

CITY OF VINELAND

RESOLUTION NO. 2018- 221

RESOLUTION AUTHORIZING THE EXECUTION OF A REDEVELOPER'S AGREEMENT BY AND BETWEEN THE CITY COUNCIL OF THE CITY OF VINELAND AS THE REDEVELOPMENT ENTITY AND HANS LAMPART AND EASTERN PACIFIC DEVELOPMENT LLC, VINELAND, NEW JERSEY FOR A PORTION OF THE NEWCOMB HOSPITAL REDEVELOPMENT AREA KNOWN AS BLOCK 4216 LOTS 1.01 AND 1.02

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 a Resolution finding that Block 4216, Lots 35.01, 33.01, 35.02 and 50 declaring the same the Newcomb Hospital Redevelopment Area; and

WHEREAS, the City Council of the City of Vineland has entered into a Redevelopment Agreement with Newcomb Medical Alliance, LLC (Redeveloper) for the redevelopment of the Newcomb Hospital Redevelopment Area dated August 3, 2015; and

WHEREAS, Redeveloper has requested the City Council approve an assignment of its rights and responsibilities regarding the redevelopment of a portion of the Newcomb Hospital Redevelopment Area now known as Block 4216 Lots 1.01 and 1.02 (Property) to Hans Lampart and Eastern Pacific Development, LLC, Vineland, New Jersey for the redevelopment and construction of two senior independent living facilities consistent with the Redevelopment Plan adopted by City Council and the Redeveloper's Agreement by and between Redeveloper and the City Council, subject to the execution of a Redeveloper's Agreement by and between the City Council of the City of Vineland as the Redevelopment Entity and Hans Lampart and Eastern Pacific Development LLC; and

WHEREAS, Hans Lampart and Eastern Pacific Development, LLC (Eastern Pacific) has requested City Council as the redevelopment entity appoint it as the redeveloper for the Property subject to the execution of a Redevelopment Agreement wherein Eastern Pacific 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 Eastern Pacific has the financial ability, experience and expertise to redevelop the Property within a reasonable period of time as set forth in the Redevelopment Agreement and the Redeveloper and Eastern Pacific have or shall execute an Assignment Agreement in the form and substance as approved by the City Council conditioned upon Eastern Pacific being appointed as redeveloper and the execution of the Agreement as attached hereto and made a part hereof.

CITY OF VINELAND

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 Hans Lampart and Eastern Pacific Development, LLC, Vineland, New Jersey as the Redeveloper for a portion of the Newcomb Hospital Redevelopment Area, Block 4216 Lots 1.01 and 1.02, in accordance with N.J.S.A. 40A:12-8, subject to the execution of an Assignment of Rights and Responsibilities from Newcomb Medical Alliance LLC and Hans Lampart and Eastern Pacific Development LLC in the form and substance as approved by the City Council and further subject to the execution of a Redevelopment Agreement by and between the City Council of the City of Vineland as Redevelopment Entity and Hans Lampart and Eastern Pacific Development, LLC, Vineland, New Jersey in the form and substance attached hereto and made a part hereof.

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

Adopted:

---

President of Council

ATTEST:

---

City Clerk

## OPTION AND SALE AGREEMENT

**THIS OPTION AND SALE AGREEMENT** (this "Agreement") is made as of this 8<sup>th</sup> day of May, 2018 (the "Effective Date") by and between **Newcomb Medical Alliance Center, L.L.C.** ("Owner/Optionor"), a New Jersey limited liability company having an address located at 706 Pequot Place, Franklin Lakes, New Jersey 07417, and **EASTERN PACIFIC DEVELOPMENT, LLC** ("Purchaser/Optionee"), a New Jersey limited liability company having an address located at 925 East Landis Avenue, Vineland, New Jersey 08361.

### WITNESSETH:

WHEREAS, Optionor is the owner of certain unimproved real property premises commonly known as Lot 1.01 & 1.02, Block 4216 as shown on the tax maps of the City of Vineland, County of Cumberland, New Jersey, more particularly described on Exhibit A attached hereto and made a part hereof (hereinafter referred to as the "Premises"); and

WHEREAS, Optionee desires to enter into an option to purchase part of the Premises from Optionor in accordance with the terms and conditions hereof, and

WHEREAS, Optionor desires to grant Optionee an option to purchase the Premises in accordance with the terms and conditions hereof; and

WHEREAS, the parties hereto intend to be bound by the provisions of this Agreement and set forth their entire mutual understanding with respect to the terms of the option and the potential sale as contemplated herein.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereto agree as follows:

For one dollar (\$1.00) and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Owner agrees to sell and buyer agrees to purchase a portion of certain premises currently designated as Block 4216, Lots 1.01 and 1.02 on the official tax map of the City of Vineland, State of New Jersey consisting of approximately 3.2 acres as approximately depicted on Exhibit A attached hereto (collectively, the "Property") on the terms and conditions of this Agreement. The purchase agreement is for a period commencing on the Effective Date and continuing for two (2) years or through June 1, 2020 (Option Period). Optionee may exercise the purchase under the agreement by providing to Owner at any time during the Option Period at least thirty (30) days prior written notice of the date on which the closing for the sale of the Property from Owner to Optionee will occur (the "Closing Date"). Upon notification to the owner of the Closing Date, Optionee will deliver to Owner consideration for the purchase of the Property in an amount equal to: Parcel # 1 lot 1.01 \$ 1,500,000 and Parcel #2 lot 1.02 \$ 1,500,000, which amount shall be paid by cash, check or wire transfer.

Notwithstanding any provision to the contrary, the Optionee agrees that during the term of the option, there will be no costs incurred by the Owner of the property other than the insurance and real estate taxes. By way of example, the Optionee shall be required to pay any/all debt service including any interest payments to the City of Vineland. Said amount is estimated to be \$30,000.00 per year or

\$2,500.00 per month. However, as all parties are aware that the City of Vineland has agreed to waive the interest payments on the two (2) Lots during the Option Period. If the interest payments are not waived, the Optionee nonetheless would be responsible for this payment. If any such payments are not made, after written Notice to the Optionee of failure to make same, the Owner shall have the right in its sole discretion to terminate the Option Agreement.

This agreement for each parcel is subject to the following conditions, (i) a satisfactory environmental review of the Property by Optionee and its lenders, which Owner agrees shall be at Optionee's sole cost and expense; (a) approval from the City of Vineland with respect to a PILOT; (b) inclusion of the Property in a redevelopment area; (c) the continued existence of the bus stop/transportation area within one-half mile of the Property; (d) receipt of a letter of support with respect to the redevelopment of the Property from the mayor of the City of Vineland; (e) preliminary site plan approval with respect to the redevelopment of the Property with conditions acceptable to Optionee in Optionee's sole discretion; (f) confirmation that no site or ground water contamination exists on the Property; (g) confirmation that existing utilities, including sewer and water capacity, are sufficient to serve the project contemplated at the Property; (h) confirmation sewer and water connections are available within one hundred (100) feet of the Property; (i) award by the New Jersey Housing and Mortgage Financing Agency of a tax credit allocation sufficient to fund each project separately contemplated at the Property; (j) availability of tax credit equity at pricing sufficient to fund the project contemplated at the Property; and (k) approval to develop at least seventy (70) residential units on each parcel;

Holder may assign its rights and interest in this Agreement, with the prior consent of Owner, to a limited liability company in which Holder or its affiliate is the managing member. Said assignment shall reflect the creation of the ownership entity created for the purpose of the development of the property.

During the Option Period, Owner shall not create any liens or encumbrances on the Property, nor shall Owner create any other options, agreements of sale or leases of any nature whatsoever. Furthermore, during the Option Period, after providing the Owner satisfactory evidence of liability insurance in the amount of at least \$1,000,000 per occurrence, Optionee shall have the right, upon twenty-four hours' notice to Owner to come onto the Property to inspect and conduct such tests as Optionee deems necessary. Owner shall also provide Optionee with copies of and access to all existing reports, studies, surveys and other diligence materials that have been prepared with respect to the Property. Owner and Optionee, on terms mutually agreeable, shall jointly make any applications with governmental authorities pertaining to the development of the Property for the purposes of constructing 55 years and older affordable housing in accordance with a redevelopment plan adopted, or to be adopted, by the City of Vineland and a redevelopment agreement between, or to be entered into between, Optionee, or an affiliate of Optionee, and the City of Vineland, pursuant to which the development of the Property is, or will be, subject. Owner will cooperate with Optionee in connection with (a) any such applications, which shall include, without limitation, entering into such documentation, agreements and applications for the project contemplated at the Property as Optionee may reasonably request, and (b) all of Optionee's due diligence for determining whether to exercise the Option.

