Green shall have the exclusive right to perform development and redevelopment activities in connection with the Revised Project, under the framework and in accordance with the terms of this Modification Agreement, the Redevelopment Agreement, the Redevelopment Plan, and all Applicable Laws.

Section 2. Redevelopment Agreement. (a) As it relates exclusively to the Phase 1 Project, the Redevelopment Agreement and the Phase 1 Modification Agreement are hereby deemed null and void and no longer in effect and the Parties shall have no further duties, obligations, responsibilities or liabilities thereunder. With respect to the Revised Project, the Redevelopment Agreement shall control and continues in full force and effect, except as expressly set forth herein.

(b) The Parties hereto expressly acknowledge and agree that Prism Green’s obligation to provide no less than seventy-one (71) low and moderate income affordable residential units as required by the Redevelopment Agreement is not in any way altered or diminished by this Modification Agreement and/or by the removal of Prism Green’s previous designation as redeveloper of the Phase 1 Project or the undertaking of the Phase 1 Project by the Phase 1 Redeveloper.

(c) The Parties hereby expressly agree and covenant to negotiate in good faith a revised Redevelopment Agreement with respect to the Revised Project (the “Negotiations”) for a

period commencing on the date of execution of this Agreement and continuing for six months therefrom (the “Negotiation Period”). The objective of the Negotiations is to revise the Redevelopment Agreement in such a way that the entire Redevelopment Project, and not just a distinct phase thereof, is mutually acceptable and economically feasible to both Parties, including, without limitation, terms relating to project phasing and development schedules, affordable housing obligations, infrastructure requirements, acquisition of the Township-Owned Property, the issuance of redevelopment area bonds, and a payment-in-lieu-of-tax structure that recognizes both the importance of this form of financial assistance to the implementation of the Revised Project and the need for revenues to be generated in order for the Township to provide governmental services. The Parties acknowledge that the terms of the Revised Project are interrelated with the Phase 1 Project, and for purposes of such Negotiations shall be viewed in light of the overall economics of the entire Redevelopment Project, and not any single or distinct Phase thereof. The Parties further acknowledge that the Negotiations shall take into account changes to market conditions since the execution of the Redevelopment Agreement, including but not limited to those market conditions affecting rents, capitalization rates, and the cost of debt.

(d) The Township hereby expressly agrees and covenants that during the Negotiation Period it shall not declare an Event of Default under the Redevelopment Agreement for non-construction of the Revised Project, provided however, that the Parties hereto expressly agree and acknowledge that the Township retains the right to declare an Event of Default with respect to items other than non-construction, e.g., failure to maintain insurance, non-payment of taxes, non-permitted transfers, etc.

(e) The Parties hereto expressly acknowledge and agree that nothing contained in this Modification Agreement shall limit or restrict Prism Green’s right to undertake and develop any or all of the Revised Project in separate and distinct phases pursuant to and in accordance with the Redevelopment Agreement, as modified hereby.

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

**TOWNSHIP OF WEST ORANGE,
NEW JERSEY**

Attest

By: _____

Witness:

PRISM GREEN ASSOCIATES IV, LLC

By: _____

Exhibit A

Redevelopment Agreement