

REQUEST FOR COUNCIL ACTION

Date of Request: July 5, 2023

Initiated By: Samuel J. Surtees Division/Department: Comm. Dev./Land Use

ACTION REQUESTED/ EXECUTIVE SUMMARY:

Request Township Council authorization for the Mayor and Township Clerk to execute a Redeveloper's Agreement between West Windsor Township and Penn's Neck Plaza, LLC, Block 38, Lots 1, 2, 3, 25 & 45; Block 39, Lots 4, 5, 7, 16 & 23

SOURCE OF FUNDING: NA

CONTRACT AMOUNT: NA

CONTRACT LENGTH: NA

OTHER SUPPORTING INFORMATION ATTACHED:

Location Map

Resolution

Redeveloper's Agreement (4 originals)

Email from Kevin McManimon, Esq.

Memorandum from Kevin McManimon, Esq.

COMPLETE AND READY FOR ADMINISTRATOR'S REVIEW

 7-6-23
Department/Division Head

7-6-23
Date

APPROVED FOR AGENDA OF: July 17, 2023

By: Marlena Schmid 07/11/2023
Marlena Schmid, Business Administrator

MEETING DATE: 7/17 Ordinance # _____ Resolution # 2023-R149

Council Action Taken:

RESOLUTION

- WHEREAS, by Resolution 2019-R191 adopted on September 3, 2019, the Township Council (the “Township Council”) of the Township of West Windsor (the “Township”) designated the area consisting of the properties designated as Block 38, Lots 1, 2, 3, 25 and 45, and Block 39, Lots 4, 5, 7, 16 and 27 on the Official Tax Map of the Township (the “Redevelopment Area”) as an area in need of redevelopment in accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the “Redevelopment Law”); and
- WHEREAS, on February 24, 2020, the Township Council, after appropriate review by, and at the recommendation of the West Windsor Planning Board, adopted Ordinance No. 2020-05, approving and adopting a redevelopment plan for the Redevelopment Area, entitled “Penns Neck Redevelopment Plan” (the “Redevelopment Plan”); and
- WHEREAS, on February 24, 2020, the Township Council, after appropriate review by, and at the recommendation of the West Windsor Planning Board, adopted Ordinance No. 2020-06 (“Redevelopment Ordinance”), codified at §200-289 of the Township Code, amending the Land Use Ordinance of the Township to place the Redevelopment Area in the Route 1 Penns Neck Business Commercial Redevelopment Zone (“Redevelopment Zone”) and establishing use and bulk regulations therefor; and
- WHEREAS, Penns Neck Associates, LLC, with offices at c/o Penns Neck Plaza, LLC, 463 Jefferson Road, Princeton, New Jersey 08540 (the “Entity”) has expressed an interest in redeveloping the Redevelopment Area; and
- WHEREAS, the Entity proposes to construct, on the Redevelopment Area, a project consisting of a mix of commercial type uses (the “Redevelopment Project”); and
- WHEREAS, the Entity, together with its affiliates, owns or controls, as contract purchaser, that portion of the Redevelopment Area identified as Block 38, Lots 1, 2, 3, 45 and 25 and Block 39, Lots 16 and 7 on the Township’s official tax map; and
- WHEREAS, three of the parcels located within the Redevelopment Area, identified as Block 39, Lots 4, 5 and 27 on the Township’s official tax map, are presently owned by a third-party; and

Page 2
2023-R149

WHEREAS, by Resolution 2020-R166 adopted on August 17, 2020, as extended by Resolution 2020-R257 adopted on December 14, 2020 and by Resolution 2021-R204 adopted on November 22, 2021, the Township designated the Entity as the “conditional redeveloper” of the Redevelopment Area, with a view toward negotiating the terms of a redevelopment agreement that would set forth the Entity’s rights and obligations regarding the redevelopment of the Redevelopment Area with a project in compliance with the Redevelopment Plan and otherwise acceptable to the Township; and

WHEREAS, the Township now desires to designate the Entity as the redeveloper of the Redevelopment Area and to authorize the execution of a redevelopment agreement by and between the Township and the Entity, in substantially the same form as that on file with the Township Clerk (the “Redevelopment Agreement”).

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Windsor, County of Mercer, State of New Jersey, that the Redevelopment Entity is hereby designated as the redeveloper of the Redevelopment Area, subject to the execution by the Township and the Entity of the Redevelopment Agreement.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the Redevelopment Agreement by and between the Township and the Entity in substantially the same form as that on file with the Township Clerk. The Township Clerk is hereby authorized and directed to attest the Mayor’s execution of the Redevelopment Agreement.

ADOPTED: July 17, 2023

I hereby certify the above resolution was adopted by the West Windsor Township Council at their meeting on the 17th day of July, 2023.

Gay M. Huber
Township Clerk
West Windsor Township



TO: WEST WINDSOR TOWNSHIP COUNCIL
CC: GAY M. HUBER, TOWNSHIP CLERK
FROM: McMANIMON, SCOTLAND & BAUMANN, LLC
SUBJECT: PENNS NECK REDEVELOPMENT PROJECT
RE: JULY 7, 2023

The Township Council will discuss a resolution at its meeting scheduled for July 17, 2023 proposing to designate Penns Neck Associates, LLC (hereinafter "Penns Neck") as the "redeveloper" of the property known as Block 38, Lots 1, 2, 3, 25 and 45, and Block 39, Lots 4, 5, 7, 16 and 27 (collectively, the "Property") under the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.* (the "Redevelopment Law"). The Property is in the Penns Neck Redevelopment Area and is subject to the Penns Neck Redevelopment Plan. The proposed resolution also authorizes the execution of a "Redevelopment Agreement" with Penns Neck. The purpose of this memorandum is to briefly explain the proposed resolution and Redevelopment Agreement.

On August 17, 2020, the Township Council adopted a resolution designating Penns Neck as the "conditional redeveloper" of the Property. The Township and Penns Neck also executed an Interim Costs Agreement (the "Interim Costs Agreement"), pursuant to which Penns Neck deposited funds with the Township, which are being held in escrow and used to pay the Township's costs associated with the redevelopment of the Penns Neck Redevelopment Area. Since that time, the Township extended that conditional redeveloper designation twice, and the Township's working group of professionals and staff negotiated a Redevelopment Agreement with the Penns Neck team. We now present the Redevelopment Agreement for Council's consideration.

Resolution Making Redeveloper Designation

Under the Redevelopment Law, the Township has the ability to take a number of actions to effectuate the redevelopment of property in a redevelopment area. Among other things, the Township may negotiate directly with an interested redeveloper, and enter into a "Redevelopment Agreement" with such redeveloper, which memorializes the parties' understanding of how such property will be redeveloped.

A Redevelopment Agreement is a comprehensive document, in which parties, among other things, identify the property to be redeveloped, set forth in some detail the components of the proposed project, set forth a schedule for completion of the

redevelopment project, and identify any other terms and obligations important to the parties.

Penns Neck expressed a desire to redevelop the Property; Penns Neck owns part of the Property and the balance is owned by a third party (the "Third-Party Property"). Upon its approval and execution, the Redevelopment Agreement will control the rights and obligations of the Township and Penns Neck in connection with the redevelopment of the Property, including the acquisition of the Third-Party Property by the Township, if necessary, and subsequent conveyance thereof to Penns Neck.

Redevelopment Agreement

The following is a summary of notable components of the Redevelopment Agreement, which provides for the construction, by Penns Neck, of a commercial project, generally consistent with a Concept Plan attached as **Exhibit 4** to the Redevelopment Agreement (the "Project").