Upon closing sale of the property possession of the Property shall be delivered to Optionee, or its assignee, on the Closing Date as such date is declared by Optionee. On the Closing Date,

Owner shall convey the Property to Optionee by bargain and sale deed with covenants against grantor's acts in proper and recordable form for Cumberland County, New Jersey and shall execute such title affidavits, non-foreign affidavits and such other documents reasonably requested by Optionee. On the Closing Date, fee title to the Property shall be good and marketable and insured by EPD Abstract, or such other reputable title insurance company as Optionee may elect in its sole and absolute discretion, at its regular rates, free and clear of all liens, delinquent taxes, assessments, leases and encumbrances of any kind, except for easements and restrictions of record which are satisfactory to Optionee. Owner shall pay when due and be responsible for all real estate taxes incurred with respect to the Property and shall pay any real estate transfer taxes in connection with the sale of the Property from Owner to Optionee, or its assignee.

Owner and Optionee represent and warrant to each other that they have not engaged any real estate broker or agent in connection with the purchase or sale of the Property, and each party shall indemnify the other with respect to any breach of the foregoing representation and warranty attributable to such party.

Any amendment or modification to this Agreement must be in writing and signed by both parties or it is void and of no effect. This Agreement, including the exhibits, contains the entire agreement between Owner and Optionee concerning the subject matter hereof and fully supersedes all prior agreements and understandings between Owner and Optionee relating to such subject matter.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which, taken together, will constitute one and the same instrument. Execution and delivery of this Agreement by exchange of facsimile or electronic copies bearing the facsimile or electronic signature of a party hereto shall constitute a valid and binding execution and delivery of this Agreement by such party. Such facsimile or electronic copies shall constitute enforceable original documents.

It is the intent of this agreement that each parcel will be acquired separately with the same closing conditions as defined for each parcel separately. Additional seller agrees to help facilitate required approvals including any cross easements required for each parcel.

This Agreement shall be governed by the laws of the State of New Jersey.

**[SIGNATURES ON NEXT PAGE]**

**IN WITNESS WHEREOF, Owner and Optionee have caused this Agreement to be executed as of the date first above written.**

**OWNER:**

**NEWCOMB MEDICAL ALLIANCE CENTER,  
L.L.C., a New Jersey limited liability company**

By:   
Angelo J. Danza, Manager Member

**OPTIONEE:**

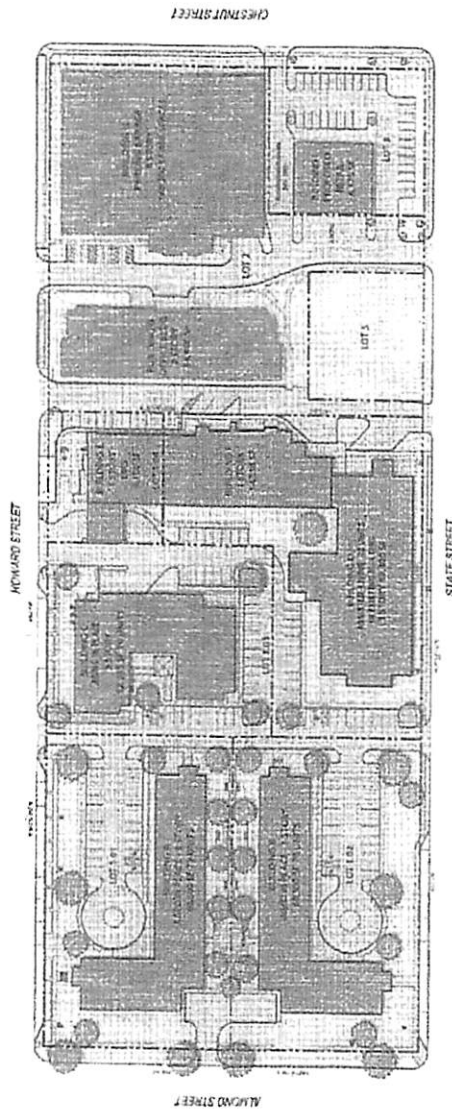
**EASTERN PACIFIC DEVELOPMENT, LLC, a  
New Jersey limited liability company**

By:   
Hans Lampart, Sole Member

**Signature Page to Option Agreement to Purchase Real Property --**

**DMEAST #27717077 v2**

EXHIBIT "A"  
 Approximate Depiction of the Property



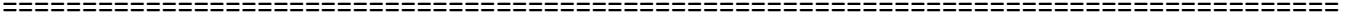
DANZA  
 GROUP

Vineland Site Plan  
 Vineland, New Jersey

FEB 15, 2017



EXHIBIT "A"



**REDEVELOPMENT AGREEMENT**

For the

**FORMER CAMPUS OF NEWCOMB HOSPITAL**

Within the

Newcomb Redevelopment District in the City of Vineland, Cumberland County, New Jersey

Between

**THE CITY OF VINELAND**

By Its Governing Body, Vineland City Council

A Municipal Corporation Redevelopment Entity

and

**HANS LAMPART AND EASTERN PACIFIC DEVELOPMENT LLC**

Appointed Eastern Pacific

Entered into on

\_\_\_\_\_, 2018



TABLE OF CONTENTS

	<u>Page</u>
<b><u>PRELIMINARY STATEMENT</u></b> .....	6
<b><u>ARTICLE 1</u></b> .....	8
<b><u>DEFINITIONS AND INTERPRETATIONS</u></b> .....	8
<b><u>SECTION 1.1. Definitions</u></b> .....	8
<b><u>SECTION 1.2. Drafting Ambiguities; Interpretation</u></b> .....	14
<b><u>SECTION 1.3. Interpretation and Construction</u></b> .....	14
<b><u>ARTICLE 2</u></b> .....	15
<b><u>GENERAL REPRESENTATIONS AND WARRANTIES</u></b> .....	15
<b><u>SECTION 2.1. Representations and Warranties by Eastern Pacific</u></b> .....	15
<b><u>SECTION 2.2. Representations and Warranties by the City</u></b> .....	17
<b><u>SECTION 2.3. Mutual Representations</u></b> .....	17
<b><u>ARTICLE 3</u></b> .....	18
<b><u>DECLARATION OF COVENANTS AND RESTRICTIONS; EASTERN PACIFIC COVENANTS;</u></b> <b><u>BOROUGH COVENANTS</u></b> .....	18
<b><u>SECTION 3.1. Declaration of Covenants and Restrictions</u></b> .....	18
<b><u>SECTION 3.2. Eastern Pacific Covenants</u></b> .....	18
<b><u>SECTION 3.3. Effect and Duration of Eastern Pacific Covenants</u></b> .....	20
<b><u>SECTION 3.4. Termination of Declaration and Redevelopment Agreement</u></b> ....	20
<b><u>SECTION 3.5. Enforcement by the City</u></b> .....	21
<b><u>SECTION 3.6. City Covenants</u></b> .....	21
<b><i>Section 3.7 Assignment Contingency</i></b> .....	23
<b>Article 4</b> .....	29
<b><u>IMPLEMENTATION OF PROJECT</u></b> .....	29
<b><u>SECTION 4.1. Redevelopment Plan</u></b> .....	23
<b><u>SECTION 4.2. Specific Site Plan</u></b> .....	23
<b><u>SECTION 4.3 Project Review and Inspection</u></b> .....	24
<b><u>SECTION 4.4 Existence of Utilities</u></b> .....	24
<b><u>SECTION 4.5 Sewer Connection Fees</u></b> .....	24
<b><u>SECTION 4.6 Environmental Compliance</u></b> .....	30

