

CITY OF VINELAND

RESOLUTION NO. 2018-78

RESOLUTION AUTHORIZING THE EXECUTION OF A MASTER REDEVELOPMENT AND PURCHASE AND SALE AGREEMENT BY AND BETWEEN THE CITY COUNCIL OF THE CITY OF VINELAND AS THE REDEVELOPMENT ENTITY AND CO-OWNERS WITH THE CUMBERLAND COUNTY IMPROVEMENT AUTHORITY OF ALL OR A PORTION OF THE ENERGY AND MINERALS CONDEMNATION REDEVELOPMENT AREA AND NEP REAL ESTATE OF VINELAND URBAN RENEWAL, LLC, VINELAND NEW JERSEY AS THE REDEVELOPER

WHEREAS, pursuant to the provisions of the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. the City Council of the City of Vineland has determined that certain properties within the City are deemed to be properties in need of redevelopment and has adopted Resolution finding that Block 7503, Lots 35.01, 33.01, 35.02 and 50 declaring the same the Energy and Minerals Redevelopment Area (Property); and

WHEREAS, City Council finds that redevelopment of the Property for Industrial and Commercial purposes in accordance with Ordinance 2017-68 adopting the Energy and Minerals Condemnation Redevelopment Plan (Plan) prepared by Kathleen Hicks dated August 2017 is the most beneficial use of the Property and will promote job creation and economic development while remediating the problems which have caused the Property to be deemed an area in need of redevelopment; and

WHEREAS, the Property is jointly owned by the City with the Cumberland County Improvement Authority in accordance with a Shared Services Agreement (Agreement); and

WHEREAS, NEP Real Estate of Vineland Urban Renewal, LLC (NEP) has requested City Council as the redevelopment entity appoint it as the redeveloper for the Property subject to the execution of a Master Redevelopment and Purchase and Sale Agreement wherein NEP shall acquire the Property and redevelop the same in accordance with the Plan and the requirements of N.J.S.A. 40A:12A-1 et seq; and

WHEREAS, upon the recommendations and information provided by the Director of Economic Development, City Council finds that NEP has the financial ability, experience and expertise to redevelop the Property within a reasonable period of time as set forth in the Agreement and the Cumberland County Improvement Authority having no objection to the sale of the Property and has further authorized the sale of the Property to NEP conditioned upon NEP being appointed as redeveloper and the execution of the Agreement as attached hereto and made a part hereof.

NOW THEREFORE BE IT RESOLVED by the Council of the City of Vineland that City Council of the City of Vineland as the Redevelopment Entity appoints NEP Real Estate of Vineland Urban Renewal, LLC, 224 S. Lincoln Avenue, vineland, New Jersey as the Redeveloper for the Energy and Minerals Condemnation Redevelopment Area in accordance with N.J.S.A. 40A:12-8, subject to the execution of a Master Redevelopment and Purchase and Sale Agreement in the form and substance attached hereto and made a part hereof.

CITY OF VINELAND

BE IT FURTHER RESOLVED that Council President shall execute the Agreement on behalf of the Redevelopment Entity.

Adopted:

President of Council

ATTEST:

City Clerk

This **MASTER REDEVELOPMENT AND PURCHASE AND SALE AGREEMENT** (this "Redevelopment Agreement"), dated as of _____, 201__, is hereby entered into, by and among the **VINELAND CITY COUNCIL, the Governing Body of the CITY OF VINELAND** (the "City"), a municipal corporation of the State of New Jersey, maintaining its principal offices at 640 E. Wood Street, Vineland, County of Cumberland, NJ 08362-1508, acting in the capacity of "Redevelopment Entity" pursuant to and as defined in the provisions of the Local Redevelopment and Housing Law, **N.J.S.A. 40A:12A-1 et seq.**, the Cumberland County Improvement Authority, maintaining its principal offices at 2 North High Street, Millville, NJ 08332 (the "CCIA"), and **NEP REAL ESTATE OF VINELAND URBAN RENEWAL, LLC** whose address 224 S. Lincoln Avenue, Vineland, New Jersey 08360, or his Permitted Assignee or Designee ("Redeveloper"). Together, the City and Redeveloper are the "Parties."

PRELIMINARY STATEMENT

Pursuant to the provisions of the Local Redevelopment and Housing Law, **N.J.S.A. 40A:12A-1 et seq.** as amended and supplemented (the "Act"), the City has undertaken a program for the revitalization of that certain property identified as Block 7503, Lot 35.01; Block 7503, Lot 33.01, Block 7503, Lot 35.02, and Block 7503, Lot 50 of the tax map of the City of Vineland, and graphically depicted on the Subdivision Plan attached as **Exhibit A** (the "Project Site"). The property commonly known as Block 7503, Lot 35.01; Block 7503, Lot 33.01, and Block 7503, Lot 35.02 on the tax map of the City of Vineland (collectively, the "Public Parcels") are currently owned jointly by the City and the CCIA. The property commonly known as Block 7503, Lot 50 on the tax map of the City of Vineland (the "Private Parcel") is owned by a third party. The Parties intend to secure high quality, cost-efficient redevelopment of the Project Site in as short a time frame as practicable.

The City has determined that redevelopment of the Project Site for industrial and commercial purposes, in accordance with the Redevelopment Plan prepared by Kathleen M. Hicks dated August 2017 (the "Redevelopment Plan"), and graphically depicted on the Concept Plan attached as **Exhibit B**, is likely the most beneficial uses of the property (as defined further herein, the "Project") since those uses will promote job creation and economic development benefits within the municipality and, therefore, fulfills the purposes of the Act.

Redeveloper maintains that it has the financial ability, experience and expertise to redevelop the Project Site within a reasonable time and within the time set forth in accordance with the provisions of this Redevelopment Agreement and has prior hereto has undertaken substantial efforts in furtherance of the goals and intention of this Redevelopment Agreement.

To effectuate the purposes of the Act, and, in consideration of the Project, the mutual covenants and agreements are herein set forth, along with other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each Party

hereto, and the City and Redeveloper hereby agree to work cooperatively as Redeveloper complies with this Redevelopment Agreement.

WITNESSETH:

WHEREAS, the Act provides a process for redevelopment entities to participate in the redevelopment and improvement of areas designated in need of redevelopment; and

WHEREAS, in order to stimulate redevelopment for the City of Vineland, the City has designated the Project Site as an “area in need of redevelopment” in accordance with the Act; and

WHEREAS, the City has determined that redevelopment of the Project Site should include a mix of industrial and commercial uses and such other uses as delineated in the City Redevelopment Plan to meet the current goals of the City, and further that Redeveloper is able, based on discussions between the Parties, to implement such proposed plan if it is determined that the best interests of the City and Redeveloper are promoted by such a redevelopment; and

WHEREAS, the City has adopted, or anticipates adopting a Resolution designating NEP Real Estate of Vineland Urban Renewal, LLC as the redeveloper for the Project Site, conditioned, in part, upon Redeveloper and the City entering into this Redevelopment Agreement.

WHEREAS, Redeveloper proposes to purchase from the City and the CCIA the Public Parcels and to acquire through purchase, or through condemnation, the Private Parcel.

WHEREAS, the City and the CCIA are willing to sell the Public Parcels to Redeveloper, subject to the terms and conditions of this Redevelopment Agreement, in order to facilitate the redevelopment of the Project Site in a way that is consistent with and in furtherance of, the goals and objectives of the Redevelopment Plan, the Redevelopment Law, and the City’s Master Plan.

WHEREAS, Redeveloper is also willing to grant to the City an access easement across the property commonly known as Block 7503, Lot 33.01 to provide access to the property commonly known as Block 7503, Lot 45.01 and Block 7503, Lot 33.02 on the tax map of the City.

WHEREAS, Redeveloper intends to obtain an access easement across the property commonly known as Block 7503, Lot 46, which is owned by Dun-Rite Sand & Gravel Co., also connecting the Project Site with S. Lincoln Avenue.

WHEREAS, the City has been designated the Redevelopment Entity for the purpose of implementing the Redevelopment Plan.

WHEREAS, the City desires that the Project Site be redeveloped by Redeveloper in accordance with the Redevelopment Plan due to Redeveloper’s demonstrated ability to

implement the kind of redevelopment project that the City desires, subject to necessary approvals, as well as Redeveloper's willingness to cooperate with the City pursuant to law; and

WHEREAS, prior to the execution of this Redevelopment Agreement, Redeveloper has undertaken to perform numerous tasks and has expended significant financial resources, including but not limited to determining the feasibility of the proposed Project, the availability of necessary resources and infrastructure and the likelihood of potential tenants for the Project, such that it has invested considerable time, effort and money to assure that the Project proposed by this Redevelopment Agreement will be eventually successful. Redeveloper has relied on its own experience and expertise in determining the feasibility of the Project and entering into this Redevelopment Agreement.

WHEREAS, the Parties desire to enter into this Redevelopment Agreement in order to set forth the terms and conditions pursuant to which the Project Site shall be redeveloped, as required by this Redevelopment Agreement, and in accordance with the Act;

WHEREAS, Redeveloper has or will obtain preliminary and final site plan approval for the Project Site, substantially in accordance with the Concept Plan attached as **Exhibit B** (the "Concept Plan") subject to the submission of a perfected plan and satisfaction of other delineated conditions, from the City Planning Board. Nothing herein shall prohibit Redeveloper from amending, in accordance with applicable law and procedure, its current approvals to be consistent with the City's Master Plan.

NOW THEREFORE, for and in consideration of the promises and mutual representations, covenants and agreements herein set forth, the Parties hereto, binding themselves, as well as

their successors and assigns, do hereby mutually promise, covenant and agree to effectuate redevelopment of the Project Site as follows:

ARTICLE 1 DEFINITIONS AND INTERPRETATIONS

SECTION 1.1. Definitions. Except as expressly provided herein to the contrary, all capitalized terms used in this Redevelopment Agreement and its Exhibits shall have the following meanings:

“Acquisition Loan” means the Note, Mortgage and loan documents related thereto executed by Redeveloper in an amount not to exceed \$3,800,000.00 to be used for the acquisition of and Block 7503, Lot 35.01 and Block 7503, Lot 33.01.

“Acquisition Parcels” shall mean the Private Parcel and any other property or interest in property to be acquired through condemnation.

“Act” as defined in the preliminary statement.

“Applicable Laws” mean all Federal, State and Local laws, ordinances, approvals, rules, regulations and requirements applicable thereto including, but not limited to the Local Redevelopment and Housing Law, the Municipal Land Use Law, the New Jersey Administrative Code, relevant construction codes, and such zoning, sanitary, pollution and other environmental safety ordinances, laws and such rules and regulations there under, including all applicable Environmental Laws and Federal and State labor standards.

“Bulk Sales Act” is defined in **Section 6.2(i)**.

“CCIA” as defined in the preamble.

“Certificate of No Default” is defined in **Section 4.9**.

“Certificate of Occupancy” means a permanent “Certificate of Occupancy”, as such the term is used within the New Jersey Administrative Code, **N.J.A.C. 5:23-1.4** and **5:23-2**, *et seq.*, issued with respect to the Project, upon completion of the Project or any Phase or distinct portion thereof.

“City” as defined in the preamble.

“City Covenants” are those set forth in **Section 3.6** below.

“City Event of Default” is defined in **Section 11.3**.

“Commence Construction” or “Commencement of Construction” means the undertaking by Redeveloper of any actual physical construction or improvements, including but not limited

to site preparation, environmental remediation, demolition as directed by the City, construction of new structures, and installation or improvement of infrastructure.

“Completion” means the issuance of a Certificate of Completion by the City for the Project or any Phase or distinct portion thereof.

“Declaration” shall have the meaning set forth in **Section 3.1**.

“Dedicated Improvements” means any improvements dedicated to the City of Vineland on the Subdivision plat or Site Plan(s) and accepted by the City.

“Default” is defined in **Section 11.1**.

“Default Notice” is defined in **Section 11.4**.

“Effective Date” means the later of the dates of the Parties’ execution of this Redevelopment Agreement, or the approval by Vineland City Council.

“Eminent Domain Acquisition Costs” shall mean (a) the price paid or to be paid to the property owners of the Acquisition Parcels which shall be the just compensation value determined by the condemnation process either in bona fide negotiations with the property owner or as a result of the proceedings before the condemnation commissioners or the court, and (b) all actual, out of pocket acquisition costs of the City, including the Eminent Domain Deposit and other costs and fees directly associated with the acquisition of the Acquisition Parcels.

“Eminent Domain Act” shall mean the law governing the acquisition of real property by the City through the exercise of its powers of eminent domain, as codified at **N.J.S.A. 20:3-1 et seq.**, as same may be amended or supplemented from time to time.

“Eminent Domain Deposit” shall be as defined in **Section 6.4(c)**.

“Environmental Indemnification” is defined in **Section 6.2(h)**.

“Environmental Laws” are any and all federal, State, regional, and local laws, statutes, ordinances, regulations, rules, codes, consent decrees, judicial and administrative orders, decrees, directives and judgments relating to contamination, damage to or protection of the environment, any historical resources, environmental conditions, or the use, handling, processing, distribution, generation, treatment, storage, disposal, manufacture or transport of Hazardous Substances, presently in effect or hereafter amended, modified, or adopted including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”) (**42 U.S.C. § 9601 et seq.**); the Resource Conservation and Recovery Act of 1976 (“RCRA”) (**42 U.S.C. § 6901 et seq.**); the Clean Water Act (**33 U.S.C. § 1251 et seq.**); the New Jersey Spill Compensation and Control Act (the “Spill Act”) (**N.J.S.A. 58:10-23.11 et seq.**); the Industrial Site Recovery Act, as amended (“ISRA”) (**N.J.S.A. 13:1K-6 et seq.**); the New Jersey Underground Storage of Hazardous Substance Act (**N.J.S.A. 58:10A-21 et seq.**); the New Jersey Water Pollution

Control Act (N.J.S.A. 58:10A-1 *et seq.*); the New Jersey Brownfield and Contaminated Site Remediation Act (N.J.S.A. 58:10B-1 *et seq.*); the New Jersey Environmental Rights Act (N.J.S.A. 2A:35A-1 *et seq.*); and the rules, regulations and guidance promulgated there under.