- **Undertaking of Project** – The Redevelopment Agreement provides that Penns Neck will construct or cause the construction of the Project in accordance with a schedule attached as **Exhibit 1** to the Redevelopment Agreement. **Article II.**
- **Acquisition of Property** – The Third Party Property is currently owned by a third party. As of this date, Penns Neck has been unable to persuade the owner to sell the Property to allow for its redevelopment. The Redevelopment Agreement sets forth a process by which the Township will acquire the Third Party Property through condemnation and Penns Neck will fund the acquisition, including the payment of the Township's costs and expenses associated therewith and the cost of the Property itself. Upon the Township's acquisition of the Property, it will convey same to Penns Neck. **Article III.**
- **Escrow** – Penns Neck will establish an escrow fund consistent with the escrow fund established under the Interim Costs Agreement. The amount funded will be \$25,000 and will be replenished when the balance dips below \$7,500. **Section 3.04.**
- **Representations and Warranties** – The Parties make standard representations and warranties to each other, consistent with normal and customary contract law practice. **Article IX.**
- **Covenants and Restrictions** – In accordance with requirements of the Redevelopment Law, Penns Neck makes certain covenants to the Township. Moreover, Penns Neck will record, in the County's land records, a Declaration of Covenants and Restrictions providing notice that the Redevelopment Agreement, including such covenants and restrictions, apply to the Property. **Article IX.** The Certificate of Completion described below will discharge such recorded covenants and restrictions.

- Certificate of Occupancy/Certificate of Completion – Penns Neck will apply for Certificate(s) of Occupancy in the normal course. Upon the completion of the Project, the Township will execute and record a Certificate of Completion, which is a recordable document evidencing the redeveloper's completion of the Project and the redevelopment of the Property. **Article X.**
- Indemnity – Penns Neck will indemnify the Township and hold it harmless in the event the Township is exposed to damages resulting from Penns Neck's conduct. **Article XII.**
- Exhibits:
 - Exhibit 2 – Form of Declaration of Covenants and Restrictions – this is a recordable document, memorializing the covenants and restrictions noted above, that Penns Neck will execute and record after the Redevelopment Agreement is fully-executed. This Exhibit is a form document, and blanks will be filled in and it will be signed by Penns Neck at a later date.
 - Exhibit A to Exhibit 2 – a legal description of the Property, which Penns Neck will attach to the Declaration of Covenants and Restrictions when appropriate.
 - Exhibit 3a – Form of Certificate of Completion – this is a form of document that the Township will execute and record when the Project is completed. Upon such recording, the Declaration of Covenants and Restrictions will be discharged.
 - Exhibit 3b – Form of Partial Certificate of Completion – same as Exhibit 3a, but it will only apply to a part of the Project, if the Project is completed in parts.
 - Schedule 1 and Schedule 2 to Exhibits 3a and 3b – these documents will be executed and submitted to and by the Township after the Project is completed in support of Penns Neck's request for a Certificate of Completion.
 - Exhibit 6 - Form of Certificate of Non-Involvement in Prohibited Activities in Russia or Belarus – a new legal requirement requires a party entering into a contract with a municipality to certify that it does not conduct business in Russia or Belarus.

If you have any questions, please contact Kevin McManimon at (973) 622-4869. Thank you.

Sam Surtees

From: Kevin P. McManimon <KMcManimon@MSBNJ.COM>
Sent: Thursday, July 06, 2023 1:52 PM
To: Patti Thompson
Cc: Kevin P. McManimon; Sam Surtees
Subject: 'EXTERNAL'RE: Penns Neck Developers Agreement

CAUTION: This email originated from outside the Township. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Yes – Looks good. That's the only page in the document that needs to be signed at this time.

Kevin P. McManimon, Esq.
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue | 2nd Floor | Roseland, NJ 07068
Direct Dial: 973-622-4869
Email: KMcManimon@MSBNJ.COM
Website

Connect with MS&B on [LinkedIn](#) | [Twitter](#) | [Instagram](#)

From: Patti Thompson <PThompson@westwindsortwp2.onmicrosoft.com>
Sent: Thursday, July 6, 2023 1:49 PM
To: Kevin P. McManimon <KMcManimon@MSBNJ.COM>
Subject: Penns Neck Developers Agreement

Hello Mr. McManimon,

Sam Surtees asked me to forward the attached to you to make sure it is properly executed.

Thanks!

Patti Thompson
Zoning Board Administrative Secretary
Community Development, Division of Land Use
609-799-9448 Ext. 332
pthompson@westwindsortwp.com

Please be advised that the Township of West Windsor is subject to the New Jersey Open Public Records Act. As such, any email sent or received by the Township may be subject to a records request.

This message contains information which may be confidential and privileged. Unless you are the addressee (or authorized to receive for the addressee), you may not use, copy, or disclose to anyone the message or any information contained in the message . If you have received the message in error, please advise the sender by reply e-mail or contact the sender at McManimon, Scotland & Baumann, LLC by phone at (973) 622-1800 and delete the message. Thank you very much.

REDEVELOPMENT AGREEMENT

BY AND BETWEEN

**TOWNSHIP OF WEST WINDSOR,
as Redevelopment Entity,**

and

**PENNS NECK ASSOCIATES, LLC,
as Redeveloper.**

Dated as of _____, 2023

REDEVELOPMENT AGREEMENT (the “**Redevelopment Agreement**” or “**Agreement**”), dated as of _____, 2023, by and between:

The **TOWNSHIP OF WEST WINDSOR**, a public body corporate and politic of the State of New Jersey, with offices at 271 Clarksville Road, West Windsor, New Jersey 08550, and its successors and assigns (the “**Township**”),

and,

PENNS NECK ASSOCIATES, LLC, a limited liability company formed under the laws of the State of New Jersey, with offices at c/o Penns Neck Plaza, LLC, 463 Jefferson Road, Princeton, New Jersey 08540, and its successors and assigns (the “**Redeveloper**”). The Township and Redeveloper may be referred to, individually, as a “**Party**” or, collectively, as the “**Parties**”.

W-I-T-N-E-S-S-E-T-H:

WHEREAS, the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.* (the “**Redevelopment Law**”) authorizes municipalities to determine whether certain parcels of land located therein constitute areas in need of redevelopment; and

WHEREAS, on September 3, 2019, the Municipal Council of the Township (the “**Township Council**”), after appropriate review by, and at the recommendation of the West Windsor Planning Board (the “**Planning Board**”), adopted Resolution No. 2019-R191 designating the area identified as Block 38, Lots 1, 2, 3, 25 and 45, and Block 39, Lots 4, 5, 7, 16 and 27 on the Township’s official tax map (collectively, the “**Penns Neck Redevelopment Area**”) as an “area in need of redevelopment,” pursuant to N.J.S.A. 40A:12A-6, and authorizing and directing the Planning Board to cause a redevelopment plan to be prepared for the Penns Neck Redevelopment Area and to present same to the Township Council, pursuant to N.J.S.A. 40A:12A-7f ; and

WHEREAS, on February 24, 2020, the Township Council, after appropriate review by, and at the recommendation of the Planning Board, adopted Ordinance No. 2020-05, approving and adopting a redevelopment plan for the Penns Neck Redevelopment Area, entitled the “**Penns Neck Redevelopment Plan**” (the “**Redevelopment Plan**”); and