<u>SECTION 4.7 Dedicated Improvements.....</u>	24
<u>SECTION 4.8 Public Improvements.....</u>	25
<u>SECTION 4.9 Project Parking and Signage.....</u>	25
<u>SECTION 4.10 Condition of Site.....</u>	25
<u>SECTION 4.11. Neighborhood Impacts.....</u>	25
<u>SECTION 4.12 Certificate of No Default.....</u>	25
<u>SECTION 4.13. Certificate of Occupancy.....</u>	25
<u>SECTION 4.14 Project Schedule Violations.....</u>	26
<b>SECTION 4.15 Prohibition Against Suspension, Discontinuance or Termination.....</b>	26
<b>SECTION 4.16 Execution of Documents.....</b>	26
<b>SECTION 4.17 Compliance with Redevelopment Agreement.....</b>	26
<b>SECTION 4.18 Cooperation.....</b>	26
<b><u>SECTION 4.19 Term.....</u></b>	27
<b><u>SECTION 4.20 Access to Project Site.....</u></b>	27
<b><u>SECTION 4.21 Liability Insurance for Access.....</u></b>	27
<b><u>SECTION 4.22 Tax Assessments.....</u></b>	27
<b><u>ARTICLE 5 ACKNOWLEDGMENT OF RECEIPT OF COLLATERAL DOCUMENTS.....</u></b>	27
<b><u>SECTION 5.1. Simultaneous Delivery of Documents by Eastern Pacific...27</u></b>	
<b><u>ARTICLE 6 OWNERSHIP AND CONTROL OF PROJECT SITE.....</u></b>	28
<b>SECTION 6.1 Project Site Ownership.....</b>	28
<b><u>SECTION 6.2. Conveyance of Project Site .....</u></b>	28
<b><u>SECTION 6.3. Conditions for Conveyance of Title .....</u></b>	28
<b><u>ARTICLE 7 PROJECT OVERSIGHT.....</u></b>	30
<b>SECTION 7.1 Progress Meetings.....</b>	30
<b><u>SECTION 7.2 Progress Reports.....</u></b>	30
<b><u>SECTION 7.3 Proof of Submissions for Approvals.....</u></b>	30
<b><u>SECTION 7.4 Project Oversight Committee.....</u></b>	30
<b><u>ARTICLE 8 TRANSFERS.....</u></b>	30
<b><u>SECTION 8.1. Prohibition Against Transfers.....</u></b>	306

<u>SECTION 8.2. Permitted Transfers</u> .....	
<u>SECTION 8.3. Notice of Permitted Transactions</u> .....	317
<u>SECTION 8.4. Transfers Void</u> .....	317
<b>ARTICLE 9 FINANCIAL OBLIGATIONS</b> .....	<b>31</b>
<u>SECTION 9.1. Eastern Pacific’s Financial Commitments</u> .....	317
<u>SECTION 9.2. Project Costs</u> .....	32
<u>SECTION 9.3. Property Tax Treatment Request</u> .....	32
<u>SECTION 9.4 City Costs</u> .....	32
<u>SECTION 9.5 Escrow for City Costs</u> .....	32
<u>SECTION 9.6 Governmental Approval Fees</u> .....	32
<u>SECTION 9.7 City Declaration of Event of Default</u> .....	33
<b>ARTICLE 10 INDEMNIFICATION; INSURANCE</b> .....	<b>33</b>
<u>SECTION 10.1. Indemnification</u> .....	339
<u>SECTION 10.2. Survival of Indemnity</u> .....	340
<u>SECTION 10.3. Insurance Required</u> .....	350
<b>ARTICLE 11 EVENTS OF DEFAULT AND REMEDIES</b> .....	<b>351</b>
<u>SECTION 11.1. Default</u> .....	351
<u>SECTION 11.2. Eastern Pacific Default Events</u> .....	351
<u>SECTION 11.3. City Default Events</u> .....	351
<u>SECTION 11.4. Default Notice</u> .....	362
<u>SECTION 11.5. Default Rights and Remedies</u> .....	362
<u>SECTION 11.6. Rights and Remedies Cumulative</u> .....	362
<u>SECTION 11.7. Force Majeure Events</u> .....	373
<u>SECTION 11.8. Failure or Delay</u> .....	374
<u>SECTION 11.9. Mitigation</u> .....	374
<u>SECTION 11.10. Survival of Default</u> .....	384
<u>SECTION 11.11 Litigation Costs</u> .....	384
<b>ARTICLE 12 MISCELLANEOUS</b> .....	<b>38</b>
<u>SECTION 12.1. Notices</u> .....	384
SECTION 12.2 Non-Liability of Representatives of the City.....	38
<u>SECTION 12.3. Lender Provision</u> .....	395

<u>SECTION 12.4. No Consideration for Redevelopment Agreement</u> .....	395
<u>SECTION 12.5. Successors and Assigns</u> .....	395
<u>SECTION 12.6. Exhibits</u> .....	395
<u>SECTION 12.7.. Titles of Articles, Sections and Paragraphs</u> .....	39 <b>Error! Bookmark not defined.</b>
<u>SECTION 12.8. Severability</u> .....	395
<u>SECTION 12.9. Enforcement by the City</u> .....	396
<u>SECTION 12.10. Enforcement by Eastern Pacific</u> .....	406
<u>SECTION 12.11. Modification of Redevelopment Agreement</u> .....	40
.....	<b>Error! Bookmark not defined.</b>
<u>SECTION 12.12. Execution of Counterparts</u> .....	406
<u>SECTION 12.13. Drafting Ambiguities; Interpretation</u> .....	<b>Error! Bookmark not defined.</b>
<u>SECTION 12.14. Time Period for Notices</u> .....	40.6
<u>SECTION 12.15. Conflict of Interest</u> .....	406
<u>SECTION 12.16. Governing Law</u> .....	407
<u>SECTION 12.17. Withholding of Approvals</u> .....	407
<u>SECTION 12.18. Rights Cumulative</u> .....	407
<u>SECTION 12.19. Entire Agreement</u> .....	407
<u>SECTION 12.20. No Other Reliance</u> .....	417
<u>SECTION 12.21. Effective Date</u> .....	417
<u>SECTION 12.22. Term</u> .....	418
<u>SECTION 12.23. Calculation of Time</u> .....	428
<u>SECTION 12.24. Preservation of Police Powers</u> .....	428
<u>SECTION 12.25. No Contributions</u> .....	428
<u>SECTION 12.26. Documents to be Delivered on Termination</u> .....	428
<u>SECTION 12.27. Right of Entry</u> .....	428
<u>SECTION 12.28. Redevelopment and Remediation</u> .....	428
<u>SECTION 12.29. Cooperation</u> .....	439
<u>SECTION 12.30. Challenges</u> .....	439
<u>SECTION 12.31. No Joint Venture with City</u> .....	439
<u>SECTION 12.32. Recordation</u> .....	430

SECTION 12.33. Incorporation of Prior Agreements.....430  
SECTION 12.34. Survival of Covenants.....440  
Signature Page ..... 44

**Exhibits**

EXHIBIT A -- Project Site .....  
EXHIBIT B -- Metes and Bounds Description .....  
EXHIBIT C -- Concept Plan .....  
EXHIBIT D -- Project Schedule .....  
EXHIBIT E -- Newcomb Monument.....  
EXHIBIT F -- **Project Team** .....  
EXHIBIT G – Long Term Tax Exemption Ordinance.....

.....  
This **REDEVELOPMENT AGREEMENT** ("Redevelopment Agreement"), dated as of \_\_\_\_\_, 2018, (the "Effective Date" is hereby entered into, by and between the **VINELAND CITY COUNCIL, the Governing Body of the CITY OF VINELAND ("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 the provisions of the Local Redevelopment and Housing Law, **N.J.S.A. 40A:12A-1 et seq.** and **HANS LAMPART AND EASTERN PACIFIC DEVELOPMENT LLC**, a New Jersey Limited Liability Company maintaining its principal address at Landis Avenue, Vineland NJ 08360, or its Permitted Assignee or Designee ("**Eastern Pacific**"). Together, the City and the Eastern Pacific 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 on **Exhibit "A"** attached hereto (the "Project Site"). The Project Site, a metes and bounds description of which is set forth in **Exhibit "B"** attached hereto, is currently owned in fee simple by Newcomb Medical Alliance Center, LLC (NMAC). NMAC is the Redeveloper of the Project Site in accordance with a Redevelopment Agreement dated August 3, 2015, as amended by the First, Second, Third and Fourth Amendments thereto. NMAC has requested the City authorize Hans Lampart and Eastern Pacific LLC (collectively Eastern Pacific) be an assignee of a portion of the Project Site, more particularly Block 4216 Lots 1.01 and 1.02 as depicted on the official tax map of the City of Vineland (Assigned Lots), be appointed Redeveloper for the Assigned Lots and permit the construction of two- 4 story affordable senior apartment facilities thereon as depicted on Exhibit C (Concept Plan), subject to the final approval of an agreement by and between NMAC and Eastern Pacific and the execution of this Redevelopment Agreement. The Parties intend to secure high quality, cost-efficient redevelopment of the Assigned Lots in as short a time frame as practicable. The City is

committed to working with Eastern Pacific, as appropriate, to pursue economic assistance for the Project afforded by relevant agencies and institutions.