“Events of Default” are described below in **Article 11**.

“Force Majeure Event” is defined in **Section 11.8** below for the purposes of any of the provisions of this Redevelopment Agreement. Insufficient funds for Redeveloper to complete the Project is not a Force Majeure Event.

“Good Faith Offer” is defined in **Section 6.4(c)**.

“Governmental Approvals” means all necessary reviews, consents, permits or other approvals of any kind legally required by any Governmental Body in order to implement the Project.

“Governmental Body” means any federal, State, county or local agency, department, commission, authority, court, or tribunal, and any successor thereto, exercising executive, legislative, judicial, or administrative functions of or pertaining to government, including, without limitation, the City of Vineland, the County of Cumberland, and the State of New Jersey.

“Hazardous Substance” means any substance, material or waste that is listed as hazardous, toxic, a pollutant or contaminant, or dangerous under any applicable federal, state, county or local statute, rule, regulation, ordinance or order, including but not limited to CERCLA hazardous substances and Spill Act hazardous substances.

“Legal Requirements” means all laws, statutes, codes, ordinances, resolutions, binding conditions, orders, regulations and requirements, as amended from time to time, including all environmental laws and regulations of federal, state, county and municipal governments.

“Loan Documents” means the Note, Mortgage, and loan documents related thereto for the Acquisition Loan and the Construction Loan as defined herein.

“NJDEP” or “DEP” means the New Jersey Department of Environmental Protection and any successors in interest.

“Parties” as defined in the preamble.

“Person” means any individual, sole proprietorship, corporation, partnership, joint venture, limited liability company or corporation, trust, unincorporated association, institution, public or governmental body, or any other entity.

“PILOT Agreement” means a financial agreement entered into between Redeveloper, or any urban renewal entity designated in furtherance of this Redevelopment Agreement and the City for tax exemptions and payments in lieu of taxes, as authorized by law, for a time period

agreed upon in writing by the City, which time period shall be up to the maximum time permitted by applicable laws.

“Phase” means any or all of Phase 1, Phase 1A, Phase 2, Phase 3 or Phase 4. Each Phase shall also include associated site improvements, including, but not limited to, driveways, roads, parking, curbing and drainage as depicted on the Concept Plan, shown the site plan approved by the Vineland Planning Board, and/or required as a condition of approval of the site plan by the Vineland Planning Board.

“Phase 1” means preparation of building envelope for steel and multi-use shop of approximately 120,000 sq. ft. and the installation of a new concrete batching plant on Block 7503, Lot 33.01, as depicted on the Concept Plan.

“Phase 1A” means obtaining the necessary easements for the access driveways across Block 7503, Lot 46 and the construction of the access driveways as depicted on the Concept Plan. The access driveways are to be constructed in accordance with plans approved by the Redevelopment Entity and shall include a granting of an easements to the City for the property commonly known as Block 7503, Lot 45.

“Phase 2” means preparation of the Project Site for master production building of approximately 400,000 – 600,000 sq. ft. to be constructed on Block 7503, Lot 33.01, as depicted on the Concept Plan.

“Phase 3” means the permanent corporate offices to be constructed on Block 7503, Lot 33.01, as depicted on the Concept Plan.

“Phase 4” means preparation of site and building pads for spec. buildings to be constructed on Block 7503, Lot 35.01, as depicted on the Concept Plan.

“Private Parcel” as defined in the preliminary statement.

“Project” means, collectively (a) the acquisition of the Project Site, (b) the design, development and construction of all of the Phases, as approved by the City and all other necessary Governmental Bodies; (c) all required utility connections and upgrades; (d) posting of all required performance bonds and the provision of all required guarantees and insurance coverage; (e) completion of all offsite improvements; (f) diligently seeking and obtaining all Governmental Approvals, (g) construction and issuance of a Certificate of Occupancy for all Project Improvements, (h) satisfaction of all financial obligations due and owing the City and to Redeveloper, and (i) execution of a PILOT Agreement between the City and Redeveloper in accordance with the terms of this Redevelopment Agreement.

“Project Improvement” means all buildings, structures, improvements, site preparation work, offsite improvements, and all amenities necessary for the implementation and completion of the Project.

“Project Site” as defined in the preliminary statement.

“Project Schedule” means the schedule of commencement and completion dates set forth **Section 4.12**. The failure to comply with the Project Schedule by Redeveloper shall constitute a default under the terms of this Redevelopment Agreement.

“Project Team” means the Project Manager, Project Engineer, Project Architect, Environmental Consultant, Project Planner, Construction Engineer, a member of the City of Vineland’s Engineering Department, the Director of Licensing and Inspections and the City Planner.

“Public Improvements” means all offsite roadway and traffic control improvements required by the Planning Board or otherwise proposed for the Project.

“Public Parcels” as defined in the preliminary statement.

“Purchase Price” is defined in **Section 6.2(a)**.

“Qualified Entity” as defined in **Section 6.3(a)**.

“Redeveloper” as defined in the preamble.

“Redeveloper Covenants” are those defined at **Section 3.2** below.

“Redeveloper Due Diligence” is defined in **Section 6.2(d)**.

“Redeveloper Event of Default” is defined in **Section 11.2**.

“Redevelopment Agreement” as defined in the preamble.

“Redevelopment Plan” as defined in the preliminary statement.

“State” means the State of New Jersey.

“Title Commitment” shall be as defined in **Section 6.2(f)**.

“Title Company” shall be as defined in **Section 6.2(f)**.

“Transfer” is defined in **Section 8.1**.

“UEZ” means the Enterprise Zone Development Corporation of Vineland and Millville a separate and autonomous entity.

“USEPA” or “EPA” means the United States Environmental Protection Agency.

“Zoning Ordinance” means that portion of the City’s Land Use Ordinance and all related municipal land use regulations enacted pursuant to **N.J.S.A. 40:55D-1 et seq.** and **N.J.S.A. 40A:12A-1 et seq.** regarding Zoning.

SECTION 1.2. Drafting Ambiguities; Interpretation. In interpreting any provision of this Redevelopment Agreement, no weight shall be given to, nor shall any construction or

interpretation be influenced by, the fact that either Party or their attorney drafted any version of this Redevelopment Agreement, each Party recognizing that it and its attorney has had an opportunity to review this Redevelopment Agreement and has contributed to the final form of same. Unless otherwise specified: (i) whenever the singular number is used in this Redevelopment Agreement, the same shall include the plural, and the plural shall include the singular, (ii) the words "consent" or "approve" or words of similar import, shall mean the written consent or approval of the City or Redeveloper, as the case may be, unless expressly stated to the contrary herein, (iii) the words "include" and "including", and words of similar import, shall be deemed to be followed by the words "without limitation," (iv) "hereunder" shall be deemed to refer to the provisions of this Redevelopment Agreement in their entirety and not to a provision contained within any particular Section, and (v) all Exhibits to this Redevelopment Agreement are incorporated herein by reference.

SECTION 1.3. Interpretation and Construction. In this Redevelopment Agreement, unless the context otherwise requires:

(a) The terms "hereby", "hereof", "hereto", "herein", "hereunder" and any similar terms, as used in this Redevelopment Agreement, shall refer to this Redevelopment Agreement.

(b) Words importing a particular gender mean and include correlative words of the other gender

(c) Words importing persons or entities mean and include firms, associations, partnerships (including limited partnerships), trusts, corporations, limited liability companies and other legal entities, including public and governmental bodies and natural persons.

(d) Any headings preceding the texts of the several Articles and Sections of this Redevelopment Agreement shall be solely for convenience of reference and shall not constitute a part of this Redevelopment Agreement, nor shall they affect its meaning, construction or effect.

(e) Unless otherwise indicated, all approvals, consents and acceptances required to be given or made by either Party hereunder shall not be unreasonably withheld, conditioned, or delayed.

(f) All notices to be given hereunder and responses thereto shall be given, unless a certain number of days is specified, within 10 days.

(g) Unless otherwise indicated, any fees, costs and/or expenses shall be required to be customary and reasonable.

ARTICLE 2 GENERAL REPRESENTATIONS AND WARRANTIES

SECTION 2.1. Representations and Warranties by Redeveloper. Redeveloper hereby represents and warrants the following to the City for the purpose of inducing the City to enter into this Redevelopment Agreement, and to consummate the transactions contemplated hereby,

all of which shall be true as of the date hereof, and all of which shall survive this Redevelopment Agreement:

(a) Redeveloper has the legal power, right and authority to enter into this Redevelopment Agreement and the instruments and documents referenced herein to which Redeveloper is a Party, to consummate the transactions contemplated hereby, to take any steps or actions contemplated hereby, and subject to securing Governmental Approvals, to perform all of Redeveloper's obligations hereunder.

(b) This Redevelopment Agreement is duly executed by Redeveloper, and is valid and legally binding upon Redeveloper and enforceable in accordance with its terms. The execution and delivery hereof shall not constitute a default under or violate the terms of any indenture, agreement or other instrument to which Redeveloper is a party.

(c) No adjudication of bankruptcy or liquidation of Redeveloper, nor filing for voluntary bankruptcy by Redeveloper under the provisions of the United States Bankruptcy Code or any other similar statute applicable to Redeveloper shall have been filed as of the effective date of this Redevelopment Agreement.

(d) No indictment has been returned against Redeveloper nor against any official of Redeveloper with respect to any transaction related to the transactions contemplated by the terms of this Redevelopment Agreement.

(e) Redeveloper's execution and delivery of this Agreement, and its performance hereunder, will not constitute a violation of any operating, company, corporate, partnership and/or stockholder agreement of Redeveloper, or of any agreement, mortgage, indenture, instrument or judgment, to which Redeveloper is a party.

(f) All information and statements included in any information submitted to the City and its agents, including but not limited to Redeveloper's ownership structure, are true and correct in all material respects.

(g) Redeveloper and its principals and guarantors are financially and technically capable of acquiring the Project Site and of redeveloping, designing, financing and constructing the Project in accordance with the Redevelopment Plan, as amended from time to time, and all Legal Requirements and Governmental Approvals.

(h) There is no action, proceeding or investigation now pending, nor any basis therefore, known or believed to exist which (1) questions the authority of Redeveloper to enter into the Redevelopment Agreement or any action or act taken or to be taken by Redeveloper pursuant to this Redevelopment Agreement; or (2) is likely to result in a material adverse change in Redeveloper's property, assets, liabilities or condition which will materially and substantially

impair its ability to perform its obligations pursuant to the terms of this Redevelopment Agreement.

SECTION 2.2. Representations and Warranties by the City. The City hereby represents and warrants the following to Redeveloper for the purpose of inducing Redeveloper to enter into this Redevelopment Agreement, and to consummate the transactions contemplated hereby, all of which shall be true as of the date hereof, and all of which shall survive this Redevelopment Agreement:

(a) City Council, as the redevelopment entity, has the legal power, right and authority to enter into this Redevelopment Agreement, and the instruments and documents referenced herein to which the City shall be a party, to consummate the transactions contemplated hereby, and to perform its obligations hereunder.

(b) The execution and delivery thereof shall not constitute a default under or violate the terms of any indenture, agreement or other instrument to which the City is a party

(c) There is no pending, or to the best of the City's knowledge, threatened litigation, that would prevent the City from performing its duties and obligations hereunder.

SECTION 2.3. Mutual Representations.

(a) The City and Redeveloper agree that the Project will be governed by the adopted Redevelopment Plan, as amended from time to time by ordinance, as well as any provisions of City land use ordinances, the Act, and this Redevelopment Agreement, and that Redeveloper will expeditiously seek all Governmental Approvals so that Redeveloper can complete this Project, with guidance from the City, in a timely fashion. If requested by Redeveloper, the City agrees that it may function as a co-applicant on certain applications for Governmental Approvals, where appropriate, at no cost to the City and provided that same is not prohibited by law.

(b) In the event that any contractual provisions required by Legal Requirements have been omitted, the City and Redeveloper agree that this Redevelopment Agreement shall be deemed to incorporate all such clauses by reference, and that such requirements shall become a part of this Redevelopment Agreement. If such incorporation occurs and results in a change in the obligations or benefits of one of the Parties, the City and Redeveloper hereby agree to act in good faith to mitigate such changes in position.

ARTICLE 3
DECLARATION OF COVENANTS AND RESTRICTIONS; REDEVELOPER COVENANTS; CITY COVENANTS

SECTION 3.1. Declaration of Covenants and Restrictions. If the City directs that Redeveloper record a Declaration of Redeveloper's Covenants and Restrictions ("Declaration"), recordation shall be at Redeveloper's sole expense. Recording shall be effectuated by recordation of a memorandum of the terms hereof.

SECTION 3.2. Redeveloper Covenants. The following covenants and agreements by Redeveloper, for the purposes of this Redevelopment Agreement including the Exhibits hereto, shall be construed to include Redeveloper's covenants, not only as to Redeveloper's actions, but as to the actions of any successor or City-approved assignee of Redeveloper and Redeveloper's Project Team until the recording of full discharge of such agreements and covenants:

(a) Redeveloper shall implement the Project in accordance with the provisions of this Redevelopment Agreement and Legal Requirements, including, but not limited to, the Act, all Governmental Approvals and all Environmental Laws, and shall expeditiously seek all Project approvals. Redeveloper's execution of this Redevelopment Agreement confirms Redeveloper's ability to perform hereunder.

(b) Redeveloper shall undertake with due diligence to pursue and obtain the necessary financing for the Project to redevelop the Project Site; and also to perform each item hereunder in a commercially reasonable period, however in no event shall the development period exceed the time requirements set forth in this Redevelopment Agreement or any amendments hereto.

(c) Redeveloper shall use diligent efforts to obtain all Governmental Approvals required for the construction and redevelopment of the Project Site, including evidence satisfactory to the City that Redeveloper's use of the Project Site shall be in compliance with all Legal Requirements and all applicable Environmental Laws. Redeveloper shall pursue all permits and approvals in good faith and shall keep the City apprised of the status of same.

(d) During redevelopment and construction, and upon completion of the Project, Redeveloper shall use diligent efforts to obtain all Governmental Approvals authorizing the occupancy and uses of the Project Site for the purposes contemplated hereby.