WHEREAS, on February 24, 2020, the Township Council, after appropriate review by, and at the recommendation of the Planning Board, adopted Ordinance No. 2020-06 (“**Redevelopment Ordinance**”), codified at §200-289 of the Township Code, amending the Land Use Ordinance of the Township to place the Penns Neck Redevelopment Area in the Route 1 Penns Neck Business Commercial Redevelopment Zone (“**Redevelopment Zone**”) and establishing use and bulk regulations therefor; and

WHEREAS, the uses, which the Redevelopment Ordinance permits in the Redevelopment Zone are referred to herein as the “**Permitted Uses**;” and

WHEREAS, the Redeveloper, together with its affiliates, owns or controls, as contract purchaser, that portion of the Penns Neck Redevelopment Area identified as Block 38, Lots 1, 2,

3, 45 and 25 and Block 39, Lots 16 and 7 on the Township's official tax map (the "**Redeveloper Property**"); and

WHEREAS, three of (3) of the parcels located within the Penns Neck Redevelopment Area identified as Block 39, Lots 4, 5 and 27 on the Township's official tax map, are presently owned by a third-party (individually, each a "**Third-Party Property**" or collectively, the "**Third-Party Properties**"); and

WHEREAS, the Third-Party Property identified as Block 39, Lot 27 ("**Lot 27**") on the Township's official tax map contains Hazardous Substances and is the subject of Remediation; and

WHEREAS, pursuant to Environmental Laws, Getty Petroleum Marketing, Inc. ("**Getty**") and all other Persons in the chain of title to Lot 27 (collectively "**Responsible Third Parties**") are responsible for the Remediation of Lot 27 and any contamination emanating therefrom including but not limited to any contamination of the other Third-Party Properties; and

WHEREAS, Redeveloper proposes to assemble the Redeveloper Property and the Third-Party Properties (collectively, the "**Project Area**"), and redevelop same by constructing thereon a mixed-use commercial redevelopment project consisting of the Permitted Uses (collectively, the "**Project**") as depicted/described in more detail in the concept plan (the "**Concept Plan**") attached hereto as **Exhibit 4**, and all in accordance with the Redevelopment Plan; and

WHEREAS, for the purposes of this Agreement, the Township Council is the designated Redevelopment Entity for the Redevelopment Area pursuant to *N.J.S.A. 40A:12A 3*; and

WHEREAS, on _____, 2023, by Resolution No. _____ the Township Council (1) designated Redeveloper as the "redeveloper" (as defined in the Redevelopment Law) of the Project Area, and (2) authorized the execution of this Redevelopment Agreement, which specifies terms of the redevelopment of the Project Area and the respective rights and responsibilities of the Township and Redeveloper with respect to the Project and the acquisition, condemnation and transfer of the Third-Party Properties, or any portion thereof; and

WHEREAS, the Parties have determined to execute this Redevelopment Agreement in order to set forth the terms and conditions under which the Parties shall carry out their respective obligations with respect to the redevelopment of the Project Area, all in accordance with the Redevelopment Plan.

NOW, THEREFORE, for and in consideration of the mutual promises, representations, covenants, and agreements contained herein and the undertakings of each Party to the other and such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound hereby and to bind its successors and assigns, do mutually promise, covenant, and agree as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATIONS

SECTION 1.01. Definitions. In this Redevelopment Agreement, words that are capitalized, and which are not the first word of a sentence, are defined terms. The terms defined in the preambles hereto shall have the meanings assigned to such terms. Unless specifically provided otherwise or the context otherwise requires, the following terms when used in this Redevelopment Agreement shall mean:

“**Access Permit**” has the meaning set for in N.J.A.C. 16:47-2.1 as amended and supplemented.

“**Acquisition Costs**” is defined in Section 3.06 (f).

“**Acquisition Date**” shall mean the date that the Township obtains title to a Third-Party Property either by purchase of a Third-Party Property from its owner(s) or through the issuance of a Declaration of Taking for the Third-Party Property by a court of competent jurisdiction.

“**Acquisition Funds**” is defined in Section 3.06 (g)(ii).

“**Acquisition Funds Escrow Account**” is defined in Section 3.06(g)(ii).

“**Affiliate**” means with respect to the Redeveloper, any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with the Redeveloper. For purposes of this definition, the term “control” (including the correlative meanings of the terms “controlled by” and “under common control with”) shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of the Redeveloper, whether through the ownership of voting securities or by contract or otherwise.

“**Appeal Period**” shall mean the period of time specified by statute or court rule within which an appeal may be taken by any party from the grant of any Governmental Approval, and includes the period for filing an appeal to an appellate court after entry of a judgment or decision by a lower court or administrative agency.

“**Applicable Law**” means any statute, law, constitution, charter, ordinance, resolution, judgment, order, decree, rule, regulation, directive, interpretation, standard or similarly binding authority which, in any case, shall be enacted, adopted, promulgated, issued or enforced by any Governmental Authority, and/or court of competent jurisdiction that relates to or affects the Parties or either of them, the Project Area, the Project, or any portion thereof, the performance by the Parties of their respective obligations or the exercise by the Parties of their respective rights under this Redevelopment Agreement, including without limitation, the Municipal Land Use Law, the Redevelopment Law and all Environmental Laws.

“**Certificate of Completion**” means a certificate issued by the Township upon Completion of the Project pursuant to Section 10.02 hereof, in the form attached hereto as **Exhibit 3**.

“Certificate of Occupancy” means a Certificate of Occupancy (temporary or permanent), as such term is defined in the New Jersey Administrative Code, issued with respect to the Project.

“Closing” shall mean the transfer of title of the Third-Party Properties from the Township to the Redeveloper.

“Closing Date” shall mean the date in which the Township conveys fee title to the Redeveloper of the Third-Party Properties.

“Commencement of Construction” means the undertaking by Redeveloper of any actual physical construction of any portion of the Project, including site preparation, environmental remediation specific to the Project, construction of new structures or construction or upgrading of infrastructure.

“Completeness, [ed] or [ion]” means with respect to the Project, or any portion thereof, that (a) all work related to the Project, or a portion thereof, or any other work or actions to which such term is applied has been completed, acquired and/or installed in accordance with this Redevelopment Agreement and in compliance with Applicable Laws so that (i) the Project, or any portion thereof that has been completed, as the case may be, may, in all respects, be used and operated under the applicable provisions of this Redevelopment Agreement, or (ii) with respect to any other work or action to which such term is applied, that the intended purpose of such work or action has been completed, (b) all permits, licenses and approvals that are required in order that a Certificate of Completion can be issued for the Project, or any portion thereof that have been completed, or such other work or action to which such term is applied are in full force and effect, and (c) such “Completion” has been evidenced by a written notice provided by the Redeveloper (with respect to the Project, or any portion thereof) in the form of Schedule 1 to the form of Certificate of Completion attached hereto as **Exhibit 3**.

“Completion Date” means the date that the Project is Completed.

“Condemnation Costs” is defined in Section 3.06 (e).

“Condemnation Costs Funds” is defined in Section 3.06 (g)(i).

“Condemnation Costs Escrow Account” is defined in Section 3.06 (g)(i).

“Control” (including the correlative meanings of the terms “controlled by” and “under common control with”), as used with respect to the Redeveloper, the power, directly or indirectly, to direct or cause the direction of the management policies of the Redeveloper, whether through the ownership of an interest in the Redeveloper, or by contract or otherwise.

“Declaration” is defined in Section 9.05 hereof, the form of which is attached hereto as **Exhibit 2**.

“Declaration of Taking” means a Declaration of Taking as this term is used in *N.J.S.A. 20:3-17* as amended and supplemented.