The City has determined that redevelopment of the Assigned Lots for affordable senior apartment facilities is likely the most beneficial uses of the property (“Project”) since those uses will promote job creation, provide a much needed accommodation to the aging population in the City of Vineland and economic development benefits within the municipality and, therefore, fulfills the purposes of the Act.

Eastern Pacific maintains that it has the financial ability, experience and expertise to redevelop the Assigned Lots within a reasonable time and within the time set forth in accordance with the provisions of this Redevelopment Agreement and has prior thereto undertaken substantial efforts in furtherance of the goals and intention of this Agreement.

To effectuate the purposes of the Act, and, in consideration of the approval of the assignment of the Assigned Lots, 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 Eastern Pacific hereby agree to work cooperatively as Eastern Pacific 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 has designated the Project Site described in **Exhibit “A”** 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 affordable senior apartment facilities to meet the current goals of the City, and further that Eastern Pacific 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 the Eastern Pacific are promoted by such a redevelopment; and

**WHEREAS**, the City has adopted, Resolution \_\_\_\_\_ Designating Eastern Pacific the Redeveloper for the Project, conditioned, in part, upon Newcomb Medical Alliance Center, LLC and Eastern Pacific executing an assignment agreement in the form and substance as approved by the City and the City entering into this Redevelopment Agreement.

**WHEREAS**, the City desires that the Project be redeveloped by Eastern Pacific, or its Permitted Assignee or Designee, in accordance with the City’s Redevelopment Plan, as amended from time to time, pursuant to law, due to Eastern Pacific’s demonstrated ability to implement

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

**WHEREAS**, prior to the execution of this Agreement, Eastern Pacific 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 Agreement will be eventually successful. Eastern Pacific 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 shall be redeveloped, as required by this Agreement, and in accordance with the redevelopment statutes;

**WHEREAS**, Eastern Pacific will obtain preliminary and final site plan approval, in phases, for the Redevelopment Area, Block 4216, Lot 1.01 and 1.02 substantially in accordance with the Preliminary Site Plan, Design for New Projcet of J.W. Pedersen, Architect and Newcomb Senior Apartments Fact Sheet (collectively Concept Plan) attached as **Exhibit "C"** subject to the submission of a perfected plan and satisfaction of other delineated conditions, from the Vineland Planning Board, to develop two-four story affordable senior apartment facilities consisting of a total of 70 living units in each facility cosnsisting of 66 one bedroom and 4 two bedroom apartments. Nothing herein shall prohibit Eastern Pacific from amending, in accordance with applicable law and procedure, its current approvals to be consistent with the Concept 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:

"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.

“Certificate of No Default” is as defined below.

“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.

“City” means the City of Vineland, a municipal corporation in Cumberland County, New Jersey and also means Vineland City Council, the Governing Body of the City of Vineland as the Redevelopment Entity.

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

“Commence Construction” or “Commencement of Construction” means the undertaking by Eastern Pacific of any actual physical construction or improvements, including but not limited to site preparation, environmental remediation, demolition as directed by the Township, construction of new structures, and installation or improvement of infrastructure.

“Completion Dates” means the dates set forth in the Project Schedule attached hereto as **Exhibit “D”**.

“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.

“Effective Date” means the date of the Parties’ execution of this Redevelopment Agreement and the approval by Vineland City Council.

“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.

“Force Majeure Event” is defined in **Section 11.7** below for the purposes of any of the provisions of this Redevelopment Agreement. Insufficient funds for Eastern Pacific to complete the Project is not a Force Majeure Event.

“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.

“Historic Elements” means the Newcomb Monument.

“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.

“LTTE” means a long term tax exemption for the development of Block 4216, Lots 1.01 and 1.02 as depicted on Exhibit C, in accordance with **N.J.S.A. 40A:20-1** et seq and in accordance with Ordinance attached hereto .

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

“Parties” mean the City of Vineland by its Governing Body, Vineland City Council, as Redevelopment Entity, and Eastern Pacific as Redeveloper, or its Permitted Assignee or Designee.

“Permitted Assignee or Designee” means an affiliate or other related person or entity to Eastern Pacific that, directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with Eastern Pacific, approved by the City.

“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.

“Phase 1” means the construction of the first affordable senior facility to be constructed on Lot 1.01 or 1.02 conditioned upon the award of 9% low income housing tax credits from HMFA in the 2018 award year, a 15 year LTTE from the City of Vineland based upon the adoption of an Ordinance as attached hereto and other work described under subparagraph (d) under the definition of “Project Improvements.”

“Phase 2” means the construction of the second affordable senior facility to be constructed conditioned upon the award of 9% low income housing tax credits from HMFA in the 2019 award year, a 15 year LTTE from the City of Vineland based upon the adoption of an Ordinance as attached hereto and other work described under subparagraph (d) under the definition of “Project Improvements.”

“PILOT Agreement” means any financial agreement entered into between Eastern Pacific, its Permitted Assignee or Designee, or any urban renewal entity designated in furtherance of this Agreement and the City for tax abatements, tax exemptions and/or 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.

“Project” means, collectively (a) the execution of an assignment agreement between Redeveloper and Eastern Pacific in the forma and substance as approved by the City (b) construction of affordable senior apartment facilities as described in Phase 1 and Phase 2 on the Assigned Lots, as approved by the City and all other necessary Boards and agencies; (c) Utility Upgrades; (d) posting of all required performance bonds, (e) providing all required guarantees and insurance coverage, (f) diligently seeking and obtaining all Governmental Approvals, (g) construction and issuance of a CO or TCO for all Project Improvements, along with Project Site preparation, (h) implementation of all Critical Components, (i) satisfaction of all financial obligations due and owing the City and to Eastern Pacific, (j) issuance of a PILOT Agreement between City and Eastern Pacific in accordance with the terms of this Redevelopment Agreement.

“Project Improvement” means:

(a) The construction of two four-story affordable senior apartment facility consisting of approximately 70 units, 66 units to be one bedroom units and 4 units to be 2 bedroom units on each of Lots 1.01 and 1.02 which shall be constructed on the designated Lot 1.01 and 1.02 on the Concept Plan attached as **Exhibit “C”**. The first shall be completed as part of Phase 1. Closing on Lot 1.01 shall occur within 4 months of the announcement of the award of the low-income housing tax credits by HMFA. Construction of the first facility shall commence within 360 days of closing. Completion of this portion of Phase 1 shall be substantially completed within 18 months of the commencement of construction. For purposes of this paragraph substantial completion shall mean the issuance of a CO or TCO. The second four-story affordable senior apartment facility consisting of approximately 70 units shall be completed as part of Phase 2. Closing on Lot 1.02

(b) Eastern Pacific shall preserve and protect the Newcomb Monument. Preservation of this Historic Element shall be performed regardless of the construction of the facilities on Lots 1.01 and 1.02. and shall be in compliance with Planning Board requirements.

(c) Notwithstanding anything herein to the contrary, the Project Improvements must be completed within 5 years of the execution of this Agreement or any permitted extensions regardless of funding approval.

“Project Site” means that real property and improvements thereon located within the Redevelopment Area. The Project Site includes Block 4216, Lots 1.01 and 1.02.

“Project Schedule” means the schedule of commencement and completion dates set forth in **Exhibit “D”**. The failure to comply with the Project Schedule by the Eastern Pacific shall constitute a default under the terms of this Agreement. Notwithstanding anything herein to the contrary, the Project Improvements must be completed within 5 years from the execution of this Agreement or any permitted extensions in accordance with Project Improvements definition (f) regardless of funding approval.

“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 as set forth in **Exhibit “G”**.

“Public Improvements” means all offsite roadway and other improvements required to obtain any Governmental Improvement. Public Improvements shall be the responsibility of the Eastern Pacific.

“Redeveloper” means Hans Lampart and Eastern Pacific Development LLC or its Permitted Assignee or Designee.

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

“Redevelopment Agreement” means this Redevelopment Agreement between the City and Eastern Pacific, all Exhibits to this Agreement, and any written Amendments thereto.

“Redevelopment Approvals” means governmental permits and approvals necessary for the Project(s).

“Redevelopment Law” means the State statute codified at **N.J.S.A. 40A:12A-1 et seq.**

“Redevelopment Plan” is the City’s adopted Redevelopment Plan for the Project, entitled “Newcomb Hospital Redevelopment Plan” dated November, 2011, as amended by the City from time to time.