(e) Redeveloper shall not suspend or discontinue the performance of its obligations under this Redevelopment Agreement, without the written consent of City.

(f) Redeveloper shall notify the City of any material change in its financial condition, from the information previously provided to the City indicating Redeveloper's financial capability to redevelop, finance and construct the Project in furtherance of this Agreement.

(g) Redeveloper shall make all payments, in satisfaction of Redeveloper's financial obligations as set forth in this Redevelopment Agreement.

(h) Redeveloper shall not use the Project Site in a manner that is inconsistent with: (1) the Redevelopment Plan, as amended, (2) any controlling Zoning Ordinance, or (3) this Redevelopment Agreement.

(i) Redeveloper shall complete the Project or cause the Project to be completed at its expense, using any private resources, grants provided, obtained and/or applied for by City in accordance with this Agreement and State and Federal assistance that may be available. The City

shall in no way be obligated to provide Project resources, unless specifically provided for herein, or unless specifically set forth in another written instrument executed by the Parties.

(j) Redeveloper shall not discriminate against or segregate any person, or group of Persons, on account of race, color, religion, creed, age, national origin, ancestry, physical handicap, marital status, affectional preference or gender, in any sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Project Site, nor shall Redeveloper itself, nor any affiliate claiming under or through Redeveloper, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use of occupancy of tenants, lessees, subtenants, sublessees, or vendees at the Project Site.

(k) Redeveloper shall refrain from restricting any sale, lease, sublease, rental, transfer, use, occupancy, tenure, or enjoyment of the Project Site (or any part thereof) on the basis of race, color, religion, creed, age, national origin, ancestry, physical handicap, marital status, affectional preference or gender of any person.

(l) Redeveloper covenants that its undertakings pursuant to this Redevelopment Agreement shall be for the purpose of redevelopment of the Project Site.

(m) Redeveloper shall use commercially reasonable efforts to commence and complete construction of the Project but in no event later than the dates set forth **Section 4.12**.

(n) Redeveloper shall not convey or Transfer, nor permit the conveyance or transfer of the Project Site or the Project, or any portions thereof, to third parties without specific, written prior approval by the City, which approval shall not be unreasonably withheld.

(o) Redeveloper shall construct or cause to be constructed, only those improvements established in the Redevelopment Plan or as otherwise approved by City and the appropriate land use authorities, as amended from time to time, and in accordance with all Governmental Approvals.

(p) Redeveloper shall undertake with due diligence (1) financing of the Project (2) construction and development of the Project as set forth in **Section 4.12**. All activities performed under this Redevelopment Agreement shall be performed in accordance with the level of skill and care ordinarily exercised by developers of first class developments of the same type and nature of the Project.

(q) Redeveloper shall construct only the uses established in the Redevelopment Plan and described in this Redevelopment Agreement.

(r) Redeveloper shall be without the power to sell, lease, or otherwise transfer the Redevelopment Area, or any portion thereof, without the written consent of the City. This includes, but is not limited to a transfer to a Permitted Assignee.

(s) Redeveloper shall undertake with due diligence the acquisition of Private Parcel with all due diligence and in good faith. Upon acquisition of the Private Parcel, Redeveloper shall execute and deliver to the City a quit claim deed transferring the Private Parcel to the City to secure the City's right of reversion provided for in **Section 11.6** of this Redevelopment Agreement. The quit claim deed shall be held in escrow pending a default or termination of this Redevelopment Agreement. Upon completion of the Project the quit claim deed shall be returned to Redeveloper. In the event that the Private Parcel cannot be acquired, either by purchase or through the City's exercise of eminent domain within 6 months, this Redevelopment Agreement may be terminated by either Party.

SECTION 3.3. Effect and Duration of Redeveloper Covenants. It is intended and agreed by the Parties that the agreements and covenants set forth in the above Redeveloper Covenant Section and elsewhere in this Redevelopment Agreement designated for inclusion in a Declaration shall be covenants running with the land, and that they shall except only as otherwise specifically provided in this Redevelopment Agreement, be binding, to the fullest extent permitted by law and equity, for the benefit of and in favor of the City, and shall be enforceable by the City, its successors and assigns, and any successor in interest to the Project Site, or any part thereof, against Redeveloper, its successors and assigns. The foregoing notwithstanding however, such covenants shall be removed if and when Redeveloper or its successors in interest have fully satisfied their obligations under this Redevelopment Agreement in accordance with **Section 3.4** below. In such case, the City agrees that it will execute any and all documents necessary to file or record evidence of satisfaction of and discharge of such covenants and the removal of same so that record title to the Property is clear of such conditions and/or restrictions.

SECTION 3.4. Termination of Declaration and Redevelopment Agreement. This Redevelopment Agreement and the Declaration and covenants set forth herein shall remain in effect until either the termination of this Redevelopment Agreement in accordance with its terms or the issuance of a final Certificate of Occupancy for all of the components of the Project. Upon acquisition and redevelopment of the Project Site and completion of each of the Phases of the Project as determined by the issuance of the final Certificate of Occupancy for each Phase, the conditions that were found and determined to exist at the time the Project Area was determined to be in need of redevelopment shall be deemed to no longer exist, and the conditions and requirements of **N.J.S.A. 40A:12A-1, et seq.** shall be deemed to have been satisfied. Each Phase shall be deemed to no longer be in need of redevelopment (pursuant to **N.J.S.A. 40A:12A-1**) when a final Certificate of Occupancy is issued for such Phase, regardless of whether any remaining Phases of the Project have been completed at such time, so as to enable the conveyance of such individual component free of any encumbrance. Except with respect to any financial obligations still due and owing the City, CCIA or UEZ, and as otherwise expressly provided herein, all representations and obligations of the Parties hereto shall cease and terminate as of the date of the delivery of the final Certificate of Occupancy for the final Phase of the Project and shall cease with respect to any individual Phase of the Project upon issuance of a final Certificate of Occupancy for such Phase.

SECTION 3.5. Enforcement by the City. In amplification, and not in restriction of the provisions of this Article, it is intended and agreed that the City and its successors and assigns

shall be deemed beneficiaries of the agreements and covenants set forth in this Redevelopment Agreement, both for and in their own right but also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants have been provided. Such agreements and covenants shall (and the Declaration shall so state) run in favor of the City for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether the City is an owner of any land or interest therein. The City shall have the right, in the event of any material breach of any such agreement or covenant by Redeveloper, to exercise all the rights and remedies set forth herein.

SECTION 3.6. City Covenants. The City covenants and agrees that:

(a) The City agrees to reasonably and lawfully assist Redeveloper in the implementation of the Project. If requested by Redeveloper, the City agrees to be a co-applicant for certain permits and approvals from State and/or Federal agencies to the extent not prohibited by law or otherwise subject the City to liability or cost. The City agrees that it will use its best efforts, to provide non-privileged and non-confidential information in its possession to Redeveloper when such information is needed by Redeveloper to obtain necessary Governmental Approvals, including, but not limited to executing applications for permits necessary for the redevelopment of the Project. To the extent permitted under applicable law, the City agrees to reasonably support any applications of Redeveloper that are in accordance with this Redevelopment Agreement.

(b) The City shall not take any action intended to unreasonably delay or prevent Redeveloper from implementing the Project in accordance with the Redevelopment Plan, as amended, the Zoning Ordinance, the Redevelopment Law, and this Redevelopment Agreement.

ARTICLE 4 IMPLEMENTATION OF PROJECT

SECTION 4.1. Redevelopment Plan. The City has a Redevelopment Plan for the Project which was adopted via ordinance. To the extent required to further the development of the Project, the City may, in its sole discretion, consider reasonable amendments to the Redevelopment Plan, provided, however, that such amendments do not materially alter the Project as contemplated in this Redevelopment Agreement.

SECTION 4.2. Government Approvals. Redeveloper shall apply for preliminary and final Site Plan approval by the City's Planning Board for all portions of the Project Site and conditions of such approvals shall become part of this Redevelopment Agreement. The Site Plan shall substantially conform with the Concept Plan. Redeveloper shall also use diligent efforts to expeditiously secure, or cause to be secured, any and all other Governmental Approvals, and shall carry out the Project in conformance with all Government Approvals and the Project Schedule. Redeveloper shall provide the City with a copy of each and every application for Governmental Approvals submitted to Governmental Bodies at the same time as those applications are submitted. To the extent permitted by law, the City agrees to cooperate with Redeveloper in

obtaining the Governmental Approvals. The City is under no obligation to waive any fees payable to the City in connection with the Governmental Approvals.

SECTION 4.3. Project Review and Inspections. In consideration of Redeveloper's commitments hereunder, the City agrees to conduct all project reviews, including City oversight of construction activities conducted by Redeveloper, at a cost to Redeveloper that is consistent with regular rates for such reviews by City professionals. Project reviews shall include, but not be limited to engineer, planner, construction management consultant and attorney reviews performed on the City's behalf, and oversight of remediation activities and redevelopment activities to the extent deemed necessary by the City to ensure compliance with City Ordinances, the controlling Redevelopment Plan, any financial agreement(s), and this Redevelopment Agreement. Redeveloper shall also be responsible for all costs, application fees and review fees incurred in connection with any application to the City's Planning Board or Zoning Board.

SECTION 4.4. Existence of Utilities. The Parties acknowledge that local public utility providers may have certain rights with respect to the Property and may own certain facilities located therein. Redeveloper agrees that it is its sole responsibility to undertake the appropriate measures to negotiate with, acquire, relocate or otherwise address the existence of these utilities and improvements and easements therefore, in order to complete the Project as provided by this Redevelopment Agreement. Redeveloper shall consult local public utility providers with respect to all Property and construction, and shall take all reasonable and customary precautions to prevent personal injury, property damage and other liabilities related to utilities above, at or under the Property.

SECTION 4.5. Sewer Connection Fees. New Jersey law permits a municipality that provides sewer service within the municipality to charge a connection fee or tapping fee in respect of each connection of any property with the sewerage system. Sewer service charge shall be calculated pursuant to the Laws governing the Landis Sewerage Authority.

SECTION 4.6. Environmental Compliance.

(a) Compliance with Environmental Laws. Redeveloper shall comply with all Environmental Laws, and shall provide copies to the City of any environmental conditions discovered or reported. Further, Redeveloper shall provide the City with all copies of correspondence from and to all Governmental Bodies, including the EPA and State Department of Environmental Protection pertaining to the environmental conditions of the Project Site.

(b) Storm Water Management. Redeveloper shall prepare, and submit for all necessary approvals, including NJDEP approvals, a storm water management maintenance plan. Preparation of same shall be a requirement of site plan approval. Redeveloper shall conform to all Legal Requirements regarding environmental and infrastructure issues.

SECTION 4.7 Dedicated Improvements. Redeveloper shall provide a maintenance bond in a form acceptable to the City guaranteeing that any Dedicated Improvements when completed

will remain in compliance with the Land Use Plan for a period of two (2) years following the date of release of the performance bond. All contractor warranties for the Dedicated Improvements shall be assigned to the City or enforced by Redeveloper on behalf of the City. The Project Site shall remain in compliance with the land use plan and the Site Plan for a period of two (2) years from the release of the performance bond.

SECTION 4.8 Public Improvements. The Parties acknowledge and agree that in conjunction with the development of the Project, the City and CCIA shall undertake the design and construction of a roadway extending Burns Avenue to Main Road (the "Burns Extension"). The Burns Extension shall be funded from dedicated revenues from the PILOT Agreement, potential State grant funding and City revenues. The Burns Extension is conditioned upon the execution of the PILOT Agreement and Redeveloper's compliance with the terms of this Redevelopment Agreement. Except as provided above, any other Public Improvements shall be performed by the City at its sole cost and expense, subject to any available state and federal grants that may be available to fund or held fund the Public Improvements.

SECTION 4.9. Project Signage. Redeveloper shall be responsible for providing all signage for the Project in accordance with Legal Requirements.

SECTION 4.10. Occupancy Permit. Redeveloper shall, upon the completion of construction of the Project, or any Phase for which a Certificate of Occupancy may be issued, obtain all required occupancy permits and authorizations from the appropriate authorities, as applicable, authorizing the occupancy and uses of the Project or portion thereof, for the purposes contemplated by this Redevelopment Agreement, Redevelopment Plan, and Site Plan.

SECTION 4.11. Certificate of No Default. At either Party's request, the performing Party shall deliver to the requesting Party a certificate to the effect that the performing Party is not aware of any condition, event or act that constitutes a violation of this Redevelopment Agreement or that would constitute an Event of Default hereunder, and, that no condition, event or act exists that, with notice or lapse of time, or both, would constitute such a violation, or Event of Default, or, if any such condition, event or act exists, the Certificate shall so state.

SECTION 4.12. Project Schedule. The project shall be completed in the following phases in accordance with the following schedule:

- Acquisition of the Project Site shall be completed by March 31, 2018.
- Phase 1 & 1A shall be started during the first quarter of 2018 and completed within two years of commencement.

- Phase 2 shall be started before or during the first quarter of 2018 and completed within two years of commencement.
- Phase 3 shall be started before or during the third quarter of 2019 and completed within five years of the effective date of this Redevelopment Agreement.
- Phase 4 shall be started before or during the first quarter of 2019 and completed within five years of the effective date of this Redevelopment Agreement.

SECTION 4.13. Certificate of Occupancy. Upon completion of any portion of construction in accordance with the Governmental Approvals and Legal Requirements, Redeveloper shall apply to the appropriate governmental officer or body for a Certificate of Occupancy for that portion of the Project. Following the issuance of the Certificate of Occupancy and the satisfaction of terms and conditions of this Redevelopment Agreement, including all site work, site plan requirements and the release of the performance guarantee by the City, the City agrees to issue a Certificate of Completion, in proper form for recording, which shall acknowledge that Redeveloper has performed all of its duties and obligations under this Redevelopment Agreement and has completed construction of such portion of the Project in accordance with the requirements of this Redevelopment Agreement. The Certificate of Completion shall constitute a recordable, conclusive determination of the satisfaction and termination of the agreements and covenants in this Redevelopment Agreement and the Redevelopment Plan with respect to the obligations of Redeveloper to construct such portion of Project within the dates for the completion of same. Within 30 days after written request by Redeveloper, the City shall provide Redeveloper with the Certificate of Completion or a written statement setting forth in detail the reasons why it believes that Redeveloper has failed to complete such portion of Project in accordance with the provisions of this Redevelopment Agreement or is otherwise in default under this or any other applicable agreement and what reasonable measures or acts will be necessary in the opinion of the City in order for Redeveloper to be entitled to the Certificate of Completion.