“Effective Date” means the date on which this Agreement is signed by all Parties, or, if not signed simultaneously, the date on which it is signed by the last of the Parties, which date shall be inserted at the top of the first page hereof.

“Eminent Domain Act” means *N.J.S.A. 20:3- et seq.* as amended and supplemented.

“Engineering Controls” means any mechanism to contain or stabilize contamination or to ensure the effectiveness of a Remediation. Engineering Controls may include, without limitation, caps, covers, dikes, trenches, leachate control systems, signs, fences, and physical access barriers.

“Environmental Laws” means all federal, state, regional, and local laws, statutes, ordinances, regulations, rules, codes and administrative orders or decrees, directives or judgments relating to environmental contamination or damage to or protection of the environment, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”) (42 U.S.C. §§ 9601-9675); 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.*); ISRA; the New Jersey Underground Storage of Hazardous Substances Act (*N.J.S.A. 58:1OA-2l et seq.*); the New Jersey Water Pollution Control Act (*N.J.S.A. 58:10A-1 et seq.*); the New Jersey Environmental Rights Act (*N.J.S.A. 2A:35A-1 et seq.*); and the rules and regulations promulgated thereunder.

“Escrow Account” is defined in Section 3.04.

“Estoppel Certificate” is defined in Section 5.04.

“Event of Default” is defined in Section 14.01.

“Exhibit(s)” means any exhibit attached hereto which shall be deemed to be a part of this Redevelopment Agreement as if set forth in full in the text hereof.

“Force Majeure” is defined in Section 14.02.

“Foreclosure” is defined in Section 13.03(b).

“Governmental Approvals” means all necessary reviews, consents, permits or other approvals of any kind legally required by any local, county, state or federal governmental or quasi-governmental entity to be obtained in order to construct the Project, including but not limited to, Planning Board preliminary and final site plan approval, Mercer County Planning Board site plan approval, Mercer County Soil Conservation District soil erosion and sediment control certification and a NJPDES statewide water quality permit (RFA), a NJDEP TWA sewer construction permit, NJDEP water allocation permit, other NJDEP permits (if applicable) and a NJDOT Access Permit.

“Governmental Authority” means the federal government, the State, any state or other political subdivision thereof, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and any other governmental entity with authority or jurisdiction over any part of the permitting, Remediation, construction or operation of

the Project or the Project Area, or pursuant to Environmental Laws including without limitation, the Planning Board and the NJDEP.

“Hazardous Substance” means any element, compound, material, mixture, substance, chemical or waste that is listed as hazardous or toxic, or a pollutant or contaminant, in any Environmental Law.

“Holder(s)” is defined in Section 13.01(a).

“Institutional Controls” means a mechanism used to limit human activities at or near a contaminated site, or to ensure the effectiveness of a Remediation over time, when contaminants remain at the contaminated site in levels or concentrations above the applicable remediation standard that would allow unrestricted use of the site. Institutional Controls may include, without limitation, structure, land and natural resource use restrictions, classification exception areas, well restrictions areas and deed notices.

“ISRA” means the Industrial Site Recovery Act, as amended, *N.J.S.A. 13:IK-6 et seq.*
“LSRP” is defined in Section 4.01(a) hereof.

“Municipal Land Use Law” means *N.J.S.A. 40:55D-1 et seq.*, as amended and supplemented.

“Natural Resource Damages” means the loss, liability or damages owed to any natural resource trustee, including, without limitation, a state, the federal government, or Indian tribe, to compensate for the loss or injury to natural resources.

“NJDEP” means the New Jersey Department of Environmental Protection.

“NJDOT” means the New Jersey Department of Transportation.

“Offer Price” is defined in Section 3.06 (c)(iii)(A).

“Permitted Exceptions” is defined in Section 3.06 (c)(iii)(D).

“Permitted Transfers” is defined in Section 11.03.

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

“Planning Board” means the Planning Board of the Township of West Windsor.
“Preliminary Real Property Appraisal Report” is defined in Section 3.06 (c)(i). “Progress Meetings” is defined in Section 6.01.

“Progress Report” is defined in Section 6.02.

“Project Costs” means the costs of acquiring the Project Area, and designing, permitting, and constructing the Project, including soft and hard costs.

“Project Schedule” means the schedule for the design, permitting, financing, construction, and completion of the Project by the Redeveloper, as set forth in **Exhibit 1** hereto.

“Project Team” is defined in Section 9.03(b).

“Property Notice” is defined in Section 3.06 (c)(ii).

“Redeveloper Construction” means all site work and construction to be undertaken by Redeveloper but specifically excludes any building construction and fit outs to be undertaken by Tenants.

“Redeveloper Event of Default” means, with respect to the Redeveloper, an Event of Default as defined in Section 14.01.

“Relocation Act” is defined in Section 3.06(h).

“Relocation Assistance Law” is defined in Section 3.06(h).

“Relocation Entity” is defined in Section 3.06(h).

“Remediat[e], [ed], [ing] or [ion]” means the investigation, study, planning, design, clean-up, removal, containment, disposal, dispersal, treatment (including, but not limited to, in-situ and ex-situ treatment), management, remediation (including, but not limited to, the use of Engineering Controls and Institutional Controls, stabilization, neutralization of Hazardous Substances required by Governmental Authority and/or pursuant to Environmental Laws which allows for the Project, including, but not limited to any operations, maintenance, and monitoring activities that may be required after completion of the foregoing.

“Scheduled Completion Date” means the anticipated Completion Date as set forth in the Project Schedule attached hereto as **Exhibit 1**, subject to any extensions granted in accordance with this Redevelopment Agreement.

“Section” means a section or subsection of this Redevelopment Agreement.

“Site Plan” means the Preliminary Site Plan or Final Site Plan, as applicable, depicting those aspects of the Project improvements required pursuant to the Township’s site plan ordinance and pursuant to N.J.S.A. 40:55D-7.

“State” means the State of New Jersey.

“Substantial Completion” or **“Substantially Completed”** means that the requirements set forth in clauses (a) through (c), inclusive, of the definition of “Completion” have been satisfied, with the exception of certain immaterial portions of the work relating to the Project, or portion thereof, if applicable, that have been Completed, or such other work remains to be Completed as long as (a) the Redeveloper, with respect to the Project, has prepared and delivered to the Township a “punch list” of items requiring completion or correction in order for the Redeveloper to fully comply with the terms of this Redevelopment Agreement, (b) “punch list” items have been reasonably agreed to by the Township, and (c) such “punch list” items are capable of being

Completed within ninety (90) days of the date that Completion is certified, as set forth in the written notice provided under (c) of the definition of Completion, or such later date as is mutually acceptable to the Parties, as long as the public health, welfare or safety is not impaired by such additional time for Completion; and provided further however, that all such "punch list" items shall be Completed under all circumstances within (i) one hundred eighty (180) days following the date that Completion is certified, as provided above, with respect to the exterior of any buildings and (ii) three hundred sixty-five (365) days following the date that Completion is certified, as provided above, with respect to the interiors of any buildings. "Substantial Completion" shall be evidenced by issuance of a temporary Certificate of Occupancy for the Project, or any portion or phase thereof that has been Substantially Completed.

"Tenants" means Persons who have leases with the Redeveloper to occupy portions of the Project.

"Tenant Construction" means building construction and fit outs undertaken by Tenants pursuant to the Tenant Leases.

"Tenant Leases" means the leases between the Tenants and the Redeveloper to occupy portions of the Project.

"Term" means that period of time from the Effective Date of this Redevelopment Agreement until the Township issues the Certificate of Completion for the Project, or applicable portion thereof, or this Agreement is terminated, whichever is sooner.