“Senior Apartments” means two 4-story affordable senior apartment facilities consisting of 66 one bedroom and 4 two bedroom units in each facility constructed on Lots 1.01 and 1.02 in phases.

“State” means the State of New Jersey.

“Transfer” is defined in Section 8.1, *et seq.*, hereof.

“UEZ” is defined as the Enterprise Zone Development Corporation of Vineland and Millville as approved by the City Council of the City of Vineland.

“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 Eastern Pacific, 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 Eastern Pacific. Eastern Pacific hereby represents and warrants the following to the City for the purpose of inducing the City of Vineland 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 Agreement:

(a) Hans Lampart is an individual and sole member of Eastern Pacific Development LLC. And Eastern Pacific Development LLC is a Limited Liability Company of the State of New Jersey, qualified to conduct business in the State of New Jersey. Eastern Pacific warrants that it is in good standing under the laws of this State, having all requisite power and authority to carry on its business, and to enter into and perform all of its obligations under this Redevelopment Agreement.

(b) Eastern Pacific has the legal power, right and authority to enter into this Redevelopment Agreement and the instruments and documents referenced herein to which Eastern Pacific 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 Eastern Pacific's obligations hereunder.

(c) This Redevelopment Agreement is duly executed by Hans Lampart and Eastern Pacific, and is valid and legally binding upon Hans Lampart and Eastern Pacific 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 Eastern Pacific is a party.

(d) No receiver, liquidator, custodian or trustee of Eastern Pacific shall have been appointed as of the Effective Date, and no petition to reorganize Eastern Pacific pursuant to the United States Bankruptcy Code or any similar statute that is applicable to the Eastern Pacific shall have been filed as of the Effective Date of this Redevelopment Agreement.

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

(f) No indictment has been returned against Hans Lampart and/or Eastern Pacific or against any official of Eastern Pacific with respect to any transaction related to the transactions contemplated by the terms of this Redevelopment Agreement.

(g) Hans Lampart's and Eastern Pacific'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 Eastern Pacific, or of any agreement, mortgage, indenture, instrument or judgment, to which Hans Lampart and/or Eastern Pacific is a party.

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

(i) Eastern Pacific and its principals and guarantors are financially and technically capable of acquiring the Assigned Lots and of redeveloping, designing, financing and constructing the Project in

accordance with the City's Redevelopment Plan, as amended from time to time, and all Legal Requirements and Governmental Approvals.

(j) There is no action, proceeding or investigation now pending, nor any basis therefore, known or believed to exist which (1) questions the authority of the Eastern Pacific to enter into the Redevelopment Agreement or any action or act taken or to be taken by the Eastern Pacific pursuant to this Redevelopment Agreement; or (2) is likely to result in a material adverse change in the Eastern Pacific'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 Eastern Pacific for the purpose of inducing Eastern Pacific 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 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 Eastern Pacific 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 Redevelopment Law, and this Redevelopment Agreement, and that Eastern Pacific will expeditiously seek all Governmental Approvals so that Eastern Pacific can complete this Project, with guidance from the City, in a timely fashion. If requested by Eastern Pacific, 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 Eastern Pacific 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 Eastern Pacific hereby agree to act in good faith to mitigate such changes in position.

**ARTICLE 3**  
**DECLARATION OF COVENANTS AND RESTRICTIONS; EASTERN PACIFIC COVENANTS; CITY COVENANTS**

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

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

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

(b) Eastern Pacific shall undertake with due diligence to pursue and obtain the necessary financing for the Project to redevelop the Assigned Lots; and also to perform each item hereunder in a commercially reasonable period including the satisfaction of Critical Component requirements however in no event shall the development period exceed the time requirements set forth in this Agreement and in Exhibit D or any amendments hereto.

(c) Eastern Pacific 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 Eastern Pacific's use of the Assigned Lots shall be in compliance with all Legal Requirements and all applicable Environmental Laws. Eastern Pacific 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, Eastern Pacific shall use diligent efforts to obtain all Governmental Approvals authorizing the occupancy and uses of the Project Site for the purposes contemplated hereby.

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

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

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

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

(i) Eastern Pacific 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) Eastern Pacific 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, affectational preference or gender, in any sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Project Site, nor shall Eastern Pacific itself, nor any affiliate claiming under or through Eastern Pacific, 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, sub lessees, or vendees at the Project Site.

(k) Eastern Pacific 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, affectational preference or gender of any person.

(l) Eastern Pacific covenants that its undertakings pursuant to this Redevelopment Agreement shall be for the purpose of redevelopment of the Assigned Lots.

(m) Eastern Pacific shall use commercially reasonable efforts to commence and complete construction of the Project but in no event later than the dates contained on **Exhibit D**.

(n) Eastern Pacific shall not convey or Transfer, nor permit the conveyance or transfer of the Assigned Lots 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) Eastern Pacific 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) Eastern Pacific shall undertake with due diligence (1) financing of the Project, including the diligent application for 9% low-income housing tax credits from HMFA solely for the construction of the Project (2) construction and development of the Project in accordance with the Project Schedule attached as **Exhibit "D"**. 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.

(r) Eastern Pacific shall reclaim and incorporate the Newcomb Monument which shall be maintained by Eastern Pacific and approved by the *City Planning Board*. The deed upon which the Newcomb Monument is situated shall contain a restriction that the Owner shall keep, preserve and maintain the aesthetics and structural integrity of the Newcomb Monument.

(s) At all times the Eastern Pacific shall maintain all structures and landscaping within the Assigned Lots in accordance with all state and local laws and regulations unless otherwise provided for in this Agreement.

**SECTION 3.3. Effect and Duration of Eastern Pacific Covenants.** It is intended and agreed by the Parties that the agreements and covenants set forth in the above Redevelopment 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 in any event, and without regard to technical classification or designation, legal or otherwise, and 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 Eastern Pacific, its successors and assigns and every successor in interest therein. The foregoing notwithstanding however, such covenants shall be removed if and when Eastern Pacific or its successors in interest have fully satisfied their obligations under this Agreement in accordance with **Section 3.4** below. In such case, 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 redevelopment of the Project Site and completion of each of the individual components of the Project as determined by the issuance of the final Certificate of Occupancy for each of such components, the conditions that were found and determined to exist at the time the Redevelopment 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 individual or separate component 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 individual component, regardless of whether any remaining components 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 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 Project Certificate of Occupancy and shall cease with respect to any individual component of the Project upon issuance of a final Certificate of Occupancy for such component. In the event that portions of the Project Site are developed as separate parcels, the City agrees that it shall execute and deliver to Eastern Pacific the necessary documents, in recordable form, to release

those independently developed parcels from this Redevelopment Agreement and the Declaration and the requirements thereof, upon the issuance of a Certificate of Occupancy for such parcels and the conveyance of same to the purchaser thereof.

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 Eastern Pacific, 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 Eastern Pacific in the implementation of the Project. If requested by Eastern Pacific, 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 Eastern Pacific when such information is needed by the Eastern Pacific to obtain necessary 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 Eastern Pacific that are in accordance with this Agreement.

(b) The City shall reasonably attempt to schedule expedited City meetings for action on redevelopment applications of Eastern Pacific for the Project. In addition, City agrees that it will enact an amendment to the Redevelopment Plan and Redevelopment Ordinance to permit subdivision of the Project Site substantially in the configuration set forth in the attached **Exhibit "C"** as modified to include new Lot E.

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

To the extent permitted by law, the City agrees to provide a 15 year LTTE, the specifics of which shall be incorporated into a City Ordinance(s) as attached hereto **EXHIBIT G** for same, based upon Eastern Pacific's complete application to the City for same, provided the Eastern Pacific has complied with the terms of this Agreement and the requirements contained in **N.J.S.A. 40A:21-10 et. seq.** The Parties agree that they will work together on an agreeable formula for such PILOT

which is in conformance with applicable statutes and which addresses Eastern Pacific's objectives for developing and marketing the Project.

### **Section 3.7 Assignment Contingency**

(a) This Agreement is contingent upon the execution of an assignment agreement approved by the City which, among other matters will provide for Eastern Pacific to pay \$1,500,000.00 (One Million five Hundred Thousand Dollars) for each of the Assigned Lots to Redeveloper who will simultaneously, pay to the UEZ all of the gross proceeds at each closing for a total payment to the UEZ in the amount of \$3,000,000.00 (Three Million Dollars). The payment will reflect a payment towards any amount due the UEZ from Redeveloper in accordance with the Loan Documents between the City and Redeveloper

## **ARTICLE 4 IMPLEMENTATION OF PROJECT**

SECTION 4.1. Redevelopment Plan. The City has a Redevelopment Plan for the Project which was adopted via Ordinance. The City agrees to consider, subject to Planning Board recommendation and approval, reasonable future amendments that would affect the Project or Assigned Lots in consultation with Eastern Pacific, pursuant to this Redevelopment Agreement.