SECTION 4.14. Project Schedule Violations. If Redeveloper fails to meet the Project Schedule and is notified of same in writing by City, or if Redeveloper conclusively determines that it will fail to meet any part of the Project Schedule, Redeveloper shall promptly provide written notice to City stating: (a) the reason for the failure to complete the applicable task, (b) Redeveloper's proposed method for correcting such failure, (c) Redeveloper's schedule for completing such task, and (d) the method or methods by which Redeveloper proposes to achieve subsequent tasks by the relevant Completion Dates. This Section shall not in any way limit the rights of City under Article 11 herein.

SECTION 4.15. Prohibition Against Suspension, Discontinuance or Termination. The Project Schedule shall control the progress and completion of the Project. Redeveloper will diligently adhere to the dates set forth in the Project Schedule subject only to relief resulting from (a) the occurrence of an event of Force Majeure, (b) an Event of Default by City that has a material adverse effect on the ability of Redeveloper to adhere to the Project Schedule, and (c) inability of Redeveloper, through no fault of its own, to obtain a Governmental Approval which it has timely applied for (each of the foregoing, a "Tolling Event"). Redeveloper shall not suspend or discontinue its performance of its obligations under this Redevelopment Agreement or terminate this Redevelopment Agreement (other than in the manner provided for herein) for any reason

other than a Tolling Event, but only to the extent and for the period of time that such performance is limited or prevented as a direct result of such occurrence. Notwithstanding the foregoing, a Tolling Event shall not exceed six consecutive months.

SECTION 4.16. Execution of Documents. Redeveloper shall make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions with any other persons, firms or corporations, and, in general, do all things which may be requisite or proper for the acquisition, construction and redevelopment of the Project in accordance with all necessary Governmental Approvals, and other agreements as applicable.

SECTION 4.17. Compliance with Redevelopment Agreement. Redeveloper shall use reasonable efforts to ensure that all consultants, professionals, employees, agents, contractors engaged by Redeveloper, and any of their subcontractors, shall have the skill and judgment necessary to implement the Project in compliance with the terms and conditions of this Redevelopment Agreement.

SECTION 4.18. Cooperation. The Parties shall fully cooperate with each other as necessary and reasonable to accomplish the Project, including entering into additional agreements that may be required, provided however, that such actions shall not result in a material increase in the Parties' respective obligations hereunder, or a material decrease in the Parties' respective rights hereunder.

SECTION 4.19. Term. This Redevelopment Agreement shall become effective upon the execution by the Parties, and it shall remain in full force and effect until this Redevelopment Agreement has been terminated, as set forth herein, or the Project has been implemented and completed, as evidenced by the issuance of the final Certificate of Completion for the Project Site, or any Phases thereof that are separately developed, in accordance with the terms of this Redevelopment Agreement, the Redevelopment Plan and the requirements of the approved final site plan(s) and any other Governmental Approvals, together with payment by Redeveloper of all of its financial obligations to the City. Such obligations, and any additional provisions when so stated hereunder, shall survive the term of this Agreement.

SECTION 4.20. Access to Project Site. Redeveloper shall provide for the City and its agents, officials and professionals, access to all portions of the Project Site for the duration of this Redevelopment Agreement, at no cost to the City, beginning on the date that this Redevelopment Agreement is executed and lasting until the performance and maintenance guarantees are released.

SECTION 4.21. Liability Insurance for Access. Comprehensive general liability insurance, in a reasonable amount, as agreed to between Redeveloper and the City, shall be maintained for the Project Site by Redeveloper during the term of this Agreement. Such insurance coverage shall be sufficient to satisfy the requirements of the JIF/MEL in which the City participates or such other carrier the City may in the future acquire during the term of this Agreement and shall name the City as an additional insured.

ARTICLE 5
ACKNOWLEDGMENT OF RECEIPT OF COLLATERAL DOCUMENT

SECTION 5.1. Simultaneous Delivery of Documents by Redeveloper. Redeveloper and the City agree that the rights, obligations and liabilities of the Parties under this Redevelopment Agreement are conditioned upon the delivery of the following fully executed documents, and hereby acknowledge the receipt of such documents, simultaneously with the execution of this Redevelopment Agreement:

(a) Copies of the Certificate of Formation and Certificate of Good Standing of any Permitted Assignee, duly certified by the Secretary of State; and

(b) Certifications by Redeveloper, in a form reasonably acceptable to the City, certifying, after due diligence, that: (1) no material action, suit, proceeding or official investigation shall have been threatened, publicly announced or commenced by any Governmental Body, or in any federal, state or local court that seeks to enjoin, assess civil or criminal penalties against, assess civil damage against, or obtain any judgment, order or consent decree with respect to Redeveloper related to this Redevelopment Agreement or any of the agreements which are referred to herein as a result of Redeveloper's negotiation, execution, delivery or performance of any such agreement or its participation or intended participation in any transaction contemplated thereby; (2) no receiver, liquidator, custodian or trustee of Redeveloper shall have been appointed as of the Effective Date, and no petition to reorganize Redeveloper pursuant to the United States Bankruptcy Code or any similar statute which is applicable to Redeveloper shall have been filed as of the Effective Date; (3) no adjudication of bankruptcy or a filing for voluntary bankruptcy by Redeveloper under the provisions of the United States Bankruptcy Code or any other similar statute which is applicable to Redeveloper shall have been filed; and (4) no indictment has been returned against Redeveloper or any officials, members or parties of Redeveloper with respect to any transaction, related to the transactions contemplated by the terms of this Redevelopment Agreement.

ARTICLE 6
ACQUISITION, OWNERSHIP AND CONTROL OF PROJECT SITE

SECTION 6.1. Project Site Ownership. Redeveloper, at his own cost and expense shall acquire the Project Site in accordance with the terms of this Redevelopment Agreement.

SECTION 6.2 Purchase of Public Parcels. Subject to the terms and conditions herein, the City agrees to sell the Public Parcels to Redeveloper, and Redeveloper agrees to purchase the Public Parcels from the City and CCIA, in consideration of Redeveloper's undertaking to construct the Project in accordance with the provisions of this Redevelopment Agreement and on the additional terms and conditions herein.

(a) Purchase Price. The purchase price for the Public Parcels shall be an amount equal to Four Million Dollars (\$4,000,000.00) (the "Purchase Price"), of which \$200,000 is allocated to the purchase of the property commonly known as Block 7503, Lot 35.02 on the tax map of the City. The Purchase Price shall be paid in immediately available funds to the City and CCIA on the Closing Date.

(b) Redeveloper Due Diligence. Redeveloper has the right to perform a physical investigation of the Public Parcels, including, but not limited to, soil and subsurface conditions of the Public Parcels, including any environmental investigation and any improvements (the "Redeveloper's Due Diligence"). Redeveloper's Due Diligence shall commence on the Effective Date and shall expire after thirty (30) days.

(c) Time and Place of Closing. Closing on the Public Parcels shall occur on the date that all of the conditions in **Sections 6.2** (h) and (i) have been satisfied or waived (the "Closing Date"), which Closing Date shall be no later than thirty (30) days from the Effective Date, subject to one (1) thirty (30) day extension if Redeveloper is proceeding diligently. In the event the Parties are not able to close by the date noted above and subject to extensions, then either Party may terminate this Redevelopment Agreement in writing. The Closing shall be held at the offices of Landis Title Corporation, or such other place as the Parties may mutually agree.

(d) Transfer of Ownership; Title. (i) At Closing, the City and CCIA shall give to Redeveloper separate, properly executed Bargain and Sale Deeds with covenants as to grantor's acts for the property commonly known as Block 7503, Lot 35.01; Block 7503, Lot 33.01; and Block 7503, Lot 35.02 on the tax map of the City (the "**Deeds**"). The City and CCIA shall additionally give to Redeveloper an adequate affidavit of title, a properly executed Affidavit of Consideration or Exemption, true copies of the resolutions of the City Council and CCIA authorizing the sale and conveyance, and such other documentation as may reasonably be requested by the Title Company. Simultaneous with the execution of the Deeds, Redeveloper shall execute and deliver to the City and CCIA quit claim deeds for each Public Parcel transferring the Public Parcels to the City and CCIA to secure the City's and CCIA's right of reversion pursuant to the terms of this Redevelopment Agreement. The quit claim deed for the property commonly known as Block 7503, Lot 35.02 shall be held in escrow pending the issuance of a Certificate of Completion for the construction of a single-family home thereon. The quit claim deeds for the property commonly known as Block 7503, Lot 35.01 and Lot 33.01 shall be held in escrow pending a default or termination of this Redevelopment Agreement. Upon completion of the Project, as evidenced by the issuance of a Certificate of Completion, the quit claim deeds shall be returned to Redeveloper.

(ii) The City and CCIA shall transfer and convey to Redeveloper clear and marketable title to the Public Parcels. For purposes of this Redevelopment Agreement, clear and marketable title shall be defined as insurable by a title insurance company licensed to do business in the City and State selected by Redeveloper (the "Title Company") at regular rates free of all claims and rights of others, except for: (a) normal utility easements servicing the Public Parcels which do not interfere with Redeveloper's intended use thereof, development, construction or

operation of the Project; (b) ALTA 1992 preprinted exceptions not removed by a standard affidavit of title; and (c) any Permitted Exceptions (as hereinafter defined). Immediately following the Effective Date, Redeveloper shall order a title report and title insurance commitment and survey (the "Title Commitment"). Redeveloper shall provide the City and CCIA with a copy of the Title Commitment upon receipt thereof and shall notify the City and CCIA in writing of any objection to title within ten (10) days following the receipt of the Title Commitment. Failure to notify the City of an objection to title within such ten (10) day period shall be deemed a waiver by Redeveloper of all objections to any lien, encumbrances or other exception revealed by the Title Commitment except for Monetary Encumbrances (as waived, or as otherwise deemed acceptable by Redeveloper, the "Permitted Exceptions"). In the event Redeveloper does raise title objections, the City and CCIA shall have thirty (30) days from the date of receipt of Redeveloper's written objections in which to decide whether to remedy the title defect(s) identified in such objection; provided, however, that the City or CCIA shall be required to remove or have removed any Monetary Encumbrances. If the City or CCIA do undertake to remedy the title defect(s) the City or CCIA shall be entitled to postpone the Closing Date for a reasonable period of time in order to effectuate such remedy, or in the case of Monetary Encumbrances, to elect to apply any portion of the Purchase Price to pay and satisfy those items. If the amount of Monetary Encumbrances exceeds the balance of the Purchase Price, the City or CCIA may pay such additional amounts as are necessary to discharge same. In the event the City or CCIA are unable to remedy or cause to be remedied such title defect(s), then Redeveloper may either (a) waive the objection and proceed to Closing without an adjustment in the Purchase Price (as may be reduced by payment of Monetary Encumbrances); or (b) terminate this Redevelopment Agreement, in which case Redeveloper's designation as "redeveloper" (as defined in the Act) shall simultaneously and automatically terminate.

(iii) If either the City, CCIA or Redeveloper fails to comply with the requirements imposed upon it under the Title Commitment requirements; then and in that event, either Party may demand compliance in writing of the other. If a responding Party still does not comply within ten (10) business days of notification by the notifying Party; then and in that event, an Event of Default shall be deemed to have occurred.

(e) Physical Condition of the Public Parcels. The Public Parcels are being sold to Redeveloper in "AS IS, WHERE IS, WITH ALL FAULTS" condition, including without limitation as to environmental conditions, and with all latent or patent defects. Redeveloper recognizes and acknowledges that the City and CCIA are making no representation or warranty as to the condition of the Public Parcels or their fitness for Redeveloper's intended use. At Closing, the City and CCIA shall deliver possession of the Public Parcels in the same condition as it is on the date of this Redevelopment Agreement, deterioration from ordinary and reasonable usage and exposure to the elements excepted.

(f) Environmental Representations and Contingencies. Redeveloper hereby agrees, at its sole cost and expense, to unconditionally indemnify, defend and hold harmless the City, CCIA, their employees, agents, directors, officers and consultants from any injuries, losses, liabilities, damages, liens, expenses (including, without limiting the generality of the foregoing,

the costs of any environmental testing, remediation and the costs of attorney fees), charges, costs, penalties, fines, actions, injunctions, suits, claims, judgments, or demands imposed, at any time, upon the Public Parcels and/or imposed upon, or incurred by, the City or CCIA, directly or indirectly, at any time, that is sustained as a result of any environmental conditions on, in, under or migrating to or from the Public Parcels, to the extent that any such liability attached to the City and/or CCIA as a result of this Redevelopment Agreement or prior ownership by the City and CCIA or activities, including, without limitation, claims against the City or CCIA by any third party (the "Environmental Indemnification").

(i) Redeveloper has its own right to conduct an independent environmental hazard investigation and inspection of the Public Parcels, including what are commonly known as phase I and phase II inspections (with the Parties representing that they are aware of the general nature of evaluations conducted under each phase), and shall conduct such reasonable inspections and investigations as Redeveloper deems necessary within the timeframe set forth herein.

(ii) Copies of any reports obtained by Redeveloper shall be forwarded to the City and CCIA upon completion of the investigation and/or inspection. As separately defined, the City and CCIA do not have any obligation to remedy any condition determined by Redeveloper which would prevent Closing.

(iii) Redeveloper may have the Public Parcels inspected by any qualified and/or licensed third-party inspection professional(s) including one that may be designated as a Licensed Site Remediation Professional. All inspection fees, appraisal fees, engineering fees, title inspection fees, and other costs and expenses of any kind incurred shall be at the sole expense of Redeveloper.

