

Exhibit “A”

AGREEMENT OF SALE AND PURCHASE

This **AGREEMENT OF SALE AND PURCHASE** is made this ___ day of February, 2021, (the “Effective Date”) by and among, the Township of West Orange, a public body politic and corporate of the State of New Jersey, having an address at 66 Main Street, West Orange, New Jersey (the “Seller”), and Tompkins Street Apartments, LLC, as nominee for an Urban Renewal Entity to be formed (the “Purchaser”).

1. Agreement. For the consideration hereinafter set forth, but subject to the terms, provisions, covenants and conditions herein contained, Seller agrees to sell and to convey and Purchaser agrees to purchase real property commonly known as 20 Tompkins Street, West Orange, New Jersey, otherwise known as Block 6, Lot 36.01 on the tax map of the Township of West Orange, (the “Property”), for the purpose of constructing approximately seventeen (17) units of low and moderate income housing in accordance with N.J.S.A. 40A:12-21(l) of the New Jersey Local Lands and Buildings Law.

2. Purchase Price. The purchase price to be paid by Purchaser to Seller for the property is (\$1.00) Dollars (the “Purchase Price”) and shall be paid at closing.

3. As Is Purchase. The Property shall be conveyed to the Purchaser in an “as is, where is” condition, based on the condition of the Property on the date of closing, without any representation or warranty by Seller as to any matters concerning the condition of the Property.

4. Condition Regarding Use of Property. Performance by Seller under this Agreement, including but not limited to conveyance of title to the Property, is conditioned upon the representation by Purchaser that Purchaser will utilize the Property solely for the construction and operation of low and/or moderate income housing. This condition shall be effectuated by the preparation of a deed restriction that restricts the rent or use of the units as low and moderate income residential housing for a term which shall be for at least thirty (30) years from the issuance of the certificate of occupancy for each residential unit.

5. Title. Title to be conveyed to the Property at closing shall be good and marketable title, free and clear of all liens, claims, restrictions and encumbrances whatsoever, including tenancies of any kind, but subject to (a) zoning and subdivision laws and regulations; (b) real estate taxes that are a lien, but are not yet due and payable; and (c) easements, restrictions and encroachments that are of record and do not prohibit or negatively impact the Development Approvals in Purchaser’s reasonable opinion.

Within ninety days (90) days of the Effective Date of this Agreement, the Purchaser shall deliver to the Seller’s attorney, a statement of any defects, encumbrances, encroachments or objections to title which are not specified in this agreement and which, in the reasonable opinion of the Purchaser, render the title unmarketable. If Purchaser notified

Seller that the premises are affected by an encumbrance, outstanding interest or questions of title not consented to herein by Purchaser, which renders Seller unable to deliver title pursuant to this agreement, the Seller shall remove or satisfy the same within thirty (30) days of notice. In the event that the Seller fails to correct any such objection within this time period, the Purchaser may upon written notice to Seller cancel this Contract, or in the alternative, Purchaser may elect to accept such title as Seller is able to convey.

- (a) Conditions Precedent to Closing. This Contract and the Purchaser's obligation to purchase the Property are subject to and conditioned upon (a) confirmation of the accuracy and truthfulness of the representations made by Seller as provided for in Paragraph 8 of this Agreement; (b) formation of an Urban Renewal Entity that shall succeed to the rights and obligations of Purchaser under this Agreement and shall be the Grantee to whom title is conveyed from the Seller at Closing; and (c) the preparation and execution of a deed restriction that restricts the rent or use of the units as low and moderate income residential housing for a term which shall be for at least thirty (30) years from the issuance of the certificate of occupancy for each residential unit to be recorded with the Closing Deliverables listed in paragraph 7.

6. Closing Date and Location. The closing of this transaction contemplated herein shall take place on the first business day sixty (60) days after final, unappealable approvals under the Municipal Land Use Law. The Closing shall be held at the offices of the Seller's attorney or at another location selected by the Parties.

7. Closing Deliverables. At the Closing, the Seller shall deliver the following to the Purchaser:

- (a) A Bargain and Sale Deed with Covenants Against Grantor's Acts in proper statutory short form for record, duly executed and acknowledged, so as to convey to Purchaser fee simple title to the Property, free of all encumbrances, except as otherwise stated herein.
- (b) The Seller shall also deliver to Purchaser at the time of closing a resolution of the municipal governing body authorizing the sale and delivery of the deed.
- (c) Such other documentation as may be reasonably requested by the Purchaser's title company, so as to effectuate the transfer of title and the clearance of any title objections that said company may have.

At the Closing, the Purchaser shall deliver the following to the Seller: (a) documentation confirming the formation and approval of an Urban Renewal Entity pursuant to applicable law; (b) documentation confirming that the new Urban Renewal Entity is authorized to succeed to the rights and obligations of Purchaser under this Agreement; and (c) a deed restriction that restricts the rent or use of the units as low and moderate income residential housing for a term which

shall be for at least thirty (30) years from the issuance of the certificate of occupancy for each residential unit.

