

CITY OF VINELAND

RESOLUTION NO. 2020-444

RESOLUTION AUTHORIZING THE EXECUTION OF A REDEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY COUNCIL OF THE CITY OF VINELAND AS THE REDEVELOPMENT ENTITY AND LAURY VINELAND VENTURES, LLC OR THEIR ASSIGNEES, VINELAND, NEW JERSEY FOR PROPERTY KNOWN AS BLOCK 3011 LOTS 23, 24 AND 25 AND BLOCK 3018 LOTS 1, 2 AND 15 ON THE TAX MAP OF THE CITY OF VINELAND

WHEREAS, City Council has adopted the Center City Redevelopment Plan as part of the redevelopment of the downtown area of the City which consists of several districts including the Neighborhood Commercial Zone (Zone); and

WHEREAS, Laury Vineland Ventures, LLC (Laury) is the owner of Block 3011 Lots 23, 24 and 25 as well as Block 3018 Lots 1 and 2 upon which is operated a commercial business known as Laury Heating, Cooling and Plumbing with a contractor's yard thereon, a non-permitted use in this Zone; and

WHEREAS, the City of Vineland is the owner of Block 3018 Lot 15 and Laury has requested the City sell the property to Laury for further expansion; and

WHEREAS, Laury has requested a plan amendment to allow the use of a contractor's yard as well as an office expansion on the property owned by Laury and that of the City; and

WHEREAS, City Council adopted an Ordinance amending the Center City Redevelopment Plan so as to allow the use of Block 3011 Lots 23, 24 and 25 as well as Block 3018 Lots 1, 2 and 15 as a contractor's yard and office expansion; and

WHEREAS, City Council finds it to be in the best interest of the City to sell Block 3018 Lot 15 to Laury for further expansion of their business, thus placing the property back on the tax rolls provided as consideration for the sale Laury agrees to submit all of the Laury property as well as the City property to Planning Board for site plan approvals and the purchase price of \$65,000.00.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Vineland that the Council President is authorized to execute a Redevelopment and Purchase and Sale Agreement in the form and substance as attached hereto and made a part hereof.

Adopted:

President of Council

ATTEST:

City Clerk

This **REDEVELOPMENT AND PURCHASE AND SALE AGREEMENT** (this "Redevelopment Agreement"), dated as of _____, 2020, is hereby entered into, by and among the **VINELAND CITY COUNCIL, the Governing Body of the CITY OF VINELAND** (the "City"), a municipal corporation of the State of New Jersey, maintaining its principal offices at 640 E. Wood Street, Vineland, County of Cumberland, NJ 08362-1508, acting in the capacity of "Redevelopment Entity" pursuant to and as defined in the provisions of the Local Redevelopment and Housing Law, **N.J.S.A. 40A:12A-1 et seq.**, and **LAURY VINELAND VENTURES, LLC** whose address 350 S. Lincoln Avenue, Vineland, New Jersey 08361, or his Permitted Assignee or Designee ("Redeveloper"). Together, the City and Redeveloper are the "Parties."

PRELIMINARY STATEMENT

Pursuant to the provisions of the Local Redevelopment and Housing Law, **N.J.S.A. 40A:12A-1 et seq.** as amended and supplemented (the "Act"), the City has undertaken a program for the revitalization of that certain property identified as Block 3018, Lot 1; Block 3018, Lot 2, and Block 3018, Lot 15; and Block 3011 Lot 23, Block 3011 Lot 24 and Block 3011 Lot 25 of the tax map of the City of Vineland, (the "Project Site"). The property commonly known as Block 3018 Lot 15 on the tax map of the City of Vineland is currently owned by the City (City Project Site and collectively Project Site). The Parties intend to secure high quality, cost-efficient redevelopment of the Project Site in as short a time frame as practicable.

The City has previously adopted the Center City Redevelopment Plan and has designated a certain area to be the Neighborhood Commercial Zone in accordance with the Redevelopment Plan (the "Redevelopment Plan") in which a contractors yard is not permitted, however as the present use has pre existed on a portion of the Project Site it is likely the most beneficial uses of the property (as defined further herein, the "Project") since those uses will promote job creation and economic development benefits within the municipality and, therefore, fulfills the purposes of the Act. Further, the City has adopted Ordinance On. 2020-11 amending the Redevelopment Plan so as to permit a Contractors Yard on the city Project Site recognizing the pre existing use on a portion of the Project Site.