(iv) During the Redeveloper's Due Diligence, the City and CCIA shall provide Redeveloper with a continuing right of reasonable access to the Public Parcels for the purpose of conducting surveys, architectural, engineering, geotechnical, and environmental inspections and tests. Redeveloper shall have the right to test the property for the existence of any underground storage tanks. Redeveloper shall keep the property free and clear of any liens or encumbrances as a result of such entry by its agents, employees or representatives. If any inspection or test disturbs the Public Parcels, then any hazardous conditions created shall be removed and, if Closing does not occur, it shall be restored to substantially the same condition as existed prior to any such inspection or test.

(v) At the conclusion of the Redeveloper's Due Diligence, and if Redeveloper determines the existence of an environmental condition which it deems prohibitive of Closing, then and in that event, Redeveloper is permitted to terminate the Agreement and there will not be a Closing.

(g) Closing Conditions and Terms. The Closing of the Public Parcels shall be undertaken in accordance with the following terms and conditions:

(i) Building and Zoning Laws. The Public Parcels are being sold subject to the Redevelopment Plan and all other Legal Requirements.

(ii) Risk of Loss. Except as otherwise provided above with respect to Redeveloper's activities and investigations, if any, the City and CCIA are responsible for any damage or loss to the Public Parcels, except for normal wear and tear, until Closing.

(iii) Brokerage Fees. The City and CCIA represent that, concerning the purchase of the Public Parcels, the City and CCIA have not dealt with or transacted any business with any broker, and Redeveloper agrees to indemnify, defend and hold the City and CCIA harmless from any claim of any broker made as a result of the City's or CCIA's actions inconsistent with the representations made herein. The City and CCIA acknowledge that Redeveloper may have otherwise engaged a broker in connection with this transaction. Notwithstanding the foregoing, any obligation to such broker is a sole obligation of Redeveloper and shall be separate and apart from, and in addition to, the Purchase Price. Under no circumstances shall any brokerage fees be paid from the proceeds of the Purchase Price due to the City and CCIA.

(iv) Form 1099-B Filing. In compliance with the requirements of the Internal Revenue Code, Redeveloper's attorney is responsible for collecting certain information from the City and CCIA necessary to complete and file Form 1099-B with the Internal Revenue Service. The City and CCIA agree to supply all necessary information to Redeveloper's attorney in order to facilitate such filing.

(v) Closing Prorations. The following adjustments are to be made at the Closing as of 12:00 midnight of the day preceding the Closing Date, as may be applicable: (i) water charges; (ii) sewer rents; (iii) gas; (iv) electric; (v) fuel (at the City's and CCIA's cost therefor); (vi) real estate taxes, if any; and (vii) any other items which shall be appropriate for adjustment under local closing standards and practices.

(vi) Bulk Sales Law. The Parties hereto acknowledge that the provisions of the New Jersey Sales and Use Tax Act, **N.J.S.A. 54:32B-1 et seq.** (the "Bulk Sales Act"), are applicable to the sale of the Public Parcels by the City and CCIA. Redeveloper shall submit the required Notification of Sale, Transfer or Assignment in Bulk (Form C-9600) and all required attachments with the New Jersey Department of the Treasury, Division of Taxation, Bulk Sales Section not later than fifteen (15) business days prior to Closing. The City and CCIA shall cooperate with Redeveloper in connection with such submission by supplying any information necessary for Redeveloper to file the required notice under the Bulk Sales Act. In the event that the New Jersey Division of Taxation requires Redeveloper to hold a portion of the Purchase Price in escrow for potential tax liabilities of the City and CCIA, the City and CCIA authorize Redeveloper to comply with such requirement and Redeveloper's counsel or agent shall hold such amount, in escrow, and is authorized to disburse same upon receipt of authorizations, and in accordance with directions, from the Division of Taxation, and the balance of the escrow, if any, shall be paid to the City and CCIA. This paragraph shall survive the closing of title.

(vii) Casualty and Condemnation. (i) If, prior to Closing, the Public Parcels or any part thereof suffers a casualty, the City and CCIA shall promptly notify Redeveloper thereof. If, in Redeveloper's reasonable judgment, such casualty materially interferes with Redeveloper's ability to develop the Project, Redeveloper shall have the option either to terminate this Redevelopment Agreement or to consummate the transaction contemplated by this Redevelopment Agreement notwithstanding such casualty. If Redeveloper elects to consummate the transaction contemplated by this Redevelopment Agreement, Redeveloper shall be entitled to receive the insurance and other proceeds associated with such casualty and the City and CCIA shall, at Closing and thereafter, execute and deliver to Redeveloper all required assignments of proceeds and other similar items. If Redeveloper elects to terminate this Redevelopment Agreement, this Redevelopment Agreement shall, without further action of the Parties, become null and void and neither Party shall have any rights or obligations under this Redevelopment Agreement except for those rights and obligations that by their terms expressly survive termination of this Redevelopment Agreement.

(ii) If, prior to Closing, the Public Parcels or any part thereof, shall be condemned or subject to a written threat of condemnation, the City and CCIA shall promptly notify Redeveloper thereof. If, in Redeveloper's sole judgment, such condemnation materially interferes with Redeveloper's ability to develop the Project, Redeveloper shall have the option either to terminate this Redevelopment Agreement or to consummate the transaction contemplated by this Redevelopment Agreement notwithstanding such condemnation. If Redeveloper elects to consummate the transaction contemplated by this Redevelopment Agreement, Redeveloper shall be entitled to receive the condemnation proceeds and the City and CCIA shall, at Closing and thereafter, execute and deliver to Redeveloper all required assignments of proceeds and other similar items. If Redeveloper elects to terminate this Redevelopment Agreement, this Redevelopment Agreement shall, without further action of the Parties, become null and void and neither Party shall have any rights or obligations under this Redevelopment Agreement except for those rights and obligations that by their terms expressly survive termination of this Redevelopment Agreement.

(h) Conditions Precedent to Obligation of Redeveloper to Purchase the Public Parcels. The obligation of Redeveloper to close title hereunder shall be subject to the fulfillment on or before the Closing Date of all of the following conditions, any or all of which may be waived by Redeveloper in its sole discretion:

(i) The City and CCIA shall have delivered to Redeveloper all of the items required to be delivered to Redeveloper for the Closing.

(ii) All of the representations and warranties of the City and CCIA contained in this Redevelopment Agreement pertaining to the Public Parcels Closing shall be true and correct in all material respects as of the Closing Date. The City and CCIA shall deliver to Redeveloper a bring-down certificate to evidence same.

(iii) The City and CCIA shall have performed and observed, in all material respects, all covenants and agreements of this Redevelopment Agreement to be performed and observed by the City and CCIA as of the Closing Date.

(iv) There shall be no litigation or other appeal or challenge relating to this Redevelopment Agreement or the Redevelopment Plan and the time for challenging same shall have expired.

At such time as Redeveloper has closed title to the Public Parcels, the City and CCIA shall be conclusively and irrevocably presumed to have satisfied all conditions precedent to the Closing of the Public Parcels, and shall have no further liability or obligations as to such conditions precedent.

(i) Conditions Precedent to Obligation of the City and CCIA to Sell the Public Parcels. The obligation of the City and CCIA to close title hereunder shall be subject to the fulfillment on or before the Closing Date of all of the following conditions, any or all of which may be waived by the City and CCIA in their sole discretion:

(i) All of the representations and warranties of Redeveloper contained in this Redevelopment Agreement shall be true and correct in all material respects as of the Closing Date. Redeveloper shall deliver to the City and CCIA a bring-down certificate to evidence same.

(ii) Redeveloper have performed and observed, in all material respects, all covenants and agreements of this Redevelopment Agreement to be performed and observed by Redeveloper as of the Closing Date.

(iii) Redeveloper shall have the Purchase Price in immediately available funds.

SECTION 6.3. Development Entities. The Project and/or specific Project Improvement(s) will, at Redeveloper's option, be developed, in whole or in part, by (i) Redeveloper, (ii) any entity to which Redeveloper is the sole beneficial owner, (iii) any entity to which Redeveloper together with one or more Qualified Entities are collectively the sole beneficial owners, or (iv) any Qualified Entities which Redeveloper identifies as the entities to perform such development; provided, that such Qualified Entity shall execute a redevelopment agreement with the City.

(a) A "Qualified Entity" is an entity which has demonstrated to the reasonable satisfaction of the City and Redeveloper that:

(i) It is able to comply with and conform to all of the provisions of the terms hereof;

(ii) It has the financial capacity to undertake the development and construction in question, including the capacity to obtain financing and to otherwise satisfy its obligations with respect to the Project;

(iii) No petition under Federal bankruptcy laws or any State insolvency law has been filed by or against, nor has a receiver, fiscal agent or similar officer been appointed by a court for the business or property of such Person, or any partnership in which such entity was or is a general partner or any entity in which such entity was or is an officer or principal manager and the holder, directly or indirectly of an ownership interest in excess of 10% (and, in the case of an involuntary proceeding, such proceeding has not been terminated within 60 Days of its commencement) within the 5 full calendar years preceding the date of submission of such entity's application for consideration as a Qualified Entity;

(iv) Such entity and its principals, directors, officers, partners, shareholders, and members, individually, have not been convicted in a criminal proceeding, and none of them are a named subject in a pending criminal proceeding, (excluding traffic violations or other similar minor offenses), and, to the best of the knowledge and belief of the principals, directors, officers, partners, shareholders, and members of such entity, is not a target of or a potential witness in a criminal investigation;

(v) Such entity and its principals, directors, officers, partners, shareholders, and members, individually, have not been, directly or beneficially, a party to or beneficiary of any contract or agreement with the City which has been terminated due to a default by such entity or which is currently the subject of a dispute in which the City alleges such default, nor is such entity an adverse party in any currently pending litigation involving the City;

(vi) Such entity and its principals, directors, officers, partners, shareholders, and members, individually, have not been found in any civil or criminal action in or by a court or agency of competent jurisdiction to have violated any federal or State law or regulation relating to the sale of securities or commodities or been enjoined from engaging in any trade or business for any reason other than the violation of a contractual non-competition provision; and,

(vii) Such entity and its principals, directors, officers, partners, shareholders, and members, individually, have not violated any local, State, or federal ethics law and entering into the proposed transaction with the City will not cause any such violation or result in a conflict of interest.

(b) Redeveloper shall provide written notice to the City of each entity which Redeveloper desires be approved by the City as a Qualified Entity. Within 30 Days after the date of such notice from Redeveloper, the City shall provide written notice to Redeveloper stating whether the City approves of such entity as a Qualified Entity, and if the City does not approve of such entity as a Qualified Entity, the basis for such denial, which denial may only be based on the failure of the subject Person to satisfy the conditions set forth in Section 2.5.2. Approval by the City of a Person as a Qualified Entity shall authorize such Person to be considered a developer in connection with the subject Improvements pursuant to a redevelopment agreement between the City and such Qualified Entity. In the event of a denial by the City of a Person as a Qualified Entity as provided above, or in the event the City fails to provide an appropriate basis (as provided

above) for such denial, Redeveloper may resubmit its request to the City that the subject Person be approved as a Qualified Entity, and Redeveloper may in such resubmitted request set forth additional information and/or such reasons that demonstrate why Redeveloper believes the subject Person to be a Qualified Entity. Within 30 Days after the date of such further request from Redeveloper, the City shall provide written notice to Redeveloper stating whether the City approves of such Person as a Qualified Entity, and if the City does not approve of such Person as a Qualified Entity, the basis for such denial, which denial may only be based on the failure of the subject Person to satisfy the conditions set forth in Section 2.5.2.

(c) Redeveloper and its Affiliates are hereby deemed Qualified Entities.

(d) Each Qualified Entity shall provide performance security in a form or format as required by the MLUL, securing such Qualified Entity's obligations to develop the Project, as required by such Qualified Entity's lender(s).

(e) Notwithstanding anything to the contrary in this Agreement, Redeveloper shall, without being required to obtain consent from the City, select and negotiate contracts with, and supervise and coordinate the services of, all architects, engineers, land planners, construction contractors, and other experts, professionals, consultants, and subcontractors (collectively, "Project Professionals") deemed necessary by Redeveloper to provide architectural, engineering, land planning, construction, and any other services in connection with the development, construction and Completion of the Project. The City may, from time to time, inquire of Redeveloper Project Team as to the status of Redeveloper's efforts hereunder, and Redeveloper Project Team shall be available to the City to address such inquiries.

(f) Each Qualified Entity shall fund an Escrow Account with the securing the payment of the City's administrative and professional costs relating to the Qualified Entity's portion of the Project.

(g) Each Qualified Entity shall execute a redevelopment agreement with the City. Nothing herein shall prohibit any Qualified Entity from assuming certain responsibilities of Redeveloper as set forth herein, and if so decided, said assumption of those responsibilities shall be set forth in the redevelopment agreement to be entered into between the Qualified Entity and the City.

SECTION 6.4. Condemnation of Acquisition Parcels. (a) Pursuant to the Project Schedule, Redeveloper, at its sole cost and expense, shall use best efforts through good faith negotiations to execute purchase agreements with the owners of the Acquisition Parcels, and shall provide the City with written proof of the existence of said purchase agreements upon request. The City shall take such legal actions required to obtain access for Redeveloper to permit inspection of any Acquisition Parcel.

(b) Procedure. If within ninety (90) days of the Effective Date, Redeveloper has not acquired title or executed enforceable purchase agreements to the Acquisition Parcels through

good faith negotiations, the City may, at the request of Redeveloper, exercise its power of condemnation with respect to such Acquisition Parcels in accordance with this Redevelopment Agreement, the Act and the Eminent Domain Act. The City, at Redeveloper's sole cost and expense, shall carry out condemnation proceedings in accordance with the Act and the Eminent Domain Act pursuant to this Article Six; *provided that* the City, in its sole discretion, shall not be required to exercise the power of condemnation if (i) Redeveloper is not in compliance with the Project Schedule, (ii) there is an Event of Default by Redeveloper that has occurred and is continuing beyond applicable notice and cure periods, and (iii) Redeveloper has not provided the Eminent Domain Deposit or funds sufficient to pay the Eminent Domain Acquisition Costs. The City shall take such legal actions required to obtain access for Redeveloper to permit inspection of any Acquisition Parcel. The City shall consult with Redeveloper with respect to all condemnation proceedings and shall provide copies to Redeveloper of all documentation and correspondence related thereto. Redeveloper shall, at its sole cost and expense, promptly provide to the City all necessary title search data for the commencement of condemnation proceedings. Redeveloper shall pay all Eminent Domain Acquisition Costs. The City will, at Redeveloper's cost and expense, secure liability insurance in the amount of TWO MILLION DOLLARS (\$2,000,000) on any Acquisition Parcels acquired by the City pursuant to this Redevelopment Agreement, naming the City and Redeveloper as insured parties, and insuring the City and Redeveloper against the claims of third parties arising from injuries occurring on the parcels while owned by the City. The premium for this insurance shall be considered part of the Eminent Domain Acquisition Costs. Redeveloper may request that the City appeal any official decision taken in connection with the condemnation of an Acquisition Parcel; *provided that* all such costs shall be borne entirely by Redeveloper.