SECTION 4.2. Specific Site Plans/Subdivisions. Eastern Pacific shall apply for preliminary and final Site Plan approval by the City's Planning Board for all portions of the Project and conditions of such approvals shall become part of this Redevelopment Agreement. Eastern Pacific shall also expeditiously seek approval of the Site Plan, substantially conforming to the Concept Plan attached as Exhibit C. In conjunction therewith, Eastern Pacific shall 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. Eastern Pacific 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. Prior to its submission of preliminary and/or final site plan application, as well as all other times requested by the City, Eastern Pacific shall be available to make a presentation to the City regarding same.

SECTION 4.3. Project Review and Inspections. In consideration of Eastern Pacific's commitments hereunder, the City agrees to conduct all project reviews, including City oversight of construction activities conducted by Eastern Pacific, at a cost to Eastern Pacific 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. Eastern Pacific 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. Eastern Pacific 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. Eastern Pacific 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. Each subdivided lot shall be serviced by separate utilities.

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.

Compliance with Environmental Laws. Eastern Pacific shall comply with all Environmental Laws, and shall provide copies to the City of any environmental conditions discovered, during Due Diligence and otherwise.

Storm Water Management. Eastern Pacific 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. Eastern Pacific shall conform to all Laws and City Ordinances regarding environmental issues.

SECTION 4.7 Dedicated Improvements. Eastern Pacific 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 Eastern Pacific on behalf of the City. The Redevelopment Area 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. Any Public Improvements shall be performed by the Eastern Pacific at its sole cost and expense.

SECTION 4.9. Project Parking and Project Signage Eastern Pacific shall provide for dedicated parking spaces in accordance with Planning Board and Planning Division

recommendations consistent with all State and Local laws. Eastern Pacific shall be responsible for providing all signage for the Project.

SECTION 4.10. Condition of Site. Eastern Pacific shall keep the Project Site free from any substantial accumulation of debris or waste materials, and shall maintain in good condition any landscaping and amenities required under the approved final site plan.

SECTION 4.11. Neighborhood Impacts. Eastern Pacific shall comply with all City Ordinances and the construction conditions set forth in the Redevelopment Plan, including traffic impacts and conditions, in order to minimize any potential negative effects that construction of the Project may produce upon the City of Vineland, or its citizens, and Eastern Pacific shall make itself available to assist the City, as the City deems necessary for community outreach regarding the Project.

SECTION 4.12. 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 4.13. Certificate of Occupancy. Upon completion of any portion of construction in accordance with the Governmental Approvals and Legal Requirements, Eastern Pacific 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 Eastern Pacific has performed all of its duties and obligations under this Redevelopment Agreement and Assignment 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 the Eastern Pacific to construct such portion of Project within the dates for the completion of same. Within 30 days after written request by Eastern Pacific, the City shall provide Eastern Pacific with the Certificate of Completion or a written statement setting forth in detail the reasons why it believes that Eastern Pacific 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 the Eastern Pacific to be entitled to the Certificate of Completion.

SECTION 4.14. Project Schedule Violations. If Eastern Pacific fails to meet a Completion Date set forth in the Project Schedule and is notified of same in writing by City, or if the Eastern Pacific conclusively determines between progress meetings that it will fail to meet a Completion Date, Eastern Pacific shall promptly provide written notice to City stating: (a) the reason for the failure to complete the applicable task, (b) Eastern Pacific's proposed method for correcting such failure,

(c) Eastern Pacific's schedule for completing such task, and (d) the method or methods by which Eastern Pacific 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. Eastern Pacific will diligently adhere to the Completion 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 Eastern Pacific to adhere to the Project Schedule, (c) inability of Eastern Pacific, through no fault of its own, to obtain a Governmental Approval which it has timely applied for. (d) failure of Eastern Pacific through no fault of its own, to obtain 9% low income housing tax credits from HMFA on or before the time set forth for each Phase of the Project or any extensions (each of the foregoing, a "Tolling Event"). Eastern Pacific 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.

SECTION 4.16. Execution of Documents. Eastern Pacific 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, and shall perform all obligations there under, including being financially able to perform all obligations under the agreements in a commercially reasonable manner.

SECTION 4.17. Compliance with Redevelopment Agreement. Eastern Pacific shall use reasonable efforts to ensure that all consultants, professionals, employees, agents, contractors engaged by Eastern Pacific, 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 Effective Date, and it shall remain in full force and effect until the Agreement has been terminated, as set forth herein, or the Project has been implemented and completed, as evidenced by the issuance of the final Certificates of Occupancy and Certificate of Completion for the Project Site, or any portions 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 Eastern Pacific 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. Eastern Pacific 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 during the time construction is taking place on the Project Site, 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 Eastern Pacific and the City, shall be maintained for the Project Site by Eastern Pacific 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.

SECTION 4.22. Tax Assessments. Eastern Pacific agrees that the Property must be assessed as of October 1 of the pretax year pursuant to N.J.S.A. 54:4-23. In light of the multi-year construction of the Project, any partial construction on the Property shall be assessed in a manner consistent with Legal Requirements for partial assessments. Eastern Pacific agrees that the City shall not be obliged to use the current assessed value of the Property (as of the Effective Date).

## ARTICLE 5

### ACKNOWLEDGMENT OF RECEIPT OF COLLATERAL DOCUMENT

SECTION 5.1. Simultaneous Delivery of Documents by Eastern Pacific. Eastern Pacific 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 Eastern Pacific, duly certified by the Secretary of State; and

(b) Certifications by Eastern Pacific, 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 Eastern Pacific related to this Redevelopment Agreement or any of the agreements which are referred to herein as a result of Eastern Pacific'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 Eastern Pacific shall have been appointed as of the Effective Date, and no petition to reorganize Eastern Pacific pursuant to the United States Bankruptcy Code or any similar statute which is applicable

to Eastern Pacific shall have been filed as of the Effective Date; (3) no adjudication of bankruptcy or a filing for voluntary bankruptcy by Eastern Pacific under the provisions of the United States Bankruptcy Code or any other similar statute which is applicable to Eastern Pacific shall have been filed; and (4) no indictment has been returned against Eastern Pacific or any officials, members or parties of Eastern Pacific with respect to any transaction, related to the transactions contemplated by the terms of this Redevelopment Agreement.

## ARTICLE 6

### OWNERSHIP AND CONTROL OF PROJECT SITE

SECTION 6.1. Project Site Ownership. The Project Site, which is in an area in need of redevelopment, is currently owned by Redeveloper. Eastern Pacific shall acquire the Assigned Lots in accordance with the schedule of Phase 1 and Phase 2 and in accordance with an assignment agreement executed by Redeveloper and Eastern Pacific in the form and substance approved by the City.

SECTION 6.2. Conveyance of Assigned Lots. The Parties acknowledge that the Assigned Lots may be developed at different times by Eastern Pacific or its Permitted Assignee or Designee depending upon the award of 9% low income housing tax credits from HMFA.. In the event that in order to develop one of the Assigned Lots, the conveyance of title of that portion from the Eastern Pacific to a Permitted Assignee or Designee is necessary, the City agrees that, subject to the provisions of **Sections 6.3** below, and **Article 8**, it will consent to a conveyance of title by the Eastern Pacific to its Permitted Assignee or Designee on terms and conditions set forth in **Section 6.3**.

SECTION 6.3 Conditions for Conveyance of Title. Upon determination by the Parties that conveyance of any of the Assigned Lots is necessary for the successful completion of any portion of the Project, the City shall consent to such conveyance of title to such portion upon the occurrence of the following:

(a) the determination by Eastern Pacific and the City that the proposed conveyance and the use proposed thereon is consistent with and necessary for the development of such parcel in accordance with the Project Plan and the Redevelopment Plan; and

(b) in the case of a proposed Permitted Assignee or Designee of Eastern Pacific, that the proposed transferee has the expertise, experience and financial capability to undertake and complete the proposed development in accordance with the Project Plan and the Redevelopment Plan. The City shall have the right to designate the qualifications of and approve any proposed transferee in its sole discretion, which shall not be unreasonably withheld.