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

To effectuate the purposes of the Act, and, in consideration of the Project, the mutual covenants and agreements are herein set forth, along with other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each Party hereto, and the City and Redeveloper hereby agree to work cooperatively as Redeveloper complies with this Redevelopment Agreement.

WITNESSETH:

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

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

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

WHEREAS, the City has adopted a Resolution designating Vineland Ventures, LLC as the redeveloper for the Project Site, conditioned, in part, upon Redeveloper and the City entering into this Redevelopment Agreement.

WHEREAS, Redeveloper proposes to purchase from the City a portion of the Project Site, to wit Block 3018 Lot 15 designated herein as City Project Site.

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

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

WHEREAS, the City desires that the Project Site be redeveloped by Redeveloper in accordance with the Redevelopment Plan as amended due to Redeveloper's demonstrated ability to implement the kind of redevelopment project that the City desires, subject to necessary approvals, as well as Redeveloper's willingness to cooperate with the City pursuant to law; and

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

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

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

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

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

**ARTICLE 1
DEFINITIONS AND INTERPRETATIONS**

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

“Act” as defined in the preliminary statement.

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

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

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

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

“City” as defined in the preamble.

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

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

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

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

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

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

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

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

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

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

“Environmental Laws” are any and all federal, State, regional, and local laws, statutes, ordinances, regulations, rules, codes, consent decrees, judicial and administrative orders, decrees, directives and judgments relating to contamination, damage to or protection of the environment, any historical resources, environmental conditions, or the use, handling, processing, distribution, generation, treatment, storage, disposal, manufacture or transport of Hazardous Substances, presently in effect or hereafter amended, modified, or adopted including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”) (42 U.S.C. § 9601 *et seq.*); the Resource Conservation and Recovery Act of 1976 (“RCRA”) (42 U.S.C. § 6901 *et seq.*); the Clean Water Act (33 U.S.C. § 1251 *et seq.*); the New Jersey Spill Compensation and Control Act (the “Spill Act”) (N.J.S.A. 58:10-23.11 *et seq.*); the Industrial Site Recovery Act, as amended (“ISRA”) (N.J.S.A. 13:1K-6 *et seq.*); the New Jersey Underground Storage of Hazardous Substance Act (N.J.S.A. 58:10A-21 *et seq.*); the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-1 *et seq.*); the New Jersey Brownfield and Contaminated Site Remediation Act (N.J.S.A. 58:10B-1 *et seq.*); the New Jersey Environmental Rights Act (N.J.S.A. 2A:35A-1 *et seq.*); and the rules, regulations and guidance promulgated there under.

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

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

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

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

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

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

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

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

“Parties” as defined in the preamble.

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

“PILOT Agreement” means a financial agreement entered into between Redeveloper, or any urban renewal entity designated in furtherance of this Redevelopment Agreement and the City for tax exemptions and payments in lieu of taxes, as authorized by law, for a time period agreed upon in writing by the City, which time period shall be up to the maximum time permitted by applicable laws.

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

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

“Project Site” as defined in the preliminary statement.

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

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

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

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

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

“Redeveloper” as defined in the preamble.

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

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

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

“Redevelopment Agreement” as defined in the preamble.

“Redevelopment Plan” as defined in the preliminary statement.

“State” means the State of New Jersey.

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

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

"Transfer" is defined in **Section 8.1**.

"USEPA" or "EPA" means the United States Environmental Protection Agency.

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

SECTION 1.2. Drafting Ambiguities; Interpretation. In interpreting any provision of this Redevelopment Agreement, no weight shall be given to, nor shall any construction or interpretation be influenced by, the fact that either Party or their attorney drafted any version of this Redevelopment Agreement, each Party recognizing that it and its attorney has had an opportunity to review this Redevelopment Agreement and has contributed to the final form of same. Unless otherwise specified: (i) whenever the singular number is used in this Redevelopment Agreement, the same shall include the plural, and the plural shall include the singular, (ii) the words "consent" or "approve" or words of similar import, shall mean the written consent or approval of the City or Redeveloper, as the case may be, unless expressly stated to the contrary herein, (iii) the words "include" and "including", and words of similar import, shall be deemed to be followed by the words "without limitation," (iv) "hereunder" shall be deemed to refer to the provisions of this Redevelopment Agreement in their entirety and not to a provision contained within any particular Section, and (v) all Exhibits to this Redevelopment Agreement are incorporated herein by reference.

