

Prepared by: _____
Robert Swartz

ROADWAY ACCESS EASEMENT
(Portion of Existing Block 197, Lots 1, 2.03 and 8 also being a portion of Proposed Block 197, Lot 73, Borough of Glassboro, Gloucester County, NJ)

THIS ROADWAY ACCESS EASEMENT (this "Easement") is made as of this ____ day of _____, 2015, by and among Aura Development Group LLC, a New Jersey limited liability company, having an address at 1010 Kings Highway S., Bldg 1, Flr 1, Cherry Hill, New Jersey 08034 (the "Grantor"), and Borough of Glassboro, a New Jersey municipal corporation, having an address at 1 South Main Street, Glassboro, New Jersey 08028 (the "Borough Grantee"), and Glassboro Board of Education, having an address of 3 Williams Street, Glassboro, New Jersey 08028 (the "Education Grantee;" collectively, the Borough Grantee and the Education Grantee are sometimes referred to as the "Grantees") .

WHEREAS, Grantor is the owner in fee simple of certain lands and premises situated in the Borough of Glassboro, County of Gloucester, State of New Jersey, being more particularly known as Lots 1, 2.03 and 8 in Block 197 on the tax map of the Borough of Glassboro (collectively, the "Subject Property"), a portion of which is covered by this Easement; and

WHEREAS, Grantor received Preliminary and Final Major Subdivision approval with respect to the Subject Property from the Glassboro Planning Board (the "Board") on June 4, 2014, which approval has been memorialized by the adoption of Resolution No. R-14-17 by the Board on July 1, 2014 ("Subdivision Approval"); and

WHEREAS, Grantor is about to file the Plan of Major Subdivision dated April 11, 2014, revised to August 28, 2014, prepared by Consulting Engineer Services ("Subdivision Plan") in the Office of the Gloucester County Clerk, upon which filing, the aforesaid approved subdivision shall be perfected, creating three (3) new tax lots from the Subject Property; namely, (a) Block 197, Lot 73 (the "Apartment Lot"), (b) Block 197, Lot 2.03 (the "TH/SF Lot"), and (c) Block 197, Lot 1.01 (the "Commercial Lot"); and

WHEREAS, Grantor received Preliminary and Final Major Site Plan approval for the development of 252 apartments on the proposed Apartment Lot from the Board on June 4, 2014, which approval has been memorialized by the adoption of Resolution No. R-14-16 by the Board on July 1, 2014 ("Site Plan Approval"); and

WHEREAS, in accordance with the Site Plan Approval, Grantor is to construct private roadways upon the Apartment Lot; and

WHEREAS, it is in the interests of the general public and the welfare of the citizens of the Borough of Glassboro, and consistent with the Site Plan Approval that governmental and quasi-governmental emergency, safety and service vehicles, such as fire, police, ambulances and school buses servicing the Apartment Lot and its occupants and/or invitees have access to, over and across the Apartment Lot upon the private roadways thereon;

NOW, THEREFORE, for and in consideration of ONE and no/100 (\$1.00) DOLLAR paid by Grantees to Grantor, and the mutual promises of Grantor and Grantees herein provided, the receipt and sufficiency of which is hereby acknowledged, Grantor and Grantees agree as follows:

1. **Grant and Purpose of Easement.** A. Subject to the terms and conditions of this Easement and in order to accomplish the stated purposes of this Easement, Grantor does hereby grant, convey and bargain, sell, alien, release and confirm unto Grantees, their respective successors, assigns and invitees, a non-exclusive right, liberty, privilege and easement for ingress and egress over, upon and across the private roadways known as Gianna Drive, Gareth Way and Turquine Way, all within the boundaries of the Apartment Lot, to provide access to the Grantees for motor vehicles and pedestrian traffic to and from all public streets, including, but not limited to County Route 667/Richwood-Aura Road. The aforesaid private roadways are depicted on the Overall Site Plan for development of the Apartment Lot prepared by Consulting Engineer Services dated April 1, 2014, as revised, a copy of which is attached hereto and made a part hereof as Exhibit "A".

B. The Easement referred to herein is: (A) for the non-exclusive benefit of Grantees, and all municipal vehicles, school buses, governmental and quasi-governmental vehicles, including but not limited to emergency services and agencies first aid vehicles and police and fire department vehicles, as well as county or state vehicles, servicing the Apartment Lot, and its respective occupants and/or invitees; and (B) not limited as to the time of use and may be used without limitation as to frequency or the volume of use, and may be used on a twenty-four hour per day, seven days per week basis. This grant of Easement is hereinafter referred to as the "Easement." This Easement is subject to all other easements, agreements and restrictions of record, including, but not limited to, any environmental constraints, and such state of facts as an accurate survey of the Apartment Lot may show. The use and purpose of this Easement shall not be expanded beyond the use and purpose expressly stated herein.