"Third-Party Property" and **"Third-Party Properties"** are defined in the recitals.

"Third-Party Property Owner(s)" is defined in Section 3.06 (a).

"Township Costs" is defined in Section 3.03.

"Township Event of Default" means, with respect to the Township, an Event of Default, as such term is defined in Section 14.01 hereof.

"Township Indemnified Parties" means the Township and its respective officers, elected and/or appointed officials, agents, employees, representatives, contractors, and consultants.

"Transfer" is defined in Section 11.02.

"Utilities" means water, sanitary sewer and storm water facilities and natural gas, electricity, and voice and data transmission facilities.

SECTION 1.02. 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, refer to this Redevelopment Agreement, and the term "hereafter" means after, and the term "heretofore" means before the date of delivery of this Redevelopment Agreement.

(b) Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa.

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

(d) Any headings preceding the texts of the several Articles and Sections of this Redevelopment Agreement, and any table of contents or marginal notes appended to copies hereof, 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 any Person or Party hereunder shall not be unreasonably withheld, conditioned, or delayed.

(f) Each right of the Township to review or approve any actions, plans, specifications, or other obligations of the Redeveloper hereunder shall be made by the Township official(s) with legal authority to conduct such review or grant such approvals. Any review contemplated by this Redevelopment Agreement shall be made in a timely manner. Upon request of the Redeveloper, the Township shall inform the Redeveloper of all officials with the required authority.

(g) All notices to be given hereunder and responses thereto shall be given, unless a certain number of days is specified, within a reasonable time, which shall not be less than ten (10) days nor more than twenty (20) days, unless the context dictates otherwise.

(h) Unless otherwise indicated, any "fees and expenses" shall be required to be actual, out of pocket, customary and reasonable.

ARTICLE II

PROJECT; PARKING; PROJECT SCHEDULE

SECTION 2.01. Project. The overall development of the Project Area will include the Project to be constructed by the Redeveloper. The Project shall be constructed consistent with the Redevelopment Plan, as it may be amended from time to time, this Agreement, the Site Plan, and all Applicable Laws.

SECTION 2.02. Infrastructure Improvements. Except as otherwise set forth herein, Redeveloper shall provide for the timely implementation of infrastructure improvements necessary to complete the Project. Redeveloper shall cooperate with the Township in all respects to ensure that the implementation of such infrastructure improvements does not unreasonably interfere with the operation of the existing utilities. Redeveloper agrees to provide all performance and maintenance bonds as required by the Governmental Approvals.

SECTION 2.03. Project Schedule. If Redeveloper fails to meet the Completion Date set forth in the Project Schedule or determines that it will fail to meet the Completion Date, Redeveloper, within a reasonable time, shall provide notice to the Township stating: (a) the reason for the failure to complete the applicable task; (b) Redeveloper's schedule for completing such task; and (c) the method or methods by which Redeveloper proposes to achieve subsequent tasks by the Completion Date. This Section shall in no way limit the rights of the Township under Article XIV or other applicable provisions of this Agreement.

ARTICLE III

FINANCIAL OBLIGATIONS

SECTION 3.01. The Redeveloper's Financial Commitment. The Redeveloper represents and warrants that to the best of its knowledge and belief and, subject to the terms of Section 13.01(d), it has obtained or can obtain and intends to commit the requisite equity and debt financing in an amount necessary to implement and complete the Project.

SECTION 3.02. Project Costs. All costs of implementing this Redevelopment Agreement and completing the Project incurred by the Redeveloper (including costs relating to demolition) will be borne by the Redeveloper, including Township Costs as specified in Section 3.03 hereof (for which Redeveloper shall reimburse the Township).

SECTION 3.03. Township Costs. In addition to the Redeveloper's costs for the Project, the Redeveloper agrees to provide funding to the Township for all reasonable out-of-pocket costs incurred thereby in connection with the redevelopment of the Project Area (the "Township Costs"). Township Costs shall include, but not be limited to, any fees and costs of any professional consultant retained by the Township in connection with the Project, including attorneys, technical consultants, planners, financial consultants, and appraisers, among others, and all out-of-pocket costs and expenses of the Township.

SECTION 3.04. Payment of Township Costs.

(a) The Redeveloper agrees that it will reimburse the Township, as applicable, for all Township Costs in accordance with the terms hereof. The Redeveloper agrees that it will establish an escrow account (the "Escrow Account"), having an initial balance of Twenty-Five Thousand Dollars (\$25,000). The Redeveloper agrees that it will replenish the Escrow Account in the event that the balance drops below Seven Thousand Five Hundred Dollars (\$7,500). Funds in the Escrow Account will be applied to the payment or reimbursement of the Township Costs as provided in this Redevelopment Agreement, including costs that were incurred prior to the Effective Date in accordance with the terms of this Section 3.04. At least ten (10) days prior to making any disbursement from the Escrow Account, written notice of the proposed disbursement shall be mailed to the Redeveloper, setting forth: (a) the amount of the disbursement; (b) the name of the person, company or entity designated to receive payment; and (c) a description, in reasonable detail, of the particular cost to be paid or reimbursed in accordance with this Redevelopment Agreement (including hours worked and billing rates). If the Redeveloper does not object to such disbursement within ten (10) days of receipt of such notice, the Redeveloper will be deemed to have acquiesced to the same.

SECTION 3.05. Governmental Approval Fees. The Redeveloper will pay all fees for permits required by any Governmental Authority for the construction and development of the Project, including any permit fees payable to all required Governmental Authorities for any Governmental Approvals.

SECTION 3.06. Acquisition and Conveyance of the Third-Party Properties.

(a) Acquisition of Third-Party Properties by Redeveloper. The Parties recognize the need to acquire title to the Third-Party Properties from the respective owners thereof (the respective Third-Party Property owners may be referred to herein, individually, as a “**Third-Party Property Owner**” and, collectively, as the “**Third-Party Property Owners**”).

(b) Acquisition of Third-Party Properties by Township. Upon execution of this Redevelopment Agreement, the Redeveloper will promptly and diligently take reasonable steps to acquire the Third-Party Properties from the Third-Party Property Owners. In the event the Redeveloper is unable to so acquire the Third Party Properties, the Township shall promptly and diligently take reasonable efforts to acquire the Third-Party Properties, or a portion thereof, pursuant to and in accordance with the Redevelopment Law and the Eminent Domain Act either through a negotiated purchase and sale, or through exercise by the Township of its powers of eminent domain. As part of the acquisition of the Third-Party Properties, or a portion thereof, the Township shall not agree to any covenants, obligations, restrictions, or waivers that would be binding upon the Third-Party Properties or Redeveloper without the prior written consent of Redeveloper.

(c) Procedures Governing Acquisition of the Third-Party Properties by the Township.

(i) Preliminary Real Property Appraisal Reports. The Township will commission the preparation of preliminary real property appraisals for each Third-Party Property (the “**Real Property Appraisal Reports**”). Real Property Appraisal Reports shall be prepared as though Resolution No. 2019-R191 designating the Penns Neck Redevelopment Area as an area in need of redevelopment and the Redevelopment Plan and Redevelopment Ordinance had not been adopted. Costs for same shall constitute “Condemnation Costs”, as defined below. Upon the Township’s receipt of the Real Property Appraisal Reports, it shall provide copies thereof to the Redeveloper for its review and approval. Within thirty (30) days of the Redeveloper’s receipt of the Real Property Appraisal Reports, the Redeveloper shall advise the Township whether same are acceptable; if same are not acceptable, the Redeveloper shall have the right to terminate this Redevelopment Agreement based on the valuation set forth therein. If the Redeveloper fails to advise the Township, in writing, whether the Preliminary Real Property Appraisal Reports are or are not acceptable within such thirty (30) day period, the Redeveloper will be deemed to have determined same are acceptable and it may not terminate this Redevelopment Agreement under this Section 3.06(c)(i).