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

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

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

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

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

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

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

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

ARTICLE 2
GENERAL REPRESENTATIONS AND WARRANTIES

SECTION 2.1. Representations and Warranties by Redeveloper. Redeveloper hereby represents and warrants the following to the City for the purpose of inducing the City to enter into this Redevelopment Agreement, and to consummate the transactions contemplated hereby, all of which shall be true as of the date hereof, and all of which shall survive this Redevelopment Agreement:

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

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

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

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

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

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

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

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

SECTION 2.2. Representations and Warranties by the City. The City hereby represents and warrants the following to Redeveloper for the purpose of inducing Redeveloper to enter into this

Redevelopment Agreement, and to consummate the transactions contemplated hereby, all of which shall be true as of the date hereof, and all of which shall survive this Redevelopment Agreement:

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

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

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

SECTION 2.3. Mutual Representations.

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

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

ARTICLE 3

DECLARATION OF COVENANTS AND RESTRICTIONS; REDEVELOPER COVENANTS; CITY COVENANTS

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

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

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

Redeveloper's execution of this Redevelopment Agreement confirms Redeveloper's ability to perform hereunder.

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

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

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

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

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

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

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

(i) Redeveloper shall complete the Project or cause the Project to be completed at its expense, using any private resources, grants provided, obtained and/or applied for by City in accordance with this Agreement and State and Federal assistance that may be available. The City shall in no way be obligated to provide Project resources, unless specifically provided for herein, or unless specifically set forth in another written instrument executed by the Parties.

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

(k) Redeveloper shall refrain from restricting any sale, lease, sublease, rental, transfer, use, occupancy, tenure, or enjoyment of the Project Site (or any part thereof) on the basis of race, color,

religion, creed, age, national origin, ancestry, physical handicap, marital status, affectional preference or gender of any person.

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

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

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

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

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

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

(r) Except for Permitted Transfers, Redeveloper shall be without the power to sell, lease, or otherwise transfer the Redevelopment Area, or any portion thereof, without the written consent of the City, which consent shall not be unreasonably withheld. This includes, but is not limited to, a transfer to a Permitted Assignee. Notwithstanding anything herein to the contrary, Redeveloper shall, without permission from City lease any portion of completed improvements in the Redevelopment Area in conformance with permitted uses in the Redevelopment Area.

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

SECTION 3.4. Termination of Declaration and Redevelopment Agreement. This Redevelopment Agreement and the Declaration and covenants set forth herein shall remain in effect until either the

termination of this Redevelopment Agreement in accordance with its terms or the issuance of a final Certificate of Occupancy for all of the components of the Project. Upon acquisition and redevelopment of the City Project Site and completion of the Project as determined by the issuance of the final Certificate of Occupancy, the conditions that were found and determined to exist at the time the Project Area was determined to be in need of redevelopment shall be deemed to no longer exist, and the conditions and requirements of **N.J.S.A. 40A:12A-1, et seq.** shall be deemed to have been satisfied. The Project Site 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 the Project. Except with respect to any financial obligations still due and owing the City, all representations and obligations of the Parties hereto shall cease and terminate as of the date of the delivery of the final Certificate of Occupancy for the Project.

SECTION 3.5. Enforcement by the City. In amplification, and not in restriction of the provisions of this Article, it is intended and agreed that the City and its successors and assigns shall be deemed beneficiaries of the agreements and covenants set forth in this Redevelopment Agreement, both for and in their own right but also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants have been provided. Such agreements and covenants shall (and the Declaration shall so state) run in favor of the City for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether the City is an owner of any land or interest therein. The City shall have the right, in the event of any material breach of any such agreement or covenant by Redeveloper, to exercise all the rights and remedies set forth herein.

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

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

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

ARTICLE 4 IMPLEMENTATION OF PROJECT

SECTION 4.1. Redevelopment Plan. The City has a Redevelopment Plan for the Project including amendments thereto adopted via ordinance.

SECTION 4.2. Government Approvals. Redeveloper shall apply for preliminary and final Site Plan approval by the City's Planning Board for all portions of the Project Site and conditions of such approvals shall become part of this Redevelopment Agreement. The Site Plan shall substantially conform with the Master Plan. Redeveloper shall also use diligent efforts to expeditiously secure, or cause to be secured, any and all other Governmental Approvals, and shall carry out the Project in conformance with

all Government Approvals and the Project Schedule. Redeveloper shall provide the City with a copy of each and every application for Governmental Approvals submitted to Governmental Bodies at the same time as those applications are submitted. To the extent permitted by law, the City agrees to cooperate with Redeveloper in obtaining the Governmental Approvals. The City is under no obligation to waive any fees payable to the City in connection with the Governmental Approvals.