C. Any activity set forth hereinabove undertaken by any Grantee shall be undertaken only in compliance with all applicable codes, ordinances, laws and regulations of any municipal, school, governmental or quasi-governmental agency having jurisdiction over the activity or the Apartment Lot. If a Grantee causes any damage to any portion of the Easement Area, such Grantee causing said damage shall be responsible for the cost of restoring such portion of the damaged Easement to the condition in which it was prior to such Grantee's commencement of such activity. No Grantee shall store any vehicles, equipment, materials, supplies, debris or other items on any portion of the Apartment Lot. Notwithstanding any term or

provision in this Agreement to the contrary, Grantees covenant and agree that any access by a Grantee to any portion of the Apartment Lot under this Easement shall be undertaken with consideration for the safety, welfare and security policies and procedures of Grantor and Grantor's tenants, and their respective employees, agents, tenants, invitees, licensees, and guests.

2. **Cost and Maintenance of the Easements.** Except as set forth herein, the Grantor shall, maintain and shall be responsible for the payment of all costs and expenses of the maintenance, repair and replacement of, and any improvements, for obtaining and maintaining any necessary governmental permits or approvals required therefor.

3. **Grantor's Rights.** Grantor its successors, assigns and grantees retain, reserve and shall continue to have the right to use the said private roadways within the Apartment Lot and all subsurface areas, for any and all purposes, but shall not unreasonably prevent or obstruct the limited use by Grantees of the Easement, or any part thereof, for the purposes set forth herein. It is expressly understood and acknowledged that Grantor intends to and is permitted to utilize the areas under the private roadways for utilities that will service the development upon the Apartment Lot, including, but not limited to, underground storm drainage lines, sanitary sewer lines, water and gas mains, electric power lines, telephone lines, and any and all other utility lines, pipes and conducting media in accordance with permits and/or approvals issued therefor.

4. **Indemnification.** Notwithstanding anything in this Easement to the contrary, Grantor, and its respective agents, servants, and employees shall not be liable for the acts or omissions of any Grantee, its agents, servants, or employees, with respect to Grantee's presence upon the private internal roadways and/or utilization of the Easement, or any activity undertaken by any Grantee in connection with its work performed within, upon or under the Apartment Lot, upon the Easement Areas and/or utilization of this Easement. Except for any injury, loss, damage or contamination caused in whole or in part by Grantor's acts or omissions, Grantees shall indemnify, defend and hold Grantor harmless from and against any and all liability and/or claims arising from or relating to Grantees' entry upon the Easement Areas, or any portion thereof, and the use of the Easement granted herein, as well as any activity undertaken by any Grantee, including without limitation, liability or claims for (i) personal injury (including death at any time resulting therefrom), (ii) loss of or damages to property (including loss of use thereof), and/or (iii) contamination of, adverse effects on, or damage to the environment or the violation of any environmental law or regulation, and/or (iv) any reasonable attorney's fees or court costs incurred by Grantor in connection therewith.

Notwithstanding anything in this Easement to the contrary, Grantees, and their respective agents, servants, and employees shall not be liable for the acts or omissions of any Grantor, its agents, servants, or employees, with respect to Grantor's presence upon the Easement Areas as permitted by Paragraph 3 of this Easement or otherwise as such rights are reserved. Grantor shall indemnify, defend and hold Grantees harmless from and against any and

all liability and/or claims arising from or relating to Grantor's blocking of the Easement Areas, or any portion thereof, as well as any activity prohibited hereunder taken by Grantor within the Easement Areas such that the use and purpose of this Easement is impaired, including without limitation, liability or claims for (i) personal injury (including death at any time resulting therefrom), (ii) loss of or damages to property (including loss of use thereof), (iii) contamination of, adverse effects on, or damage to the environment or the violation of any environmental law or regulation, and/or (iv) any reasonable attorney's fees or court costs incurred by any Grantee in connection therewith, except for any act caused by any Grantee, its respective agents, servants and/or employees negligence, or any act or omission covered by the indemnification, defense and hold harmless made by Grantees in the preceding paragraph.

5. **Effect of Condemnation.** If less than all of the Apartment Lot is taken through the exercise of eminent domain or condemnation and sufficient land remains for Grantees to enjoy the benefit of the Easement, then such Easement shall continue. If all of the Apartment Lot comprising the Easement is taken by any government authority through the exercise of eminent domain or condemnation, then such Easement shall terminate upon the date that title to such affected property vests in the condemning authority.

6. **Grantee's Assurances.** In the event that Grantor or any mortgagor of Grantor requests an estoppel certificate with respect to such party's respective obligations under and pursuant to this Easement, Grantee agrees to cooperate with such requesting party and to execute an estoppel certificate if required by the requesting party's mortgage lender; provided that said estoppel certificate or request does not limit or eliminate any of the terms or rights provided Grantee in this Easement. Any such estoppel certificate shall be delivered with ten (10) days after the request therefor is made.