(c) Security for Good Faith Offers; Environmental Insurance for Acquisition Parcels. Prior to and as a condition to the making of a good faith offer by the City pursuant to the Eminent Domain Act (the "Good Faith Offer"), with respect to any Acquisition Parcels, Redeveloper shall provide to the City (x) security for Eminent Domain Acquisition Costs, as described below, and (y) such environmental indemnity for the Acquisition Parcels, as shall be reasonably approved by the City consistent with the terms of this Redevelopment Agreement, which security may be satisfied, subject to the consent of the City, by a fixed cost or blended finite environmental remediation contract and indemnity from a State-licensed environmental remediation contractor that will provide a substitute environmental indemnity.

(i) Security for Eminent Domain Acquisition Costs. Redeveloper shall provide to the City a deposit as security for Eminent Domain Acquisition Costs in the form of immediately available funds in an amount at least equal to the appraised value of each Acquisition Parcel for which a Good Faith Offer is to be made (the "Eminent Domain Deposit"). The City shall not make any Good Faith Offer except upon five (5) business days' prior notice to, and upon the consent of, Redeveloper. The Eminent Domain Deposit shall be placed in an interest-bearing trust account in the name of the designated trustee for the benefit of the City, and any interest accrued shall become part of the Eminent Domain Deposit. The Eminent Domain Deposit shall be available to the City within three (3) business days upon receipt of written demand and without the further consent of Redeveloper or any other person, for the purpose of paying Eminent Domain Acquisition

Costs in connection with the acquisition of any Acquisition Parcel. Should the Eminent Domain Acquisition Costs exceed the amount of the Eminent Domain Deposit, Redeveloper agrees to pay the full amount of those costs within five (5) business days of the receipt of written notice from the City that such costs are due. Should the City be required to deposit funds into court or make payment to the property owner for the acquisition of any Acquisition Parcels, and there are not sufficient funds in the Eminent Domain Deposit to cover those costs, Redeveloper agrees to pay the full amount of those costs to the City within five (5) business days of the receipt of written notice from the City that such costs are due, provided Redeveloper has been given a copy of the approved appraisal of each parcel for which the City requests payment and supporting documentation with respect to the amount due. Redeveloper shall take all necessary steps and make all necessary payments to or on behalf of the City in a timely fashion to meet this obligation of this Agreement.

(d) Environmental Indemnity. With respect to the Acquisition Parcels, Redeveloper shall provide to the City an environmental indemnity that satisfies the City.

(e) Relocation. The City shall undertake the relocation of any businesses or residents pursuant to a plan established in accordance with the Relocation Assistance Act, **N.J.S.A. 20:4-1 et seq.** Pursuant to **N.J.S.A. 20:4-2**, the City, as the condemning or taking agency, is required to make fair and reasonable relocation payments to displaced persons and business. All costs associated with the establishment of the relocation plan for the Acquisition Parcels and the costs associated with the relocation under such plan shall be deemed to be Eminent Domain Acquisition Costs.

(f) Excess Eminent Domain Acquisition Costs. In the event that the Eminent Domain Acquisition Costs with respect to any Acquisition Parcels are less than the cumulative amount of the Eminent Domain Deposit together with accrued interest thereon, the City shall return any such "excess" monies to Redeveloper within five (5) days after the closing for such Acquisition Parcel.

(g) Title Transfer. (i) In consideration of Redeveloper's satisfaction of the requirements of this Agreement, the City shall transfer to Redeveloper, and Redeveloper shall accept such transfer, without any further cost or expense except as set forth herein, any Acquisition Parcel(s) within five (5) business days of the date that the City has taken title to the Acquisition Parcel(s).

(ii) In connection with transfer of any Acquisition Parcels to Redeveloper, the City shall deliver to Redeveloper: (A) a recordable, bargain and sale deed without covenants against grantor's acts, conveying good, marketable title to the Acquisition Parcels insurable at regular insurance rates insured by the Title Company, free of all liens and encumbrances, subject only to easements, covenants and restrictions of record satisfactory to Redeveloper and its Title Company; (B) an Affidavit of Title in standard form; (C) a Resolution of the City authorizing the transfer of the Acquisition Parcels to Redeveloper in accordance with the terms hereof; (D) an Affidavit of Exemption from transfer tax; and (E) such other documents as are reasonably

required by Redeveloper or its Title Company.

(iii) At the closing of the transfer of any Acquisition Parcels to Redeveloper, Redeveloper shall pay all of the costs at closing, including utility charges, if any, relating to the Acquisition Parcels. Redeveloper shall be responsible for payment of any real estate taxes from the date title is transferred to Redeveloper and realty transfer taxes relating to the transfer of title to the Acquisition Parcels.

(iv) The transfer of any Acquisition Parcel shall be in an “as is” condition without warranty. Redeveloper acknowledges that the City will make no representation or warranty as to any Acquisition Parcel’s fitness for use for any particular purpose, condition or durability thereof, or that it will be suitable for Redeveloper’s purposes, except as to compliance with, or full cooperation to obtain compliance with or, as necessary, the amendment to or variance of any applicable zoning and other Applicable Laws, necessary to develop, build, own and operate the Project.

ARTICLE 7 PROJECT OVERSIGHT

SECTION 7.1. Progress Meetings. The City and Redeveloper shall schedule monthly progress meetings to report on the status of the Project and to review progress. Absent an emergency, as determined by the City, the City agrees to provide Redeveloper at least ten (10) days advance written notice of such Progress Meetings. The Meetings shall be held at the City Municipal offices or, at the City’s option, at offices of City professionals. The agenda for each Meeting shall include, but not be limited to, a status report with regard to Governmental Approval submissions and denials or approvals, financial commitments, construction of Improvements, and activities concerning occupancy for the Project Site.

SECTION 7.2. Progress Reports. Redeveloper shall submit to the City prior to any Progress Meeting, a written progress report (“Progress Report”) which shall include a description of activities completed, the activities to be undertaken prior to the next progress report, the status of all Governmental Approvals, an explanation of each activity, if any, which is showing delay, a description of any problem areas, current and anticipated delaying factors and estimated impact on performance of other activities and completion dates in the Project Schedule, along with an explanation of corrective action taken or proposed. Upon review of the Progress Report, either Party may request a Certificate of No Default.

SECTION 7.3. Proof of Submissions for Approvals. Redeveloper agrees to provide the City’s contacts with copies of any and all applications and requests for Approvals, including permit applications for the Project, at the time that they are submitted by Redeveloper.

SECTION 7.4. Project Oversight Committee. The City may create a Project Oversight Committee consisting of the City Engineer, Director of Economic Development, City Solicitor, Director of Licensing and Inspections, and such other members as the City Deems necessary.

SECTION 7.5. Amendment of Concept Plan. Redeveloper agrees to construct the Improvements and uses described herein as a material condition to this Redevelopment Agreement. In the event Redeveloper determines that the Concept Plan for the Project requires modification, Redeveloper shall submit its request in writing to the City along with any drawings, plans or specifications required by the City. The City may, in its sole discretion, agree to any changes, amendments or modifications to the Concept Plan, which approval must be in writing. Any modifications that would trigger a “d” variance pursuant to N.J.S.A. 40:55D-70(d) shall require Redeveloper to seek an amendment to the Redevelopment Plan, the approval for which shall be in the sole discretion of the City. Unless approved in writing by the City, no changes to the Concept Plan shall be permitted.

ARTICLE 8 TRANSFERS

SECTION 8.1. Prohibition Against Transfers. Redeveloper recognizes the importance of the Project to the general welfare of the community, and understands that the identity of Redeveloper and its qualifications are critical to the City in entering into this Redevelopment Agreement. Except for any assignment of this Redevelopment Agreement which must be pre-approved in writing by the City, the City considers that a Transfer of the ownership of Redeveloper, the Project, the Project Site, or any other act or transaction involving or resulting in a significant change in the ownership of or with respect to the identity of the persons in control of Redeveloper, except to a Qualified Entity pursuant to the terms of this Redevelopment Agreement, as a disallowed Transfer. Redeveloper recognizes that it is because of Redeveloper’s qualifications and identity that the City is entering into this Redevelopment Agreement with Redeveloper, and in so doing, the City is relying on the obligations of Redeveloper, not upon some other entity, for the faithful performance of all undertakings and covenants to be performed by Redeveloper hereunder.

SECTION 8.2. Permitted Transactions. The following transactions are permitted and shall not require prior approval by the City (“Permitted Transactions”), consent of the City to such transfers being deemed given hereby, provided written notice of same is given to the City: (1) a mortgage or mortgages for the purposes of financing costs associated with, or incurred in connection with Redeveloper’s acquisition and redevelopment of the Project Site provided no request to subordinate to UEZ debt is required; (2) any lease or sale of all or any portion of the improved Project Site with occupancy of the relevant portion of the Project to end users as permitted by the Redevelopment Plan, Zoning Ordinance, and this Redevelopment Agreement; (3) utility and other easements necessary for the Project, (4) City-approved assignment to any Permitted Assignee or Designee identified to the City by Redeveloper as such, and (5) assignment of this Redevelopment Agreement, the Project Site and/or the Project, to an assignee approved in writing by the City. Except for Permitted Transactions, as defined above, prior to the issuance of a Certificate of Completion, Redeveloper shall not, without the prior written consent of City: (1) effect or permit any change, directly or indirectly, in the majority ownership or control of Redeveloper (except in the case of death of an individual(s) having such ownership or control), (2) assign or attempt to assign this Redevelopment Agreement or any rights herein or in the Property,

or (3) make any total or partial sale, lease, transfer or conveyance of the whole or any part of its interest in the Property or the Project Improvements (collectively a "Transfer", provided, however, that these restrictions shall not apply as to a Phase of the Project following the issuance of a Certificate of Completion and/or Certificate of Occupancy for such Phase.

SECTION 8.3. Notice of Permitted Transactions. With respect to any Permitted Transactions, Redeveloper shall provide to the City written notice at least thirty (30) days prior to such Permitted Transaction, including a description of the nature of such Permitted Transactions, and the name(s) and address(es) of any and all persons, individuals and other entities, along with all ownership structure(s) relating to any Permitted Transactions.

SECTION 8.4. Transfers Void. Any Transfer or other prohibited transaction in violation of this Redevelopment Agreement by Redeveloper or City shall be an Event of Default and shall be subject to the remedies set forth hereunder. The Declaration shall contain a restriction against Transfers as set forth in this Article and, in addition, shall provide that in the event of any attempted Transfer in violation of the restrictions in this Article, either party shall be entitled to the issuance of an injunction restraining such Transfer, and the award of legal fees and related expenses in connection with any such legal action. Except as set forth hereunder, the City agrees to record a Discharge of the Declaration upon issuance of the final Certificate of Completion for the last phase of the entire Project, at Redeveloper's expense.

ARTICLE 9 FINANCIAL OBLIGATIONS

SECTION 9.1. Redeveloper's Financial Commitments. Redeveloper shall complete the Project at its sole cost and expense, using any private or public funds available. Redeveloper also agrees that Redeveloper shall submit satisfactory documentation to the City evidencing commitments for the requisite capital and/or financing, in an amount necessary to redevelop the Project Site upon commercially reasonable terms, pursuant to schedule, in accordance with this Redevelopment Agreement.

SECTION 9.2. Project Costs. All costs of constructing improvements and redeveloping the Project Site, and otherwise completing the Project, shall be borne by Redeveloper except as otherwise set forth herein.

SECTION 9.3 Financial Contingencies. The Parties acknowledge and agreement that the implementation of this Redevelopment Agreement is contingent upon the following contingencies:

(a) Acquisition Loan. Redeveloper shall apply for loan commitments from the UEZ for the acquisition of the Public Parcels. Redeveloper shall seek a UEZ commitment to make the Acquisition Loan to Redeveloper to finance the acquisition of the Public Parcels from the City and CCIA. Redeveloper shall be solely responsible for arranging the financing of the costs associated with the acquisition of the property commonly known as Block 7503, Lot 35.02 on the tax map of the City of Vineland. Redeveloper shall be solely responsible for arranging financing for all

costs associated with constructing and completing the Project. The Loans shall also be subject to the standard terms contained in commitments issued by the UEZ. The Loan Documents shall provide that any breach of this Redevelopment Agreement shall be an event of Default under the terms and conditions of the Loan Documents between the UEZ and Redeveloper. This includes the failure to complete the Project Improvements within the time set forth in **Section 4.12**. Redeveloper acknowledges that the loan from the UEZ is subject to the approval by its loan committee.

(b) Tax Exemption and PILOT. The Parties acknowledge that Redeveloper shall make application to the City for a tax exemption on the Project Improvements and payments in lieu of taxes (“PILOTS”) for the Project pursuant to the Long Term Tax Exemption Law, **N.J.S.A. 40A:20-1 et seq.** (the “LTTE Law”). In the event a tax exemption is not granted pursuant to the LTTE Law, the Parties acknowledge that the Project may be eligible for a tax exemption for up to five years pursuant to Section 647-23 of the Vineland City Code under the Five Year Abatement and Exemption Law, **N.J.S.A. 40A:21-1 et seq.** (the “Short Term Law”). The City shall consider the terms of any PILOT based on Redeveloper’s application under either the LTTE Law or the Short Term Law, understanding that Redeveloper’s obligation to undertake the Project is contingent upon an approved tax exemption.