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

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

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

SECTION 4.6. Environmental Compliance.

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

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

SECTION 4.7 Dedicated Improvements. If applicable, Redeveloper shall provide a maintenance bond in a form acceptable to the City guaranteeing that any Dedicated Improvements when completed will remain in compliance with the Land Use Plan for a period of two (2) years following the date of release of the performance bond. All contractor warranties for the Dedicated Improvements shall be assigned to the City or enforced by Redeveloper on behalf of the City. The

Project Site shall remain in compliance with the land use plan and the Site Plan for a period of two (2) years from the release of the performance bond.

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

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

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

SECTION 4.12. Project Schedule. The Project shall be completed in accordance with the following schedule, subject to a Force Majeure Event:

- a. Acquisition of City Project Site on or before January 5, 2021.
- b. Submission of Site Plan
- c. Completion of new offices.
- d. Completion of all site plan requirements

Redeveloper may request a delay in any of the foregoing Project Schedule in writing to the City. The City may, in its reasonable discretion, consider a delay of any portion of the Project Schedule and approve same in writing.

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

this Redevelopment Agreement or is otherwise in default under this or any other applicable agreement and what reasonable measures or acts will be necessary in the opinion of the City in order for Redeveloper to be entitled to the Certificate of Completion.

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

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

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

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

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

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

ARTICLE 5
ACKNOWLEDGMENT OF RECEIPT OF COLLATERAL DOCUMENT

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

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

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

ARTICLE 6
ACQUISITION, OWNERSHIP AND CONTROL OF PROJECT SITE

SECTION 6.1. Project Site Ownership. Redeveloper presently owns all of the Project Site, excepting Block 3018 Lot 15; the City Project Site. Redeveloper, at his own cost and expense shall acquire the City Project Site in accordance with the terms of this Redevelopment Agreement.

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

(a) Purchase Price. The purchase price for the Project Site shall be \$65,000.00 [Sixty Five Thousand Dollars (the "Purchase Price").

(b) Payment of Good Faith Deposit. The Redevelopr shall make a Good Faith Deposit of \$6,500.00.

(c) Escrow Agreement. Omitted.

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

(e) Time and Place of Closing. Closing on the City Project Site shall occur on the date that all of the conditions in **Sections 6.2 (j) and (k)** have been satisfied or waived (the "Closing Date"), which Closing Date shall be no later than **February 15, 2021**, subject to one (1) forty-five (45) day extension if Redeveloper is proceeding diligently. In the event the Parties are not able to close by the date noted above and subject to extensions, then either Party may terminate this Redevelopment Agreement in writing. The Closing shall be held at the offices of Beacon Title Company, or such other place as the Parties may mutually agree.

(f) Transfer of Ownership; Title. (i) At Closing, the City shall give to Redeveloper (or its permitted nominee/assignee) a properly executed, Bargain and Sale Deeds with covenants as to grantor's acts for Block 3018, Lot 15 (the "**Deed**") The City shall additionally give to Redeveloper an adequate affidavit of title, a properly executed Affidavit of Consideration or Exemption, true copies of the resolutions of the City Council authorizing the sale and conveyance, and such other documentation as may reasonably be requested by the Title Company. At closing the Redeveloper shall execute and deliver to the City a separate quit claim deed transferring Block 3018, Lot 15 to the City to secure the right of reversion provided for in **Section 11.6** of this Redevelopment Agreement, together with such other documents as may be necessary for the recording of the quit claim deed. The quit claim deed from the Redeveloper to the City shall be held in escrow pending a default or termination of this Redevelopment Agreement. Upon completion of the Redevelopment Project the quit claim deed for Block 3018, Lot 15 shall be delivered to the Redeveloper.