(ii) Condemnation Costs Funds and Acquisitions Costs Deposit Due Date. After the Redeveloper’s review of the Real Property Appraisal Reports, in the event the Redeveloper desires to request the Township to acquire the Third-Party Properties, the Redeveloper will provide written notice to the Township of same (“**Property Notice**”). The

Property Notice will also include the Condemnation Costs Funds required by Section 3.06(e) hereof, the Acquisition Costs required by Section 3.06(f) hereof, and copies of any title work, surveys, appraisals for the subject property and an estimate of clean-up costs pursuant to Environmental Laws in the Redeveloper's possession at that time.

(iii) Condemnation Procedures.

(A) In the event the Redeveloper does not reject the Real Property Appraisal Reports in accordance with Section 3.06 (c)(i), and provided that the Redeveloper is otherwise in compliance with this Redevelopment Agreement, the Township agrees to exercise its power of condemnation in connection with the Third-Party Properties in accordance with the Redevelopment Law and the Eminent Domain Act within reasonable time after the Township's receipt of a Property Notice. The Township will be responsible for the conduct of bona-fide good faith negotiations to acquire such Third-Party Properties from the Third-Party Property Owners. The fair market value of the respective Third-Party Properties set forth in the Real Property Appraisal Reports shall be the amount initially offered to the respective Third-Party Property Owners (the "**Offer Price**"). Pursuant to Section 3.06(j), the Township shall keep Redeveloper fully apprised of the progress of the bona-fide good faith negotiations, including any counteroffer made by a Third-Party Property Owner. To the extent permitted by Applicable Law, the decision to accept or reject a counteroffer made by a Third-Party Property Owner shall be left to the sole discretion of Redeveloper.

(B) Pursuant to Section 3.06(c)(iii)(A), if the Township's bona-fide good faith negotiations to acquire the Third-Party Properties, or a portion thereof, through a negotiated purchase and sale from the respective Third-Party Property Owners are unsuccessful, as applicable, then the Township shall commence condemnation proceedings to acquire the remaining portion of the Third-Party Properties by eminent domain. Any condemnation complaint shall include appropriate reservation of rights clauses with respect to the Township's recovery of clean-up costs pursuant to Environmental Laws. After consultation with the Redeveloper, the Township shall institute any action to recover such clean-up costs that the Township deems necessary and appropriate. In no event shall the Township file and record a Declaration of Taking as to any contaminated portion of the Third-Party Properties requiring Remediation until the estimated environmental costs, which are in excess of those environmental costs to be paid for by Getty and the other Responsible Third Parties (the "**Estimated Environmental Costs**"), are determined, shared amongst the Parties, and agreed to be paid for and undertaken by Redeveloper at Redeveloper's sole cost and expense. Simultaneously with the filing of a Declaration of Taking for a Third-Party Property, or as soon thereafter as possible, the Township shall deposit into court the estimated fair market value of the respective Third-Party Property as if Remediated, less the Estimated Environmental Costs to be paid by any acknowledged responsible third party deemed to be financially capable. Upon motion of any condemnee to withdraw the funds on deposit, the Township shall object to the withdrawal of any amount that leaves a balance less than or equal to the estimated environmental costs, and shall request an order allowing the court to hold such estimated environmental costs in escrow or in trust as potential cost recovery damages. The Township is undertaking the actions under this Article III for, among other purposes, redevelopment. Nevertheless, the Redeveloper will be responsible for, and shall indemnify, defend, and hold the Township harmless against, any and all costs associated with the investigation

and remediation to be assessed against the Township by virtue of its effort to acquire any portion of the Third-Party Properties.

(C) With respect to any condemnation proceedings instituted by the Township and with respect to any other legal work required by the Township relating to the Project, the Redeveloper agrees that the Township will be entitled to appoint an attorney or attorneys to act as special counsel to conduct said condemnation proceedings and to perform such other work for the Township as its Condemnation Counsel. The Redeveloper further agrees to reimburse the Township for the services provided to the Township by Condemnation Counsel in accordance with the terms of the engagement by the Township of Condemnation Counsel, including but not limited to reimbursement for customary out-of-pocket disbursements. In addition, at the Redeveloper's expense, the Township will have the right to hire appraisers, surveyors, relocation consultants and such other professionals as may reasonably be required in connection with such condemnation proceedings. The selection of Condemnation Counsel, appraisers, surveyors, relocation consultants and such other professionals shall be at the Township's discretion, subject, however, to the approval of the Redeveloper, such approval not to be unreasonably withheld, conditioned or delayed.

(D) In the event the Township acquires title to a Third-Party Property under this Article III, the respective Third-Party Property will be conveyed to the Redeveloper. Title to the Third-Party Property shall be good and marketable fee simple title and insurable at regular rates and without special premium by a reputable Title Insurer doing business within the State, subject only to permitted title exceptions, namely title exceptions that do not adversely affect the construction, financing, marketing or use of the Project ("**Permitted Exceptions**"). The Redeveloper agrees that it will be responsible for premiums incurred for any title insurance policy or policies, obtained, or requested by the Redeveloper, insuring its interest in the Third-Party Property. The Redeveloper specifically acknowledges that the Township makes no representation or warranty, expressed or implied or otherwise, as to any Third-Party Property's fitness for use for any particular purpose, condition, durability thereof, or that it will be suitable for the Redeveloper's purposes.

(E) The Township will promptly file and record in the Office of the Mercer County Clerk, the deed to the Third-Party Properties, if acquired by negotiated purchase, or a Declaration of Taking, if acquired by the Township through condemnation proceedings. If the Township has not designated the Redeveloper as grantee on any such instrument, the Township will then convey the property interest acquired by the Township in the respective Third-Party Property to the Redeveloper by proper instrument and subject to payment of all outstanding financial obligations of the Redeveloper in accordance with this Agreement.

(F) In acquiring the Third-Party Properties, the Township shall not take any action or make any omission that would cause the release of Getty and/or any other Responsible Third Parties from its obligation to Remediate the Third-Party Properties.

(G) In addition to acquiring the Third-Party Properties, upon the Redeveloper's request, at the Redeveloper's sole cost and expense, the Township shall exercise its powers of eminent domain to expunge any title defects in Redeveloper's title to the Redeveloper Property which defects prevent the use of the Redeveloper Property for the Project.

(d) Remediation. If any Third-Party Property requires environmental Remediation, then, except as provided in the immediately following sentence, to the extent required by Environmental Laws and in accordance with this Redevelopment Agreement, the Redeveloper shall assume all responsibility for such Remediation upon acquiring the respective Third-Party Property pursuant to Section 4.01. Notwithstanding the foregoing sentence and for the avoidance of doubt, the Redeveloper shall not assume responsibility for said Remediation to the extent said Remediation is being performed by Getty or another responsible third party deemed to be financially capable.