(c) execution of an agreement of sale by Eastern Pacific, City and, if necessary, the proposed transferee of such property, for the purchase of such property which shall contain any provisions that are necessary to assure that such conveyance will be consistent with the requirements and objectives of the Redevelopment Plan and the Project Plan; and

and (d) if necessary, a valid subdivision of the parcel from the overall Project Site;

(e) any other documentation or other requirements as may be agreed upon between the Parties.

(f) a valid assignment of Eastern Pacific's Agreement regarding that portion of the Redevelopment Area being transferred requiring the transferee to be responsible for all of the obligations set forth in this Agreement.

## **ARTICLE 7 PROJECT OVERSIGHT**

SECTION 7.1. Progress Meetings. The City and Eastern Pacific 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 Eastern Pacific at least twenty (20) 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.

SECTION 7.2. Progress Reports. Eastern Pacific 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. Eastern Pacific 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 Eastern Pacific.

SECTION 7.4. Project Oversight Committee. The City shall 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.

## **ARTICLE 8 TRANSFERS**

SECTION 8.1. Prohibition Against Transfers. Eastern Pacific recognizes the importance of the Project to the general welfare of the community, and understands that the identity of Eastern Pacific and its qualifications are critical to the City of Vineland 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 Eastern Pacific, the Project, the Assigned Lots, 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 Eastern Pacific, except to a Permitted Assignee or Designee, as a disallowed Transfer. Eastern Pacific recognizes that it is because of Eastern Pacific's qualifications and identity that the City is entering into this Agreement with Eastern Pacific, and in so doing, the City is relying on the obligations of Eastern Pacific, not upon some other entity, for the faithful performance of all undertakings and covenants to be performed by Eastern Pacific 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 the Eastern Pacific's acquisition and redevelopment of the Assigned Lots; (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, HMFA and this Redevelopment Agreement, except in the case of a sale permitted in writing by the City, where notice to the City shall also be in the form of a recorded Deed subject, however to Article 6 and Section 8.1 herein; (3) utility and other easements necessary for the Project, (4) City-approved assignment to any Permitted Assignee or Designee identified to the City by Eastern Pacific as such, and (5) assignment of this Redevelopment Agreement, the Assigned Lots 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, Eastern Pacific 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 Eastern Pacific (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 portion of the Project following the issuance of a Certificate of Completion and/or Certificate of Occupancy for such portion

SECTION 8.3. Notice of Permitted Transactions. With respect to any Permitted Transactions, Eastern Pacific 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 Eastern Pacific 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 Occupancy for the last phase of the entire Project, at Eastern Pacific's expense.

## **ARTICLE 9 FINANCIAL OBLIGATIONS**

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

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

SECTION 9.3. Property Tax Treatment Request. To the extent permitted by law, the City agrees to provide a property tax abatement, payment in lieu of tax, or Long Term Tax Exemption (LTTE) in accordance with the attached Ordinance draft, ("PILOT"), based upon Eastern Pacific's complete application to the City for same, provided the Eastern Pacific has complied with the terms of this Agreement and the requirements contained in **N.J.S.A. 40A:21-10 et. seq.** The City agrees that it will consent to such PILOT with a term not exceeding 15 years per Phase in accordance with N.J.S.A. 40A:20-1 et Seq.

SECTION 9.4. City Costs. Eastern Pacific shall establish an escrow account with the City for the funding of all out-of-pocket costs incurred by City in connection with the Project ("City Costs"). City Costs shall include, but not be limited to any fees and costs of any professional consultant, contractor or vendor retained by City to complete due diligence with respect to the terms of the Redevelopment Agreement between the parties and for legal fees in completing such due diligence and in preparing documentation necessary to memorialize the agreements of the parties including attorneys, and financial consultants, among others, and all out-of-pocket costs and expenses of City.

SECTION 9.5. Escrow for City Costs. Eastern Pacific shall immediately deposit with City the amount of Two Thousand Five Hundred Dollars (\$2,500) to be maintained in a separate account by City and to be drawn down by City to cover City Costs. City shall provide Eastern Pacific with invoice(s) setting forth City Costs incurred by City that will be drawn down at least fifteen (15) days prior to the date of the draw. Eastern Pacific 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 Eastern Pacific of written notice from City that the amount in the escrow account has decreased to fifty percent (50%) of the original deposit, Eastern Pacific 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, Eastern Pacific 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 9.6. Governmental Approval Fees. Eastern Pacific shall 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. Eastern Pacific shall pay all other permit fees, which include any permit fees payable by the City or Eastern Pacific to all required Governmental Bodies other than the City, or for which the City is required to reimburse other Governmental Bodies or is required to pay other third party contractors retained by or on behalf of the City to perform services that the City would otherwise be required to perform itself. City shall use reasonable efforts to predetermine the amounts of such costs referenced in the preceding sentence and give Eastern Pacific prior notice thereof.

SECTION 9.7 City Declaration of Event of Default. Eastern Pacific'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 hereunder in accordance with the terms hereof.

## **ARTICLE 10 INDEMNIFICATION; INSURANCE**

SECTION 10.1. Indemnification. Eastern Pacific covenants and agrees, at its sole expense, to pay and to indemnify, protect, defend and hold the City its agents servants and employees 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 Property 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 and that, with respect to any of the foregoing, are related to or resulting from any negligence or willful misconduct of Eastern Pacific, its agents, servants, employees, or contractors.

With respect to any interest in the Property acquired by Eastern Pacific, Eastern Pacific shall defend, protect, indemnify and hold harmless the City its agents, servants and employees, 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 Property acquired, to the extent any such liability attaches to the City Indemnified Parties as a result of this Redevelopment Agreement or activities performed by Eastern Pacific 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 Eastern Pacific, the City shall give prompt notice of such situation to Eastern Pacific. Failure to give prompt notice to Eastern Pacific shall not relieve Eastern Pacific of any liability to indemnify the City Indemnified Parties, unless such failure to give prompt notice materially impairs Eastern Pacific's ability to defend. Upon receipt of such notice, Eastern Pacific 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 Eastern Pacific which authorization shall not be unreasonably withheld or delayed, provided, however, that if the defense of such action is assumed by Eastern Pacific's insurance carrier, employment of such separate counsel by the City its agents, servants and employees shall be at the sole discretion of such carrier. Eastern Pacific shall not be liable for any settlement of any such action effected without its consent, but if settled with the consent of Eastern Pacific or if there is a final judgment against Eastern Pacific in any such action, Eastern Pacific shall indemnify and hold harmless the City its agents, servants and employees 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 Eastern Pacific itself, each successor in interest to the Project, the Property, or any part thereof, and each party in possession or occupancy, respectively, only for such period as Eastern Pacific or such successor or party shall have title to, or an interest in, or possession or occupancy of the Property, the Project Improvements or any part thereof.

SECTION 10.3. Insurance Required. Eastern Pacific shall furnish or shall cause to be furnished to the City complete copies of original insurance policies, as required by the City, insuring Eastern Pacific 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 its representatives as additional insureds, and to provide that such coverage shall be primary and that any insurance maintained by the City shall be excess insurance only. Such coverage shall be endorsed to waive the insurer's rights of subrogation as against the City except for such claims as may arise out of matters for which City is obligated to indemnify Eastern Pacific under **Section 10.1.**

(a) Builder's risk insurance for the benefit of Eastern Pacific (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) Eastern Pacific shall also fund and furnish or cause to be furnished to the City evidence satisfactory to the City that Eastern Pacific, and Eastern Pacific'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.

(c) Comprehensive automobile liability insurance covering all owned and hired vehicles for the Project shall be funded and maintained by Eastern Pacific 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, (iii) the City shall not 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.

## **ARTICLE 11 EVENTS OF DEFAULT AND REMEDIES**

Either Party reserves the right to terminate this 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 Agreement ("Default") in the event that any of the events set forth below occur. For purposes of this Agreement, the term Eastern Pacific Default shall mean the occurrence of any of the events set forth in **Section 11.2**, and City Default shall mean the occurrence of any of the events set forth in **Section 11.3**, either of which may result in the a Party exercising any or all of its remedies under law, equity and/or this Redevelopment Agreement.

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

(a) Eastern Pacific's willful failure to substantially perform, or a substantial defect in performance by Eastern Pacific, of any material obligation under this Redevelopment



Agreement, including the failure of the Eastern Pacific to comply with the Project Schedule, unless such failure is excused by another provision in this Agreement, or

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

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

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

(e) Abandonment of the Project by the Eastern Pacific or Eastern Pacific's successor, assignee, affiliate or guarantor, subject to Force Majeure and the terms and conditions of this Agreement.