SECTION 9.4. Escrow for City Costs. Redeveloper shall immediately deposit with City the amount of Ten Thousand Dollars (\$10,000) to be maintained in a separate account by City and to be drawn down by City to cover City Costs, including any costs incurred by the CCIA, for costs occurring after the Effective Date. City shall provide Redeveloper with invoice(s) setting forth City Costs incurred by City and CCIA that will be drawn down at least fifteen (15) days prior to the date of the draw. Redeveloper will have the opportunity to object to the reasonableness of charges or invoice submitted for payment within that fifteen (15) day period. Within fifteen (15) days of the receipt by Redeveloper of written notice from City that the amount in the escrow account has decreased to thirty percent (30%) of the original deposit, Redeveloper shall replenish the escrow account with the City to equal the original deposit. If the City Costs incurred by City exceed the amount in the escrow account, Redeveloper will pay such costs upon fifteen (15) days written notice from City that such costs are due. The escrow shall be maintained and administered in accordance with the provisions of N.J.S.A. 40:55D-53.1, 53.2 and 53.3.

SECTION 9.5. Governmental Approval Fees. Redeveloper shall be responsible to pay all fees for permits required by the City (in accordance with standard fees provided in the City's ordinances) and any other Governmental Body for the construction and development of the Project.

SECTION 9.6. City Declaration of Event of Default. Redeveloper's performance of its obligations under this Section shall not, however, limit the rights of City to declare the occurrence of an Event of Default.

ARTICLE 10
INDEMNIFICATION; INSURANCE

SECTION 10.1. Indemnification. Redeveloper covenants and agrees, at its sole expense, to pay and to indemnify, protect, defend and hold the City, CCIA, their agents servants, employees, officers, directors, consultants (collectively, the "City Indemnified Parties") harmless from and against all liability, losses, damages, demands, costs, claims, actions, or expenses (including attorneys' fees, disbursements, and court costs) of every kind, character and nature arising out of, resulting from or in any way connected with the acquisition, condition, use, possession, conduct, management, planning, design, construction, installation, financing, marketing, leasing or sale of the Project Site or the Project, including but not limited to, the death of any person or any accident, injury, loss, and damage whatsoever caused to any person or to the property of any person that shall occur on the Property, except those arising out of the gross negligence of the City Indemnified Parties.

With respect to any interest in the Project Site acquired by Redeveloper, Redeveloper shall defend, protect, indemnify and hold harmless the City Indemnified Parties, from any claims, liability, injury, damages, costs, claims, actions and expenses (including, without limiting the generality of the foregoing, the cost of any required investigation and remediation of any environmental conditions, and the cost of attorneys' fees) which may be sustained as the result of any environmental conditions on, in, under or migrating to or from the Project Site acquired, to the extent any such liability attaches to the City Indemnified Parties as a result of this Redevelopment Agreement or activities performed by Redeveloper or its contractors pursuant to this Redevelopment Agreement, including without limitation claims against the City Indemnified Parties by any third party (the "Environmental Indemnity"), except for claims alleged to be caused by the City prior to the Commencement Date of this Redevelopment Agreement. In any situation in which the City its agents servants and employees are entitled to receive and desire defense and/or indemnification by Redeveloper, the City shall give prompt notice of such situation to Redeveloper. Failure to give prompt notice to Redeveloper shall not relieve Redeveloper of any liability to indemnify the City Indemnified Parties, unless such failure to give prompt notice materially impairs Redeveloper's ability to defend. Upon receipt of such notice, Redeveloper shall resist and defend any action or proceeding on behalf of the City its agents, servants and employees, including the employment of counsel reasonably acceptable to the City, the payment of all expenses and the right to negotiate and consent to settlement. All of the City its agents, servants and employees shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such separate counsel shall be at the expense of the indemnified party unless the employment of such counsel is specifically authorized by Redeveloper which authorization shall not be unreasonably withheld or delayed, provided, however, that if the defense of such action is assumed by Redeveloper's insurance carrier, employment of such separate counsel by the City Indemnified Parties shall be at the sole discretion of such carrier. Redeveloper shall not be liable for any settlement of any such action effected without its consent, but if settled with the consent of Redeveloper or if there is a final judgment against Redeveloper in any such action, Redeveloper shall indemnify and hold harmless the City Indemnified Parties from and against any loss or liability by reason of such settlement or judgment for which the City its agents, servants and employees are entitled to indemnification hereunder.

SECTION 10.2. Survival of Indemnity. The provisions of this Article 10 shall survive the termination of this Redevelopment Agreement due to an Event of Default and shall run with the land and be referenced in the Declaration until such time as the Declaration is discharged as a result of the recording of a Certificate of Completion, provided, however, that such indemnity shall be binding on Redeveloper itself, each successor in interest to the Project, the Project Site, or any part thereof, and each party in possession or occupancy, respectively, only for such period as Redeveloper or such successor or party shall have title to, or an interest in, or possession or occupancy of the Project Site, the Project Improvements or any part thereof.

SECTION 10.3. Insurance Required. Redeveloper shall furnish or shall cause to be furnished to the City and CCIA complete copies of original insurance policies, as required by the City and CCIA, insuring Redeveloper against losses, costs, liabilities, claims, causes of action and damages for bodily injury, property damage and personal injury on the Project Site or related to the construction thereon, including claims made by subcontractor personnel. All such policies shall be written to apply to all bodily injury, property damage, personal injury and other customary covered losses, however occasioned, occurring during the policy term, and shall be endorsed to add the City and CCIA and their representatives as additional insureds, and to provide that such coverage shall be primary and that any insurance maintained by the City and CCIA shall be excess insurance only. Such coverage shall be endorsed to waive the insurer's rights of subrogation as against the City and CCIA.

(a) Builder's risk insurance for the benefit of Redeveloper (subject to the interests of any holder), during the term of construction, sufficient to protect against loss or damage resulting from fire and lightning, wind, hurricanes and tornados, the standard extended coverage perils, vandalism, and malicious mischief.

(b) Redeveloper shall also fund and furnish or cause to be furnished to the City and CCIA evidence satisfactory to the City and CCIA that Redeveloper, and Redeveloper's Project Team and successors and assignees, and any contractor with whom they have contracted for the Project, carries workers' compensation insurance as required by law, and an employer's liability insurance endorsement with customary limits, and shall be endorsed with a waiver of subrogation clause as against the City and CCIA.

(c) Comprehensive automobile liability insurance covering all owned and hired vehicles for the Project shall be funded and maintained by Redeveloper with at least the following limits of liability: Bodily Injury Liability and Property Damage Liability - \$1,000,000.00 combined single limit per occurrence.

All insurance policies required by this section shall be obtained from insurance companies licensed in the State of New Jersey and rated at least A+ in Best's Insurance Guide. All insurance policies required hereunder shall be kept in force for the Term of this Agreement. All insurance policies required by this Section shall contain language to the effect that (i) the policies are primary, (ii) the policies cannot be cancelled or materially changed except after thirty (30) days written notice by the insurer to the City and CCIA, (iii) neither the City nor CCIA shall be liable for

any premiums or assessments, and (iv) all such insurance shall have deductibility limits, as reasonably requested by and satisfactory to the City and CCIA.

ARTICLE 11 EVENTS OF DEFAULT AND REMEDIES

Either Party reserves the right to terminate this Redevelopment Agreement in response to the other Party's default as defined herein.

SECTION 11.1. Default. Either Party shall have the right to declare the other Party in default of this Redevelopment Agreement ("Default") in the event that any of the events set forth below occur. For purposes of this Redevelopment Agreement, the term Redeveloper Event of Default shall mean the occurrence of any of the events set forth in **Section 11.2**, and City Event of Default shall mean the occurrence of any of the events set forth in **Section 11.3**, either of which may result in the other Party exercising any or all of its remedies under law, equity and/or this Redevelopment Agreement.

SECTION 11.2. Redeveloper Default Events. The City shall have the right to declare Redeveloper in default of this Agreement in the event of the occurrence of any of the following (each, a "Redeveloper Event of Default"):

(a) Redeveloper's willful failure to substantially perform, or a substantial defect in performance by Redeveloper, of any material obligation under this Redevelopment Agreement, including the failure of Redeveloper to comply with the Project Schedule, unless such failure is excused by another provision in this Redevelopment Agreement, or

(b) A final and un-appealable determination by a court of competent jurisdiction issues, holding that Redeveloper is insolvent or otherwise financially incapable of completing the Project; or

(c) Redeveloper becomes the subject of a voluntary (or involuntary as permitted by law) petition for bankruptcy; or

(d) Notice to the City by Redeveloper, indicating that Redeveloper has determined not to proceed with the Project, unless Redeveloper has the right not to proceed under the terms of this Redevelopment Agreement; or

(e) Abandonment of the Project by Redeveloper for more than 90 consecutive days, exclusive of any event of Force Majeure.

(f) A breach of the terms of the acquisition of the Public Parcels from the City and CCIA shall relieve the City and CCIA of all obligations under this Redevelopment Agreement.

(g) A default under the terms of any Loan Documents between Redeveloper and the City/UEZ for the Redevelopment Project including any Loans for acquisition of the Project Site or

construction of the improvements whether executed prior, or subsequent to, the execution of this Redevelopment Agreement.

SECTION 11.3. City Default Events. Redeveloper shall have the right to declare the City in default due to a substantial defect in performance by the City of its affirmative obligations under this Redevelopment Agreement, including but not limited to those obligations constituting City covenants contained in **Sections 3.6** ("City Event of Default").

SECTION 11.4. Default Notice. Upon an occurrence of either a Redeveloper or City Event of Default, the defaulting party shall be notified in writing that it has been declared in default (hereinafter "Default Notice"), except for a default under the terms of the Acquisition Loan Documents or the Construction Loan Documents. The Default Notice shall be given by the party giving such notice within thirty (30) days of determining that an Event of Default has occurred and shall state the basis for determining that an Event of Default has occurred. Upon receipt of the Default Notice, the defaulting party shall have thirty (30) days to correct such failure or defect or if such failure or defect is not capable of being cured within 30 days then commence actions to correct such failure or default within that period of time. In the event that the defaulting party does not cure the Default as set forth herein, the party giving the Default Notice shall have the right to exercise all remedies, as set forth below. Any Default under the terms of the Loan Documents shall be governed by the terms thereof.

SECTION 11.5. Default Rights and Remedies. In addition to any other rights and remedies which the Parties shall have at law or in equity, including but not limited to the right to specific performance upon a Default Occurrence which has not been timely cured, the non-defaulting party shall, to the fullest extent permitted by law, be entitled to terminate this Redevelopment Agreement.

SECTION 11.6 Reversion. In addition to any other rights that the City may have, upon a default by Redeveloper, Redeveloper shall execute a deed or deeds and other documents in form and substance necessary to transfer title to the Project Site to the City. All site work, and improvements constructed within the Project Site shall become the property of the City. The Redeveloper shall also deliver to the City all plans, tests, inspections, blue prints, surveys, contracts, agreements, and any other document or paper relating to the Redevelopment of the Project Site or this Redevelopment Agreement. The City may also record any quit claim deed(s) previously executed by the Redeveloper and being held in escrow by the City transferring the Project Site to the City.

SECTION 11.7. Rights and Remedies Cumulative. No Waiver by Delay: The rights and remedies of the either Party whether provided by this Redevelopment Agreement or by law, shall be cumulative, and except as otherwise specifically provided by this Redevelopment Agreement, the exercise by either Party of any one or more of such rights or remedies shall not preclude the exercise, at the same or at different times, of any other such rights or remedies for the same default, or for the same failure in respect to any of the terms, covenants, conditions or provisions of this Redevelopment Agreement or any of its remedies for any other default or breach. No delay in asserting any rights or exercising any remedy shall operate as a waiver of such rights or

remedy or otherwise deprive any Party of, or limit such rights and remedies in any way (it being the intent of this provision that the Parties shall not be constrained, so as to avoid the risk of being deprived of or limited in the exercise of the remedy provided in this Section because of concepts of waiver, laches, or otherwise, to exercise such remedy at a time when it may still hope otherwise to resolve the problems created by the default involved); nor shall any waiver by either Party with respect to any specific Default under this section be considered or treated as a waiver of the rights of such Party with respect to any other defaults under this Section or with respect to the particular default except to the extent specifically waived in writing.

SECTION 11.8. Force Majeure Events. Performance or lack of performance by either Party hereunder, shall not be deemed to be a default where delays or failure to perform are the result of the following Force Majeure acts, events or conditions, or any combination thereof, that has had or may be reasonably expected to have a direct, material, and adverse effect on the Parties' rights or obligations under this Redevelopment Agreement; provided, however, that such act, event or condition shall not be due to the fault or negligence of the Party claiming Force Majeure and shall be beyond the reasonable control of the Party relying thereon as justification for not performing an obligation or complying with any condition required of such Party ("Force Majeure"):

(a) An act of God, lightning, blizzard, hurricane, tornado, earthquake, acts of a public enemy, war, terrorism, blockade, insurrection, riot or civil disturbance, sabotage or similar occurrence, but not including reasonably anticipated weather conditions at the geographic area of the Project;

(b) A landslide, fire, explosion, flood or release of nuclear radiation not created by an act or omission of the Party claiming force majeure;

(c) Lengthy strikes by equipment manufacturers, suppliers of material and/or transporters of same where the unavailable materials are essential to the Project;

(d) The inability of Redeveloper, through no fault of its own, to obtain a Governmental Approval for which it has timely and fully applied;

(e) The Parties acknowledge that the acts, events and conditions set forth in paragraphs (a) through (d) above are intended to be the only acts, events or conditions that may (upon satisfaction of the conditions specified above) constitute Force Majeure. Notice by the Party claiming Force Majeure shall be sent to the other Party within thirty (30) calendar days of the commencement of the cause. During any Force Majeure that affects part of the Project, Redeveloper shall continue to perform, or cause to be performed, its obligations for the balance of the Project. Neither the status of the economy nor Redeveloper's inability or unwillingness to fund the Project shall be Force Majeure Events.

SECTION 11.9. Failure or Delay. Except as otherwise expressly provided in this Redevelopment Agreement, any failure or delay by either Party in asserting its rights or remedies as to any default, shall not operate as a waiver of any default, or of any such rights or remedies,

nor deprive either such Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

SECTION 11.10. Mitigation. The Parties agree to reasonably mitigate damages due to a Default.