8. Seller's Representations and Warranties: The Seller hereby represent and warrants as follows to the best of its knowledge:

- (a) The Seller is the sole owner of the Property and has the full right, power and authority to sell, convey and transfer the same in accordance with the terms of this Contract. No person or entity has any right of first refusal, right of first offer, contract or other option to acquire the Property or any part thereof or interest therein.
- (b) The Seller is a municipal corporation of the State of New Jersey and has all the requisite power and authority, in accordance with law, to enter into this Agreement and to carry out the transactions contemplated hereby. All proceedings required to be taken by or on behalf of Seller to authorize Seller to make, deliver and carry out this Agreement have been and will be duly and properly taken. The individual signing this Agreement on behalf of the Seller has been authorized to do so and the Purchaser can reasonably rely upon his action to bind the Seller.
- (c) The execution, delivery and performance of the transaction contemplated pursuant to this Agreement will not violate the provision of any law, statute, rule or regulation to which the Seller or the Property is subject, or violate any judgment, writ, order, injunction or decree of any court applicable to Seller or the Property.
- (d) The Seller is not a "foreign person," as that term is defined for the purposes of the Foreign Investment in Real Property Tax Act;
- (e) There are no leases, tenancies, licenses or other occupancy agreements to which the Seller is a party by which the Purchaser may be bound for any portion of the Property following the closing. Unless otherwise agreed to in writing by the Purchaser, the property will be delivered vacant and free and clear of all tenancies at the time of closing.

9. Adjustments. All adjustments of real estate taxes, assessments and water/sewer charges, if any, shall be apportioned as of midnight of the day before the day of Closing. Any errors or omissions in computing adjustments shall be corrected within a reasonable time period following the Closing of title. This shall survive the Closing.

10. Defaults and Remedies. The Default of either party of the obligations as detailed in this Contract shall be governed as follows:

- (a) If the Purchaser defaults hereunder, the Seller's sole and exclusive remedy shall be to terminate this Agreement.

(b) If the Seller defaults hereunder, the Purchaser shall have such remedies as Purchaser shall be entitled to at law or in equity, including, but not limited to, specific performance.

11. Assignment. This Contract may only be assigned to an approved Urban Renewal Entity in order to maintain compliance with the requirements of N.J.S.A. 40A:12-21(1) of the New Jersey Local Lands and Buildings Law .

12. Governing Law. This Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of New Jersey applicable to agreements made and to be performed wholly within the State of New Jersey. Jurisdiction for all disputes arising out of this Agreement shall be in the state courts of New Jersey.

13. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous representations, statements, understandings, and agreements, oral and written, between the parties, if any, with respect thereto.

14. Waiver; Amendments. This Contract and any provision thereof may not be waived, changed or cancelled except in writing. The parties hereby authorize their respective attorneys to agree in writing to any changes in dates and time periods provided for in this Contract.

15. Further Assurances. Each party shall, at any time, executed, acknowledge where appropriate and deliver such further instruments and documents and take such other action as may be reasonably requested by the other in order to carry out the intent and purpose of this Contract.

16. Successors and Assigns. The covenants, conditions and agreements in this Agreement shall bind and inure to the benefit of Seller and Buyer and their respective permitted successors and assigns. This Agreement is binding upon all parties who sign it and all who succeed to their rights and responsibilities.

17. Termination Rights Related to Litigation. If third party litigation is commenced challenging the validity of this Agreement or the sale of the Property, then either party may terminate this Agreement by written notice to the other. Upon such termination, this Agreement shall be void and of no further force and effect and neither Party hereto shall have any rights, liabilities and/or obligations hereunder

18. Notices. All notices, demands or requests required or deemed to be given hereunder shall be given in writing and sent by registered or certified mail, return receipt requested, or overnight delivery service such as Federal Express, addressed to the attorneys for the parties as hereinafter provided:

To Seller:

Township of West Orange
66 Main Street
West Orange, New Jersey 07052

With a conforming copy sent in like manner to:

Richard D. Trenk, Esq.
McManimon Scotland and Baumann, LLC
75 Livingston Avenue
Roseland, New Jersey 07068

To Buyer: The Alpert Group, LLC
One Parker Plaza
Fort Lee, New Jersey 07024

With a conforming copy sent in like manner to:

William C. Sullivan, Jr., Esq.
Scarinci Hollenbeck
1100 Valley Brook Avenue
Lyndhurst, New Jersey 07071

A copy of any notice to the Seller and/or Buyer shall also be mailed to the parties hereto at their addresses set forth at the head of this Agreement or other addresses as they may designate by written notice. All notices given hereunder shall be deemed effective on the business day following delivery to the overnight delivery service if sent by overnight delivery or three (3) business days after mailed, if sent by certified mail, as the case may be. Notices required or permitted to be given hereunder may be given by a party's attorneys.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the day and year first above written.

Seller: Township of West Orange

By: _____

Purchaser: Tompkins Street Apartments,
LLC, as Nominee for an Urban Renewal
Entity to be Formed


By: Joseph Alpert