7. **Duration of the Easement and Covenants Running With Land.** The Easement hereby granted and the covenants and agreements herein contained shall be easements, covenants and restrictions running with the land, in perpetuity, and shall inure to the benefit of and be binding upon and enforceable against Grantor and Grantees, and their respective successors, assigns and grantees of the Apartment Lot.

8. **No Waiver.** Except as expressly set forth herein, any delay by any party to enforce its rights hereunder at any time or for any violation hereof shall not be deemed a waiver of rights hereunder.

9. **Recording.** Grantor shall promptly record and shall pay all recording fees in connection with the grant of this Easement.

10. **Notices.** All notices or other communications required or permitted to be given under the terms of this Easement shall be in writing and shall be sent by certified mail, postage prepaid, or by private carrier guaranteeing next day delivery such as Federal Express or via facsimile transfer with an original by overnight delivery service to the address set forth on the

first page of this Agreement, and to the Borough Solicitor, or, in the event that title to any of the Apartment Lot is transferred, then to such address as is set forth for the grantee on any record owner deed applicable to such Apartment Lot, or to such other address or addresses and to the attention of such other person or persons as any of the parties may notify the others in accordance with the provisions of this Easement.

11. **Integration and Modification.** This Easement contains all of the terms and understandings between the parties relating to this Roadway Access Easement and the rights granted hereby. Any modification of this Easement must be in writing and must be signed by the record owner of the Apartment Lot and by the Borough Grantee and the Education Grantee. The modification shall not be effective until recorded in the appropriate recording office of Gloucester County, New Jersey. The recitals in this Easement are a part of the terms of this Easement and are incorporated herein at length. This Easement shall be governed by and construed according to the laws of the State of New Jersey.

12. **No Transfer.** Upon thirty (30) days advance written notice to Grantor providing Grantor with the exact name and address of the proposed assignee, Grantee shall be permitted to assign this Easement to another governmental county or state agency/entity. Except as set forth in the preceding sentence, Grantees shall not assign, sell, mortgage, pledge, or otherwise transfer any of its rights, benefits and obligations created by this Easement with respect to the Apartment Lot. In no event shall this Easement be construed to convey to any Grantee any title to the Apartment Lot, nor shall any Grantee have the right to encumber any of the Apartment Lot.

13. Grantor represents that it is owner in fee simple of the Apartment Lot and is legally capable of making this Easement such that Grantee may benefit from the purposes described herein.

14. The invalidation of one or more of the easements, covenants, restrictions or obligations contained herein by Judgment or Court Order shall in no way affect the validity or enforceability of any other provisions herein which shall remain in full force and effect.

IN WITNESS WHEREOF, Grantor and Grantees, intending to be legally bound hereby, have caused this Agreement to be executed and their seals to be affixed the day and year first above written.

Witness/Attest

Grantor:

AURA DEVELOPMENT GLOUP LLC
A New Jersey limited liability company

By: Canuso Communities Corp.,
A New Jersey Corporation, Manager

By: _____
John Canuso, President

Grantee:

BOROUGH OF GLASSBORO
A municipal corporation

By: _____

GLASSBORO BOARD OF EDUCATION

By: _____

STATE OF NEW JERSEY, COUNTY OF _____) ss.

On this ____ day of _____, 2015, before me, the subscriber, a Notary Public of the State of New Jersey, personally appeared JOHN B. CANUSO, to me known, who, being by me duly sworn upon his oath according to law, did depose and say that he is the President of CANUSO COMMUNITIES CORP., A New Jersey corporation, the Manager of AURA DEVELOPMENT GROUP, LLC, a New Jersey limited liability company, the Grantor named in the within Instrument, and that in his capacity aforesaid he executed the within instrument on behalf of the said Canuso Communities Corp., for and on behalf of Grantor; he did duly acknowledge to me that he signed, sealed and delivered the same as the voluntary act and deed of the Grantor and as such officer of the said Corporation, by virtue of authority granted by the Manager's Board of Directors and the written consent of said Manager on behalf of the Grantor.

Notary Public of New Jersey

My commission expires: _____

STATE OF NEW JERSEY)
) ss.
COUNTY OF _____)

On the ____ day of _____, 2015, before me, a Notary Public, personally appeared _____, who acknowledged to be the _____ of the Borough of Glassboro, who I am satisfied is the person who signed the within instrument, and he acknowledged that he signed, and delivered the same as such authorized representative of the Borough Grantee, and that the within instrument is the voluntary act and deed of such municipal corporation.

STATE OF NEW JERSEY)
) ss.
COUNTY OF _____)

On the ____ day of _____, 2015, before me, a Notary Public, personally appeared _____, who acknowledged to be the _____ of the GLASSBORO BOARD OF EDUCATION, who I am satisfied is the person who signed the within instrument, and he acknowledged that he signed, and delivered the same as such authorized representative of the Education Grantee, and that the within instrument is the voluntary act and deed of such municipal utilities authority.