(ii) The City shall transfer and convey to Redeveloper (or its permitted nominee/assignee) clear and marketable title to the City Project Site. For purposes of this Redevelopment Agreement, clear and marketable title shall be title insurable at regular rates by a New Jersey licensed title insurance company selected by Redeveloper (the "Title Company"). The following shall not be considered a violation of the foregoing: (a) normal utility easements servicing the City Project Site which do not interfere with Redeveloper's intended use thereof, development, construction or operation of the Project; (b) ALTA 1992 preprinted exceptions not removed by a standard affidavit of title; and (c) any Permitted Exceptions (as hereinafter defined). Immediately following the Effective Date, Redeveloper shall order a title report and title insurance commitment and survey (the "Title Commitment"). Redeveloper shall provide the City with a copy of the Title Commitment upon receipt thereof and shall notify the City in writing of any objection to title within ten (10) days following the receipt of the Title Commitment. Failure to notify the City of an objection to title within such ten (10) day period shall be deemed a waiver by Redeveloper of all objections to any lien, encumbrances or other exception revealed by the Title Commitment except for Monetary Encumbrances (as waived, or as otherwise deemed acceptable by Redeveloper, the "Permitted Exceptions"). In the event Redeveloper does raise title objections, the City shall have thirty (30) days from the date of receipt of Redeveloper's written objections in which to decide whether to remedy the title defect(s) identified in such objection; provided, however, that the City shall be required to remove or have removed any Monetary Encumbrances. If the City does undertake to remedy the title defect(s) the City shall be entitled to postpone the Closing Date for a reasonable period of time in order to effectuate such remedy, or in the case of Monetary Encumbrances, to elect to apply any portion of the Purchase Price to pay and satisfy those items. If the

amount of Monetary Encumbrances exceeds the balance of the Purchase Price, the City may pay such additional amounts as are necessary to discharge same. In the event the City is unable to remedy or cause to be remedied such title defect(s), then Redeveloper may either (a) waive the objection and proceed to Closing without an adjustment in the Purchase Price (as may be reduced by payment of Monetary Encumbrances); or (b) terminate this Redevelopment Agreement, in which case Redeveloper's designation as "redeveloper" (as defined in the Act) shall simultaneously and automatically terminate, and Redeveloper shall be entitled to a return of the Good Faith Deposit.

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

(g) Physical Condition of the Project Site. The City Project Site is being sold to Redeveloper in "AS IS, WHERE IS, WITH ALL FAULTS" condition, including without limitation as to environmental conditions, and with all latent or patent defects. Redeveloper recognizes and acknowledges that the City is making no representation or warranty as to the condition of the City Project Site or its fitness for Redeveloper's intended use. At Closing, the City shall deliver possession of the City Project Site in the same condition as it is on the date of this Redevelopment Agreement, deterioration from ordinary and reasonable usage and exposure to the elements excepted. Redeveloper has relied on his own knowledge, inspections and investigations in determining whether to purchase the Property.

(h) Environmental Representations and Contingencies. Redeveloper hereby agrees, at its sole cost and expense, to unconditionally indemnify, defend and hold harmless the City, its employees, agents, directors, officers and consultants from any injuries, losses, liabilities, damages, liens, expenses (including, without limiting the generality of the foregoing, the costs of any environmental testing, remediation and the costs of attorney fees), charges, costs, penalties, fines, actions, injunctions, suits, claims, judgments, or demands imposed, at any time, upon the Project Site and/or imposed upon, or incurred by, the City, directly or indirectly, at any time, that is sustained as a result of any environmental conditions on, in, under or migrating to or from the City Project Site, to the extent that any such liability attached to the City as a result of this Redevelopment Agreement or prior ownership by the City or activities, including, without limitation, claims against the City by any third party (the "Environmental Indemnification").

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

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

(iii) Redeveloper may have the City Project Site inspected by any qualified and/or licensed third-party inspection professional(s) including one that may be designated as a Licensed Site

Remediation Professional. All inspection fees, appraisal fees, engineering fees, title inspection fees, and other costs and expenses of any kind incurred shall be at the sole expense of Redeveloper.

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

(v) At the conclusion of the Redeveloper's Due Diligence, and if the Redeveloper determines the existence of an environmental condition which it deems prohibitive of Closing, then and in that event, the Redeveloper is permitted to terminate the Agreement and there will not be a Closing. Upon written notification to the City by the Redeveloper that it is terminating this Agreement, the Redeveloper will receive the full return of its Good Faith Deposit, minus any and all outstanding City Costs.

(i) Closing Conditions and Terms. The Closing of the Project Site shall be undertaken in accordance with the following terms and conditions:

(i) Building and Zoning Laws. The City Project Site is being sold subject to the Redevelopment Plan and all other Legal Requirements.

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

(iii) Brokerage Fees. The City and Redeveloper represent that, concerning the purchase of the City Project Site, the City and/or Redeveloper have not dealt with or transacted any business with any broker.