SECTION 11.11. Survival of Default. Any declaration of Default shall survive the Termination of this Redevelopment Agreement.

SECTION 11.12. Litigation Costs. In the event that a Party to this Redevelopment Agreement successfully pursues an action to enforce any remedy provided by this Article, that party shall be entitled to payment by the other party of all reasonable costs and expenses incurred in connection with such action, including attorney fees.

ARTICLE 12 MISCELLANEOUS

SECTION 12.1. Notices. Formal notices, demands and communications by and among the City, CCIA and Redeveloper shall be deemed sufficiently transmitted if dispatched to the addresses set forth below, by registered or certified mail, postage prepaid, return receipt requested, and shall be deemed delivered upon receipt. Redeveloper shall be responsible for providing whatever notices it receives from the City to Redeveloper's successors or assignees,

where applicable. Notices may also be sent by a commercial overnight delivery service with packaging tracking capability and for which proof of delivery is available.

Notices, demands and communications shall be sent as follows:

If to Redeveloper:

John Ruga
224 S. Lincoln Avenue
Vineland, NJ 08360

With a copy to:

Michael P. Fralinger, Esquire
100 N. Main Road
Vineland, NJ 08360

If to City:

Department of Law
City of Vineland
640 East Wood Street
Vineland, New Jersey 08360

With a copy to:

Sandra Forosisky
City of Vineland
640 East Wood Street
Vineland, New Jersey 08360

If to CCIA:

Cumberland County Improvement
Authority
Gerard Velazquez, III
President/CEO
2 North High Street
Millville, NJ 08332

With a copy to:

SECTION 12.2. Non-Liability of Representatives of the City and CCIA. No official, officer, professional, employee, agent or representative of the City or CCIA shall be personally liable to Redeveloper, Redeveloper's assignee or successor in interest, in the event of any default, breach or violation by the City or CCIA, or for any amount which may become due to Redeveloper, its assignee, or successor, or with regard to any obligation under the terms of this Redevelopment Agreement.

SECTION 12.3. Lender Provision. If any of Redeveloper's Project lenders request a change in the terms of this Redevelopment Agreement, the City and CCIA shall cooperate with Redeveloper in approving such change, as long as the City's or CCIA's responsibilities do not increase under this Redevelopment Agreement, the City's or CCIA's benefits hereunder are not decreased and there is no change in the Project, Project Improvements or Redeveloper's Covenants. In addition, the City and CCIA may agree to enter into such agreements as Redeveloper's lenders may reasonably require, at Redeveloper's sole expense, provided that such agreements shall not be inconsistent with the terms of this Redevelopment Agreement.

SECTION 12.4. No Consideration for Redevelopment Agreement. Redeveloper warrants it has not paid or given, and will not pay or give, any third person any money or other

consideration in connection with obtaining this Redevelopment Agreement, other than normal costs of conducting business and costs of professional services such as architects, engineers, financial consultants and attorneys. Redeveloper further warrants it has not paid or incurred any obligation to pay any officer, official, agent or representative of the City or CCIA, any money or other consideration for or in connection with this Redevelopment Agreement or this Project, nor violated any "pay to play" rules.

SECTION 12.5. Successors and Assigns. This Redevelopment Agreement shall be binding upon and inure to the benefit of any successors and assigns of the Parties hereto.

SECTION 12.6. Exhibits. All Exhibits attached hereto and/or referred to in this Redevelopment Agreement, are incorporated herein as though set forth in full.

SECTION 12.7. Titles of Articles, Sections and Paragraphs. The titles of the Articles, Sections and Paragraphs of this Redevelopment Agreement are inserted for the convenience of reference only, and shall be disregarded in construing or interpreting any Agreement provisions.

SECTION 12.8. Severability. If any term or provision of this Redevelopment Agreement or the application thereof shall to any extent be held to be invalid or unenforceable, the remainder of this Redevelopment Agreement, including any application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each remaining term and provision of this Redevelopment Agreement shall be valid and shall be enforced to the extent permitted by law.

SECTION 12.9. Enforcement by the City and CCIA. (a) It is intended and agreed that the City and its successors and assigns shall be deemed beneficiaries of the Redevelopment Agreement and covenants set forth in this Redevelopment Agreement, for and in their own right and for the purposes of protecting the interests of the City of Vineland community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants have been provided. Such agreements and covenants shall run in favor of the City for the entire period during which such agreements and covenants shall be in force and effect. The City shall have the right, in the event of any breach of any such agreement or covenant, to exercise all rights and remedies set forth herein, and to maintain any actions or suits at law or in equity or other proper proceedings, to enforce the curing of such breach of agreement or covenant, to which the City or any other beneficiaries of such agreement or covenant may be entitled.

(b) It is further intended and agree that the CCIA and its successors and assigns shall be deemed direct and third-party beneficiaries of this Redevelopment Agreement. Redeveloper's agreements and covenants shall run in favor the CCIA for the entire period during which such agreements and covenants shall be in force and effect. The CCIA shall have the right, in the event of any breach of such agreement or covenant, to exercise all rights and remedies set forth herein, and to maintain any actions or suits at law or in equity or other proper proceedings,

as a direct or third-party beneficiary, as the case may be, to enforce the curing of such breach or agreement or covenant.

SECTION 12.10. Enforcement by Redeveloper. It is intended and agreed that Redeveloper and its successors and assigns shall be deemed beneficiaries of the agreements and covenants set forth by the City in this Redevelopment Agreement. Such agreements and covenants shall run in favor of Redeveloper for the entire period during which such agreements and covenants shall be in force and effect. Redeveloper shall have the right, in the event of a City material breach of any such agreement or covenant, to exercise all rights and remedies as set forth herein to maintain actions to enforce the curing of such breach of agreement, to which it may be entitled.

SECTION 12.11. Modification of Redevelopment Agreement. No modification, waiver, amendment, discharge, or change of this Redevelopment Agreement shall be valid unless the same is in writing, duly authorized, and executed by both Parties.

SECTION 12.12. Execution of Counterparts. This Redevelopment Agreement may be executed in one or more counterparts and such counterparts shall constitute one and the same instrument.

SECTION 12.13. Drafting Ambiguities; Interpretation. In interpreting any provision of this Redevelopment Agreement, no weight shall be given to, nor shall any construction or interpretation be influenced by, the fact that counsel for either party drafted the initial proposed Redevelopment Agreement, each Party acknowledging that it and its counsel have had an opportunity to review this Redevelopment Agreement and to contribute to the final form of same.

SECTION 12.14. Time Period for Notices. All notices to be given hereunder shall be given in writing and, unless a certain number of days is specified, within a reasonable time.

SECTION 12.15. Conflict of Interest. No official, officer, or employee of the City shall have any direct interest in this Redevelopment Agreement, nor participate in any decision relating to the Redevelopment Agreement where prohibited by law.

SECTION 12.16. Governing Law. This Redevelopment Agreement shall be governed by and construed in accordance with the applicable laws of the State. This Redevelopment Agreement has been executed and delivered to the parties in the State and shall be governed, construed and interpreted in all respects in accordance with the laws of the State. The Superior Court of the State of New Jersey, in the County of Cumberland, shall have sole and exclusive jurisdiction to hear and determine any claims or disputes pertaining directly or indirectly to this Redevelopment Agreement, enforcement of this Redevelopment Agreement, or any other matter arising there from. The parties expressly submit, and consent, in advance, to such jurisdiction in any action or proceeding commenced by the lender in such Court and expressly waives any right that may otherwise exist to a trial by jury

SECTION 12.17. Withholding of Approvals. All approvals, consent and acceptances required to be given or made by either Party hereunder to implement the Project shall not be unreasonably withheld or delayed, unless specifically stated otherwise herein. Redeveloper acknowledges that the Planning Board of the City of Vineland is not a party to this Agreement and that it will be necessary for Redeveloper to independently obtain any necessary approvals from the Planning Board.

SECTION 12.18. Rights Cumulative. All rights and remedies herein or granted to the Parties are cumulative, non-exclusive and in addition to any and all rights and remedies that the Parties may have or be given by reason of any law, statute, ordinance or otherwise.

SECTION 12.19. Entire Agreement. This Redevelopment Agreement, including all Exhibits, together with all contracts to transfer the Project Site and any PILOT Agreement, shall constitute the entire agreement between the Parties concerning the NEP Redevelopment Project, and shall supersede all negotiations, agreements and understandings, written or oral, formal or informal, between the Parties with respect to the subject matter hereof, except as otherwise provided herein, all of which are deemed to be merged herein.

SECTION 12.20. No Other Reliance. Each of the signatories represents by execution of this Redevelopment Agreement that it has not relied upon any representatives, oral or otherwise, of the other Party or its officers, officials, agents, affiliates, employees or representatives, except for those representations explicitly set forth in this Redevelopment Agreement.

SECTION 12.21. Effective Date. The effective date of this Redevelopment Agreement (“Effective Date”) shall be that date that both Parties have executed the Agreement. The date on the cover page, as well as on Page 1 of this Redevelopment Agreement, shall be for identification purposes only, and shall not be construed to imply that this Redevelopment Agreement was executed on any date other than the dates which appear next to the respective signatures of each Party hereto. This Agreement shall be dated as of the Effective Date of this Agreement.

SECTION 12.22. Term. Unless otherwise terminated as provided herein, this Redevelopment Agreement shall remain in full force and effect from the effective date hereof until issuance of the final Certificate of Occupancy is issued for the Project, subject to any survival as set forth in this Agreement, unless the Agreement terminates pursuant to the provisions hereunder or by operation of law.

SECTION 12.23. Calculation of Time. Whenever in this Redevelopment Agreement a period of time is stated as a number of days, it shall be construed to mean calendar days; provided, however, that when any period of time so stated would end on a Saturday, Sunday or legal holiday, such period shall be deemed to end on the next day following that which is not a Saturday, Sunday or legal holiday.

SECTION 12.24. Preservation of Police Powers. Nothing set forth in this Redevelopment Agreement shall be construed to constitute waiver of any right by the City to exercise police powers to the extent necessary to protect the health, safety, or welfare of City citizens.

SECTION 12.25. No Contributions. Redeveloper has not made any contributions to the City, nor to its officials, that would cause a violation of any “pay-to-play” or similar laws.

SECTION 12.26. Documents to be Delivered on Termination. In the event this Redevelopment Agreement is terminated for any reason, except as a sole result of the default of the City, Redeveloper shall deliver to the City, at no cost to the City, within thirty (30) days after such termination, true and correct copies of all final reports, studies, data, plans, surveys, title reports, subdivision maps and specifications prepared by Redeveloper and by third parties with respect to the Project, including environmental reports and data, and all documents, reports, permits and approvals obtained by Redeveloper relating to the Project Site.

SECTION 12.27. Right of Entry. As provided in this Redevelopment Agreement, Redeveloper shall have full access to enter the Project Site, and shall allow the City, CCIA and their representatives reasonable access to the Project Site for all relevant purposes hereunder. Redeveloper’s access to enter the Project Site shall be subject to, among other protections and required established in this Redevelopment Agreement and by Legal Requirements: (a) Redeveloper has obtained all required remediation permits or approvals for the work proposed; (b) Redeveloper shall indemnify, hold and save the City and CCIA harmless as provided in Section 10.1 from and against any and all loss, cost, damage, injury or expense arising out of or in any way related the removal of such soils, debris, Hazardous Substances and other contaminants and materials and (c) Redeveloper shall provide all insurance coverage described herein. Such Redeveloper obligations shall survive the termination of this Agreement.

SECTION 12.28. Redevelopment and Remediation. Redeveloper agrees that the Project Site shall be redeveloped only in accordance with New Jersey statutes, NJDEP regulations and the Redevelopment Plan, as amended from time to time, in accordance with all applicable permits and approvals, including site plan approvals.

SECTION 12.29. Cooperation. City and Redeveloper shall cooperate with each other in all lawful respects, and shall exercise best efforts to effectuate the purposes of this Redevelopment Agreement.

SECTION 12.30. Challenges. In the event any proceeding is commenced by any third party challenging the validity of this Redevelopment Agreement, the Governmental Approvals, remediation, any PILOT Agreement, designation of Redeveloper or any aspect of the Redevelopment Plan, the Parties shall cooperate in defending such action or proceeding, at Redeveloper’s sole expense.

SECTION 12.31. No Joint Venture with City or CCIA. Nothing contained herein shall be construed as making City, CCIA and Redeveloper partners, joint venturers or agents of each other. The parties have no relationship to each other except as redevelopment entity and Redeveloper for the Project.

SECTION 12.32. Recordation. At the written request of Redeveloper, City agrees to consider recording this Redevelopment Agreement, or a memorandum thereof in a form reasonably satisfactory to the City, to be recorded by Redeveloper at Redeveloper’s expense with

the Clerk of the County of Cumberland. The City may, at its option, and without a request from Redeveloper, record this Redevelopment Agreement of a memorandum thereof.

SECTION 12.33. Survival of Covenants. Each covenant and agreement contained herein shall survive any closing(s) of title on the Project Site.

IN WITNESS WHEREOF, the Parties hereto have caused this Redevelopment Agreement to be executed on the day above written.

Witness:

**NEP REAL ESTATE OF VINELAND
URBAN RENEWAL, LLC.**

By: _____
Name: John Ruga
Title: _____
Execution Date: _____

Witness:

**THE CITY OF VINELAND, by its Governing Body,
VINELAND CITY COUNCIL**

By: _____
Name: Paul Spinelli
Title: City Council President
Execution Date: _____

Witness:

The CITY OF VINELAND

By: _____
Name: Anthony Fanucci
Title: Mayor
Execution Date: _____

ACKNOWLEDGEMENT OF CCIA

The undersigned, on behalf of the Cumberland County Improvement Authority, hereby acknowledges and agrees to the provisions pertaining to the sale of the Public Parcels by the CCIA and the remaining provisions for which the CCIA is a third party beneficiary.

**CUMBERLAND COUNTY IMPROVEMENT
AUTHORITY**

By: _____
Name: Gerard Velazquez, III
Title: President/CEO