(e) Condemnation Costs. The Redeveloper will pay, through the Condemnation Costs Escrow Account or otherwise, those reasonable costs, expenses and fees incurred by the Township in acquiring the Third-Party Properties, or any portion thereof, whether acquired by negotiated sale or by condemnation. These costs are hereinafter referred to as the "**Condemnation Costs**" and include, but are not limited to:

(i) The amount paid in compromise or settlement of any claim for just compensation (as to which the Township agrees it will not settle or compromise any claim without the Redeveloper's consent, which consent will not be unreasonably denied or delayed);

(ii) Any Relocation Costs, as defined in Section 3.06(h);

(iii) Fees and disbursements of the Township's Condemnation Counsel incurred in connection with representation of the Township's interests in the bona-fide negotiations and, if necessary, the condemnation action and any appeals arising out of the Eminent Domain action;

(iv) Title search and/or title insurance costs;

(v) Liability and property insurance premiums and costs;

(vi) All reasonable out-of-pocket costs and fees incurred by the Township in complying with N.J.S.A. 40A:12A-8(c) and N.J.S.A. 20:3-18, including, but not limited to, professional services, attorneys' fees, expert fees, inspections, appraisals, all building, sewer and water connection fees, environmental investigations, court deposit (required by N.J.S.A. 20:3-18) and court costs and fees associated with bona-fide negotiations, commissioners' hearings, court proceedings and challenges to the condemnation;

(vii) costs incurred by the Township in conveying the Third-Party Properties, or any portion thereof, to Redeveloper, including, but not limited to, the preparation of conveyance documents; and

(viii) carrying costs incurred by the Township for maintenance of the respective Third-Party Properties, or any portion thereof, from the first Acquisition Date until the Closing Date.

(f) Acquisition Costs. The Redeveloper will pay, through the Acquisition Funds Escrow Account (as defined below) or otherwise, those reasonable costs, expenses and fees incurred by the Township in acquiring the Third-Party Properties, or any portion thereof, whether

acquired by negotiated sale or by condemnation. These costs are hereinafter referred to as the “**Acquisition Costs**” and include without limitation, as applicable for that portion of the Third-Party Properties acquired by the Township through negotiated sale or by condemnation, Redeveloper agrees to pay the Offer Price or the ultimate price paid or to be paid to the respective Third-Party Property Owners, which will be the just compensation value determined by the condemnation process either in bona-fide negotiations with the respective Third-Party Property Owner and agreed to by Redeveloper or as a result of condemnation proceedings.

(g) Deposit of Condemnation Costs Funds and Acquisition Funds.

(i) Simultaneously with the execution of this Redevelopment Agreement, the Redeveloper will deposit with the Township the amount of Thirty-Five Thousand Dollars (\$35,000.00) (the “**Condemnation Costs Funds**”). The Condemnation Costs Funds will be held by the Township in an escrow account (the “**Condemnation Costs Escrow Account**”) and will be used to pay the Condemnation Costs as set forth in Section 3.06(e), except for the Offer Price. Within ten (10) days of the receipt by the Redeveloper of a written notice from the Township that the amount of the Condemnation Funds (excluding the Acquisition Funds) has decreased to Ten Thousand Dollars (\$10,000.00), the Redeveloper will replenish the Condemnation Funds to the amount of Thirty-Five Thousand Dollars (\$35,000.00). Should the Condemnation Costs incurred by the Township exceed the amount in the Condemnation Costs Escrow Account, the Redeveloper will pay the full amount of those costs within seven (7) business days of the receipt of written notice from the Township that such costs are due.

(ii) Pursuant to Section 3.06 (c)(ii), simultaneously with the delivery of a Property Notice, the Redeveloper will also deposit with the Township the amount equal to one hundred fifteen percent (115%) of the Offer Price (the “**Acquisition Funds**”), which shall be held by the Township in a separate escrow account (the “**Acquisition Funds Escrow Account**”) and used by the Township to pay the Acquisition Costs and to acquire the Third-Party Property from the respective Third-Party Property Owners. Should the Township be required to deposit funds into court or make payment to a Third-Party Property Owner for the acquisition of a Third-Party Property, and there are insufficient funds in the Acquisition Funds Escrow Account to cover those costs, the Redeveloper will pay the full amount of such excess to the Township within seven (7) business days of the receipt of written notice from the Township that such costs are due (it being agreed that the Township shall not be required to advance any such funds), such costs to be deemed a lien on the Project Area in favor of the Township until paid unless other reasonably satisfactory security is posted. The Redeveloper will take all necessary steps and make all necessary payments to or on behalf of the Township in a timely fashion to meet this obligation of this Redevelopment Agreement.

(h) Relocation. In connection with the acquisition of the Third-Party Properties, or any portion thereof, through the exercise of its powers of condemnation, the Township (the “**Relocation Entity**”) will remove and relocate any displaced tenants, licensees or other occupants thereof in full compliance with the requirements of the Relocation Assistance Law of 1967, N.J.S.A. 52:31B-1 *et seq.* (the “**Relocation Assistance Law**”) and the Relocation Assistance Act of 1971, N.J.S.A. 20:4-1 *et seq.* (the “**Relocation Act**”), the regulations promulgated thereunder. All costs of compliance, including preparation of a State-approved Workable Relocation Assistance Plan for the Third-Party Property, reasonable Township administrative costs associated

with implementing same, including the salary of a relocation consultant, shall be referred to as “**Relocation Costs**”.

(i) Acquisition Funds Escrow Account and Condemnation Costs Escrow Account.

(i) The Redeveloper shall be responsible for the payment of all Acquisition Costs and Condemnation Costs, which are in addition to and not in limitation of the Township Costs, and the Township shall have the right to draw upon the Condemnation Costs Escrow Account and Acquisition Funds Escrow Account to pay the Condemnation Costs and Acquisition Costs, respectively, pursuant to this Section 3.06.

(ii) The Township agrees to keep Redeveloper fully apprised of the progress of the acquisition efforts, including the bona-fide good faith negotiations to acquire any portion of the Third-Party Properties from the respective Third-Party Property Owners and any condemnation litigation, and to the extent feasible and consistent with the requirements of the Eminent Domain Law, will endeavor to coordinate the filing of the Declaration of Taking and the timing thereof with the Redeveloper.

(j) Timing of Action. Notwithstanding anything herein to the contrary, the Township shall not commence any action in court to acquire any Third-Party Property until after the Redeveloper has obtained all Governmental Approvals required to construct the Project. The Redeveloper, in its sole discretion, may waive this requirement by providing the Township written notice of such waiver and demand to commence court action to acquire the respective Third-Party Property; provided, however, that the Township will not record a Declaration of Taking or deposit the Offer Price in court until after the Redeveloper has obtained all Governmental Approvals required to construct the Project, except that, notwithstanding the foregoing, if all Governmental Approvals required to construct the Project are obtained other than the Access Permit, then at the Redeveloper’s election, the Township will record a Declaration of Taking and deposit the Offer Price in court, if all Governmental Approvals required to construct the Project are obtained other than the Access Permit.

SECTION 3.07. Conveyance of Third-Party Properties. The Township will convey those portions of the Third-Party Properties that the Township acquires at the direction of the Redeveloper, to the Redeveloper at no cost (or nominal cost), provided that all Condemnation Costs and Acquisition Costs have been paid to the Township, within thirty (30) days of the Township’s acquisition of same, whether by Deed or Declaration of Taking. The respective Third-Party Properties will be conveyed to the Redeveloper in “AS IS, WHERE IS, WITH ALL FAULTS” condition, including without limitation as to environmental conditions, and with all latent or patent defects. The Redeveloper acknowledges that the Township makes no representation or warranty as to the condition of the Third-Party Properties or their fitness for the redeveloper’s intended use. The Township shall deliver possession of those portions of the Third-Party Properties, that the Township acquires at the direction of the Redeveloper, in the same condition, with the exception of deterioration from normal wear and tear and exposure to the elements, as it is on the date when the Township acquired respective Third-Party Property. In order to effectuate such conveyance(s), the Township will execute deeds, affidavits of consideration, and other customary closing documents. The foregoing does not eliminate or reduce

the Township's obligation to convey the title to Redeveloper required by Section 3.06.c(iii)D hereof,

SECTION 3.08. No Rights in Third-Party Beneficiaries. Notwithstanding any of the foregoing, this Agreement does not and will not confer any rights, remedies or entitlements upon any third person or entity other than the Parties and their respective successors and assigns. This Agreement is for the exclusive benefit and convenience of the Parties hereto.