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

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

(vi) Bulk Sales Law. The Parties hereto acknowledge that the provisions of the New Jersey Sales and Use Tax Act, **N.J.S.A. 54:32B-1 et seq.** (the "Bulk Sales Act"), are applicable to the sale of the Project Site by the City. Redeveloper shall submit the required Notification of Sale, Transfer or Assignment in Bulk (Form C-9600) and all required attachments with the New Jersey Department of the

Treasury, Division of Taxation, Bulk Sales Section not later than fifteen (15) business days prior to Closing. The City shall cooperate with Redeveloper in connection with such submission by supplying any information necessary for Redeveloper to file the required notice under the Bulk Sales Act. In the event that the New Jersey Division of Taxation requires Redeveloper to hold a portion of the Purchase Price in escrow for potential tax liabilities of the City, the City authorizes Redeveloper to comply with such requirement and Redeveloper's counsel or agent shall hold such amount, in escrow, and is authorized to disburse same upon receipt of authorizations, and in accordance with directions, from the Division of Taxation, and the balance of the escrow, if any, shall be paid to the City and CCIA. This paragraph shall survive the closing of title.

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

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

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

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

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

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

(iv) Redeveloper shall have secured all Governmental Approvals, which approvals shall be final and non-appealable.

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

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

(k) Conditions Precedent to Obligation of the City to Sell the City Project Site. The obligation of the City to close title hereunder shall be subject to the fulfillment on or before the Closing Date of all of the following conditions, any or all of which may be waived by the City in its sole discretion:

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

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

ARTICLE 8

TRANSFERS

SECTION 8.1. Prohibition Against Transfers. Redeveloper recognizes the importance of the Project to the general welfare of the community, and understands that the identity of Redeveloper and its qualifications are critical to the City in entering into this Redevelopment Agreement. Except for any assignment of this Redevelopment Agreement which must be pre-approved in writing by the City, the City considers that a Transfer of the ownership of Redeveloper, the Project, the City Project Site, or any other act or transaction involving or resulting in a significant change in the ownership of or with respect to the identity of the persons in control of Redeveloper, except to a Qualified Entity pursuant to the terms of this Redevelopment Agreement, as a disallowed Transfer. Redeveloper recognizes that it is because of Redeveloper's qualifications and identity that the City is entering into this Redevelopment

Agreement with Redeveloper, and in so doing, the City is relying on the obligations of Redeveloper, not upon some other entity, for the faithful performance of all undertakings and covenants to be performed by Redeveloper hereunder.

SECTION 8.2. Permitted Transactions. The following transactions are permitted and shall not require prior approval by the City ("Permitted Transactions"), consent of the City to such transfers being deemed given hereby, provided written notice of same is given to the City: (1) a mortgage or mortgages for the purposes of financing costs associated with, or incurred in connection with Redeveloper's acquisition and redevelopment of the Project Site (2) any lease or sale of all or any portion of the improved Project Site with occupancy of the relevant portion of the Project to end users as permitted by the Redevelopment Plan, Zoning Ordinance, and this Redevelopment Agreement; (3) utility and other easements necessary for the Project, (4) City-approved assignment to any Permitted Assignee or Designee identified to the City by Redeveloper as such, and (5) assignment of this Redevelopment Agreement, the Project Site and/or the Project, to an assignee approved in writing by the City. Except for Permitted Transactions, as defined above, prior to the issuance of a Certificate of Completion, Redeveloper shall not, without the prior written consent of City: (1) effect or permit any change, directly or indirectly, in the majority ownership or control of Redeveloper (except in the case of death of an individual(s) having such ownership or control), (2) assign or attempt to assign this Redevelopment Agreement or any rights herein or in the Property, or (3) make any total or partial sale, lease, transfer or conveyance of the whole or any part of its interest in the Property or the Project Improvements (collectively a "Transfer", provided, however, that these restrictions shall not apply as to a Phase of the Project following the issuance of a Certificate of Completion and/or Certificate of Occupancy for such Phase.

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

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

ARTICLE 9 FINANCIAL OBLIGATIONS

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

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

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

- (a) Acquisition Loan. Intentionally left blank.
- (b) Tax Exemption and PILOT. The Parties acknowledge that Redeveloper shall make application to the City for a tax exemption on the Project Improvements and payments in lieu of taxes (“PILOTs”) for the Project.