(f) A default under the terms of any Loan Documents between the Eastern Pacific and the City/UEZ for the Redevelopment Project including any Loans for acquisition of the Property executed prior the execution of this Agreement

**SECTION 11.3. City Default Events.** Eastern Pacific 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 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 Eastern Pacific or City Event of Default, the defaulting party shall be notified in writing that it has been declared in default (hereinafter "Default Notice"). Except any default under the terms of the 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. Rights and Remedies Cumulative. No Waiver by Delay: The rights and remedies of the either party whether provided by this Agreement or by law, shall be cumulative, and except as otherwise specifically provided by this 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 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 11.7. 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) Inability of Eastern Pacific, through no fault of its own, to obtain a Governmental Approval, including any low income housing tax credits from HMFA for which it has timely 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, Eastern Pacific shall continue to perform, or cause to be performed, its obligations for the balance of the Project. Neither the status of the economy nor Eastern Pacific's inability or unwillingness to fund the Project shall be Force Majeure Events.

SECTION 11.8. 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 11.9. Mitigation. The Parties agree to reasonably mitigate damages due to a Default.

SECTION 11.10. Survival of Default. Any declaration of Default shall survive the Termination of this Redevelopment Agreement.

SECTION 11.11 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 between the City of Vineland and Eastern Pacific 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. Eastern Pacific shall be responsible for providing whatever notices it receives from the City to Eastern Pacific'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 Eastern Pacific:**

Eastern Pacific Development  
Attn: Mr. Hans Lampart,  
Managing Member  
925 E. Landis Ave. Suite E  
Vineland, NJ 08360  
Email: [hl@epacdevco.com](mailto:hl@epacdevco.com)

**With a copy to:**

Hans Lampart  
925 E. Landis Ave.  
Vineland, NJ 08360

**If to City:**

Department of Law  
City of Vineland  
640 East Wood Street  
Vineland, New Jersey 08360  
[rtonetta@vinelandcity.org](mailto:rtonetta@vinelandcity.org)

**With a copy to:**

\_\_\_\_\_  
City of Vineland  
640 East Wood Street  
Vineland, New Jersey 08360

SECTION 12.2. Non-Liability of Representatives of the City. No official, officer, professional, employee, agent or representative of the City shall be personally liable to Eastern Pacific, Eastern Pacific's assignee or successor in interest, in the event of any default, breach or violation by the City, or for any amount which may become due to Eastern Pacific, 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 Eastern Pacific's Project lenders request a change in the terms of this Redevelopment Agreement, the City shall cooperate with Eastern Pacific in approving such change, as long as the City's responsibilities do not increase under this Agreement, the City's benefits hereunder are not decreased and there is no change in the Project,

Project Improvements or Eastern Pacific's Covenants. In addition, the City may agree to enter into such agreements as Eastern Pacific's lenders may reasonably require, at Eastern Pacific'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. Eastern Pacific 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. Eastern Pacific further warrants it has not paid or incurred any obligation to pay any officer, official, agent or representative of the City, 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. It is intended and agreed that the City and its successors and assigns shall be deemed beneficiaries of the Redevelopment Agreements 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.

SECTION 12.10. Enforcement by Eastern Pacific. It is intended and agreed that Eastern Pacific 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 Eastern Pacific for the entire period during which such agreements and covenants shall be in force and effect. Eastern Pacific 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 of New Jersey. This Redevelopment Agreement has been executed and delivered to the parties in the State of New Jersey and shall be governed, construed and interpreted in all respects in accordance with the laws of the State of New Jersey. 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 Agreement, enforcement of this 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 waive 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. The Eastern Pacific acknowledges that the Planning Board of the City of Vineland is not a party to this

Agreement and that it will be necessary for the Eastern Pacific 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 assignment agreements and any PILOT Agreement, shall constitute the entire agreement between the Parties concerning the Assigned Lots and the Project Improvements, 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.

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 of Vineland to

exercise police powers to the extent necessary to protect the health, safety, or welfare of City citizens.

SECTION 12.25. No Contributions. Eastern Pacific 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 Agreement is terminated for any reason, except as a sole result of the default of the City, Eastern Pacific 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 Eastern Pacific and by third parties with respect to the Project, including environmental reports and data, and all documents, reports, permits and approvals obtained by Eastern Pacific relating to the Remediation Plans relating to the Project Site.

SECTION 12.27. Right of Entry. Upon closing of one or all of the Assigned Lots, Eastern Pacific shall have full access to enter the Project Site, and shall allow the City and its representatives reasonable access to the Project Site for all relevant purposes hereunder. Eastern Pacific has the right to remove any soils, debris, Hazardous Substances and other contaminants and materials, pursuant to this Agreement, provided: (a) Eastern Pacific has obtained all required remediation permits or approvals for the work proposed; (b) Eastern Pacific shall hold and save the City 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) Eastern Pacific shall provide all insurance coverage described herein. Such Eastern Pacific obligations shall survive the termination of this Agreement.

SECTION 12.28. Redevelopment and Remediation. Eastern Pacific agrees that the Assigned Lots shall be redeveloped only in accordance with New Jersey statutes, NJDEP regulations, this Redevelopment Agreement and the City’s adopted Redevelopment Plan, as amended from time to time, in accordance with all applicable permits and approvals, including site plan approvals.

(a) Eastern Pacific shall commence construction as quickly as commercially reasonable as set forth in the Project Schedule attached as **Exhibit D**, considering any complexities of the Project, and reasonable requirements of lenders, contractors and governmental agencies. In any event, Eastern Pacific shall commence construction of Phase 1 and Phase 2 depicted in **Exhibit “C”** attached no later than the date set forth in the Project Schedule attached as Exhibit D and all construction and the Project shall be completed within 5 years of the execution of this Redeveloper Agreement and any approved extensions. The right of the City to terminate this Redevelopment Agreement is not subject to the occurrence of an



event of Force Majeure, the occurrence of a Tolling Event or the absence of the existence of an Event of Default.

(b) Eastern Pacific may not assign any rights hereunder to any entity without the prior written approval of the City, which approval shall not be unreasonably withheld or delayed. No portion of the Assigned Lots or Project may be sold, conveyed or leased to a third party without the written prior approval of the City which approval shall not be unreasonably withheld or delayed in recognition of the likelihood that the Projects proposed to be undertaken by Eastern Pacific on the Assigned Lots are likely to be ultimately placed in ownership of separate entities.

(c) Upon the City's approval of a long-term tax exemption agreement for the Project, Eastern Pacific shall form an Urban Renewal Entity. Eastern Pacific and such newly formed entity, as approved in writing by the City, shall retain responsibility for any and all obligations under such PILOT Agreement, which obligations shall be guaranteed and securitized by Eastern Pacific. A violation of any PILOT or other tax treatment Agreement shall also be a violation of this Redevelopment Agreement.

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

SECTION 12.30. Challenges. In the event any proceeding is commenced by any third party challenging the validity of this Agreement, the Redevelopment approvals, remediation, any PILOT or other Financial Agreement, designation of Eastern Pacific or any aspect of the City's Redevelopment Plan, the Parties shall cooperate in defending such action or proceeding, at Eastern Pacific's sole expense.

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

SECTION 12.32. Recordation. At the written request of Eastern Pacific, City agrees to consider recording this Agreement, or a memorandum thereof in a form reasonably satisfactory to the City, to be recorded by Eastern Pacific at Eastern Pacific's expense with the Clerk of the County of Cumberland.

SECTION 12.33. Incorporation of Prior Agreements. This Agreement contains the entire understanding of the Parties hereto with respect to the subject matter hereof, and no prior

written or oral agreement or undertaking pertaining to any such matter shall be effective for any purpose.

SECTION 12.34. 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:

**EASTERN PACIFIC DEVELOPMENT, LLC**

\_\_\_\_\_

By: \_\_\_\_\_  
Name: Hans Lampart,  
Title: Managing Member  
Execution Date: \_\_\_\_\_

Witness:

**HANS LAMPART**

\_\_\_\_\_

By: \_\_\_\_\_  
Name: Hans Lampart  
Execution Date: \_\_\_\_\_

Witness:

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

\_\_\_\_\_

By: \_\_\_\_\_  
Name: Paul Spinelli  
Title: President of Vineland City Council  
Execution Date: \_\_\_\_\_