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

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

ARTICLE 10 INDEMNIFICATION; INSURANCE

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

With respect to any interest in the City Project Site acquired by Redeveloper, Redeveloper shall defend, protect, indemnify and hold harmless the City Indemnified Parties, from any claims, liability, injury, damages, costs, claims, actions and expenses (including, without limiting the generality of the foregoing, the cost of any required investigation and remediation of any environmental conditions, and the cost of attorneys' fees) which may be sustained as the result of any environmental conditions on, in, under or migrating to or from the Project Site acquired, to the extent any such liability attaches to the City Indemnified Parties as a result of this Redevelopment Agreement or activities performed by Redeveloper or its contractors pursuant to this Redevelopment Agreement, including without limitation claims against the City Indemnified Parties by any third party (the “Environmental Indemnity”), except for claims alleged to be caused by the City prior to the Commencement Date of this Redevelopment Agreement In any situation in which the City its agents servants and employees are entitled to receive and desire defense and/or indemnification by Redeveloper, the City shall give prompt notice of such situation to Redeveloper. Failure to give prompt notice to Redeveloper shall not relieve Redeveloper of any liability to indemnify the City Indemnified Parties, unless such failure to give prompt notice materially impairs Redeveloper's ability to defend. Upon receipt of such notice, Redeveloper

Commented [JN1]: [These provisions are standard in RDAs – especially when the municipality is transferring land or an interest in land.](#)

shall resist and defend any action or proceeding on behalf of the City its agents, servants and employees, including the employment of counsel reasonably acceptable to the City, the payment of all expenses and the right to negotiate and consent to settlement. All of the City its agents, servants and employees shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such separate counsel shall be at the expense of the indemnified party unless the employment of such counsel is specifically authorized by Redeveloper which authorization shall not be unreasonably withheld or delayed, provided, however, that if the defense of such action is assumed by Redeveloper's insurance carrier, employment of such separate counsel by the City Indemnified Parties shall be at the sole discretion of such carrier. Redeveloper shall not be liable for any settlement of any such action effected without its consent, but if settled with the consent of Redeveloper or if there is a final judgment against Redeveloper in any such action, Redeveloper shall indemnify and hold harmless the City Indemnified Parties from and against any loss or liability by reason of such settlement or judgment for which the City its agents, servants and employees are entitled to indemnification hereunder.

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

SECTION 10.3. Insurance Required. Redeveloper shall furnish or shall cause to be furnished to the City complete copies of original insurance policies, as required by the City, insuring Redeveloper against losses, costs, liabilities, claims, causes of action and damages for bodily injury, property damage and personal injury on the Project Site or related to the construction thereon, including claims made by subcontractor personnel. All such policies shall be written to apply to all bodily injury, property damage, personal injury and other customary covered losses, however occasioned, occurring during the policy term, and shall be endorsed to add the City and 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.

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

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

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

All insurance policies required by this section shall be obtained from insurance companies licensed in the State of New Jersey and rated at least A+ in Best's Insurance Guide. All insurance policies required hereunder shall be kept in force for the Term of this Agreement. All insurance policies required by this Section shall contain language to the effect that (i) the policies are primary, (ii) the policies cannot be cancelled or materially changed except after thirty (30) days written notice by the insurer to the City, (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 Redevelopment Agreement in response to the other Party's default as defined herein.

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

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

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

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

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

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

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

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

(g) A default under the terms of any Loan Documents between Redeveloper and the City/UEZ for the Redevelopment Project including any Loans for acquisition of the Project Site or construction of the improvements whether executed prior, or subsequent to, the execution of this Redevelopment Agreement.

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

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

SECTION 11.5. Default Rights and Remedies. In addition to any other rights and remedies which the Parties shall have at law or in equity, including but not limited to the right to specific performance

upon a Default Occurrence which has not been timely cured, the non-defaulting party shall, to the fullest extent permitted by law, be entitled to terminate this Redevelopment Agreement.

SECTION 11.6 Reversion. In addition to any other rights that the City may have, upon a default by Redeveloper, the City shall have an unambiguous right of reverter on all of the City Project Site. In furtherance of this right, upon a default Redeveloper shall execute a deed or deeds (including a deed of subdivision), access easements and any other documents in form and substance necessary to transfer title to the City Project Site to the City. All site work, and improvements constructed within the City Project Site or portion thereof, but not Completed, shall become the property of the City. Redeveloper shall also deliver to the City all plans, tests, inspections, blue prints, surveys, contracts, agreements, and any other document or paper relating to the Redevelopment of the Project Site or this Redevelopment Agreement. The City may also record any quit claim deed(s) previously executed by the Redeveloper and being held in escrow by the City transferring the all or a portion of the Project Site to the City. Notwithstanding the foregoing, this right of reversion shall terminate with respect to any Phase, or portion thereof, that is Completed.

SECTION 11.7. Rights and Remedies Cumulative. No Waiver by Delay: The rights and remedies of the either Party whether provided by this Redevelopment Agreement or by law, shall be cumulative, and except as otherwise specifically provided by this Redevelopment Agreement, the exercise by either Party of any one or more of such rights or remedies shall not preclude the exercise, at the same or at different times, of any other such rights or remedies for the same default, or for the same failure in respect to any of the terms, covenants, conditions or provisions of this Redevelopment Agreement or any of its remedies for any other default or breach. No delay in asserting any rights or exercising any remedy shall operate as a waiver of such rights or remedy or otherwise deprive any Party of, or limit such rights and remedies in any way (it being the intent of this provision that the Parties shall not be constrained, so as to avoid the risk of being deprived of or limited in the exercise of the remedy provided in this Section because of concepts of waiver, laches, or otherwise, to exercise such remedy at a time when it may still hope otherwise to resolve the problems created by the default involved); nor shall any waiver by either Party with respect to any specific Default under this section be considered or treated as a waiver of the rights of such Party with respect to any other defaults under this Section or with respect to the particular default except to the extent specifically waived in writing.

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

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

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

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

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

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

SECTION 11.9. Failure or Delay. Except as otherwise expressly provided in this Redevelopment Agreement, any failure or delay by either Party in asserting its rights or remedies as to any default, shall not operate as a waiver of any default, or of any such rights or remedies, nor deprive either such Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

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

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

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

ARTICLE 12 MISCELLANEOUS

SECTION 12.1. Notices. Formal notices, demands and communications by and among the City, CCIA and Redeveloper shall be deemed sufficiently transmitted if dispatched to the addresses set forth below, by registered or certified mail, postage prepaid, return receipt requested, and shall be deemed delivered upon receipt. Redeveloper shall be responsible for providing whatever notices it receives from the City to Redeveloper's successors or assignees, where applicable. Notices may also be sent by a commercial overnight delivery service with packaging tracking capability and for which proof of delivery is available.

Notices, demands and communications shall be sent as follows:

If to Redeveloper:

Laury Heating, Cooling and Plumbing
511 East Plum
Vineland, NJ 08360

With a copy to:

If to City:

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

With a copy to:

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

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 Redeveloper, Redeveloper'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 Redeveloper, its assignee, or successor, or with regard to any obligation under the terms of this Redevelopment Agreement.

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

SECTION 12.4. No Consideration for Redevelopment Agreement. Redeveloper warrants it has not paid or given, and will not pay or give, any third person any money or other consideration in connection with obtaining this Redevelopment Agreement, other than normal costs of conducting business and costs of professional services such as architects, engineers, financial consultants and attorneys. Redeveloper further warrants it has not paid or incurred any obligation to pay any officer, official, agent or representative of the City, 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. (a) It is intended and agreed that the City and its successors and assigns shall be deemed beneficiaries of the Redevelopment Agreement and covenants set forth in this Redevelopment Agreement, for and in their own right and for the purposes of protecting the interests of the City of Vineland community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants have been provided. Such agreements and covenants shall run in favor of the City for the entire period during which such agreements and covenants shall be in force and effect. The City shall have the right, in the event of any breach of any such agreement or covenant, to exercise all rights and remedies set forth herein, and to maintain any actions or suits at law or in equity or other proper proceedings, to enforce the curing of such breach of agreement or covenant, to which the City or any other beneficiaries of such agreement or covenant may be entitled.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 12.26. Documents to be Delivered on Termination. In the event this Redevelopment Agreement is terminated for any reason, except as a sole result of the default of the City, Redeveloper shall deliver to the City, at no cost to the City, within thirty (30) days after such termination, true and correct copies of all final reports, studies, data, plans, surveys, title reports, subdivision maps and

specifications prepared by Redeveloper and by third parties with respect to the Project, including environmental reports and data, and all documents, reports, permits and approvals obtained by Redeveloper relating to the Project Site.

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

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

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

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

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

SECTION 12.32. Recordation. At the written request of Redeveloper, City agrees to consider recording this Redevelopment Agreement, or a memorandum thereof in a form reasonably satisfactory to the City, to be recorded by Redeveloper at Redeveloper's expense with the Clerk of the County of Cumberland. The City may, at its option, and without a request from Redeveloper, record this Redevelopment Agreement of a memorandum thereof.

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

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

Witness: **LAURY VINELAND VENTURES, LLC**

_____ By: _____
Name: Ted Laury
Title: _____
Execution Date: _____

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

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

Witness: **The CITY OF VINELAND**

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