SECTION 3.09. Project Conditions; Redeveloper's Termination Rights.

Redeveloper may terminate this Redevelopment Agreement at any time if:

(a) Redeveloper has not obtained all Governmental Approvals on terms that permit construction of the Project, all of the conditions of which are reasonably acceptable to the Redeveloper and all of which conditions have been satisfied and all of which approvals are Final and Non-Appealable; or

(b) Redeveloper has not obtained acquisition and construction financing for the Project on terms acceptable to Redeveloper.

Notwithstanding any such termination by the Redeveloper, if the Township has already acquired the Third-Party Properties, or any portion thereof, Redeveloper's obligation to acquire the Third-Party Properties, or any portion thereof, acquired by the Township under Section 3.06 shall survive such termination and Redeveloper shall proceed to Closing on said Third-Party Properties, or any portion thereof. If the Township has not yet acquired any Third-Party Property at the time of Redeveloper's termination under this Section 3.09, the Township shall immediately cease all efforts to acquire the Third-Party Properties, or any portion thereof, if reasonably possible and at no cost to the Township, including dismissal of any filed action in eminent domain. Any balance remaining in the Acquisition Escrow Account shall be refunded to the Redeveloper and no remaining obligations hereunder by either Party shall remain except those that explicitly survive termination.

ARTICLE IV

ENVIRONMENTAL MATTERS

SECTION 4.01. Environmental Compliance in General. The Parties acknowledge that there may be present Hazardous Substances on, under or migrating to or from the Project Area that may require Remediation. The Redeveloper agrees and specifically assumes any and all responsibility, liability, and costs for any such Remediation of the Project Area or anything affected off-site, as required by applicable Environmental Laws and Governmental Authorities, except to the extent that the prior owner(s) of the Project Area retain such responsibility or liability. The Redeveloper, as principal responsible party for the Project Area, will prepare and submit all applications and documentation necessary to comply with the requirements of all Environmental Laws. The Redeveloper also agrees that it shall obtain all requisite approvals from the appropriate Governmental Authority (or Licensed Site Remediation Professional) for the Remediation of the Project Area. Upon the execution and delivery of this Agreement, the Township shall deliver to Redeveloper all reports, studies, and investigations in respect of the environmental condition of

the Project Area. Redeveloper shall have sixty (60) days from the execution and delivery of this Agreement to investigate the environmental condition of the Project Area. If Redeveloper is dissatisfied with the environmental condition of the Project Area, Redeveloper shall, prior to the expiration of the sixty (60) day period, have the right to terminate this Agreement, which shall be exercised by the delivery of a notice to terminate. Upon receipt of such a notice to terminate, the Township shall remit to Redeveloper all remaining funds in the Escrow Account.

SECTION 4.02. Redeveloper Indemnification of Township.

(a) In conjunction with the Indemnification provisions of Article XII hereof, the Redeveloper covenants and agrees, at its expense, to pay and to indemnify, protect, defend and hold the Township Indemnified Parties harmless from and against all liability, losses, damages (including, without limitation, Natural Resource Damages), demands, costs, claims, lawsuits, administrative proceedings, fines, penalties and expenses (including attorneys' fees and court costs) of every kind, character and nature arising from or associated with (i) the performance or any failure or delay of performance by the Redeveloper of its responsibilities and obligations to Remediate the Project Area or anything affected off-site, as required by applicable Environmental Laws and Governmental Authorities; and (ii) the presence of Hazardous Substances, whether known or unknown, on, under or migrating from the Project Area, but excluding damage, liability, costs and expenses to the extent that same result from the negligence or willful misconduct of the Township or Township Indemnified Parties or result from the Township Indemnified Parties having committed an act or omission which releases Getty and/or the other Responsible Third Parties from their obligations to Remediate the Third-Party Properties.

(b) The Redeveloper's indemnity, defense, and hold harmless obligations provided under this Section 4.02 shall survive the termination or expiration of this Redevelopment Agreement with respect to occurrences prior to the date of termination or expiration and shall run with the land and be referenced in the Declaration, except with respect to any Holder.

SECTION 4.03. Township Cooperation and Environmental Reports. If off-site disposal of either Hazardous Substances or non-Hazardous Substances is required as part of the Remediation of the Project Area or the construction of the Project, the Township will not be required to sign any manifests relating to such disposal. Upon the execution and delivery of this Redevelopment Agreement, the Township will provide to the Redeveloper and its engineering consultants any and all copies of environmental reports that the Township obtains or has possession of in connection with the Project Area. The Redeveloper will provide to the Township and its engineering consultants copies of any and all environmental reports that Redeveloper submits to NJDEP.

ARTICLE V

CONSTRUCTION OF PROJECT

SECTION 5.01. Construction of Project. (a) Project. Subject to the terms of this Redevelopment Agreement, (i) the Project shall be implemented in accordance with the Redevelopment Plan, the Site Plan, and the Project Schedule, including obtaining all Governmental Approvals, and (ii) Redeveloper shall commence physical work on the Project in

accordance with the Project Schedule, and Complete the Redeveloper Construction on or prior to the Scheduled Completion Date, as set forth on **Exhibit 1** hereto. Except as otherwise provided in this Agreement, the Redeveloper will construct, or cause to be constructed, the Redeveloper Construction at its sole cost and expense.

(b) **Modification of Project Schedule.** In the event that the Redeveloper is unable, for reasonable cause, to comply with any time frame set forth on the Project Schedule, the Redeveloper shall provide written notice to the Township at least thirty (30) days prior to such date (or such lesser period of time as the circumstances may require), setting forth in reasonable detail (i) the reason for the failure to satisfy the required tasks necessary to comply with the Project Schedule, (ii) the Redeveloper's proposed actions to remedy any delay, and (c) the Redeveloper's proposal for revising the Project Schedule. In such event the Project Schedule shall be modified accordingly, subject to the Township's consent, which shall not be unreasonably withheld, conditioned, or delayed. The Township's approval of any such extension shall not limit in any manner the rights of the Township or diminish the obligations of the Redeveloper with respect to the Redeveloper Construction under this Redevelopment Agreement.

SECTION 5.02. Relocation of Utilities. The Redeveloper acknowledges that providers of Utilities may have certain rights with respect to the Project Area and may own certain facilities located therein. The Redeveloper agrees that, except as otherwise set forth herein, it is its sole responsibility to undertake the appropriate measures to negotiate with, acquire, remove, relocate, or otherwise address the existence of these Utilities and improvements and easements therefor, in order to complete construction of the Redeveloper Construction, as provided by this Redevelopment Agreement. Notwithstanding the foregoing, to the extent reasonably requested by the Redeveloper, the Township shall cooperate in facilitating the installation and/or relocation of any such affected Utilities.

SECTION 5.03. Maintenance of Project Area. Following commencement of physical construction of the Project, the Redeveloper will maintain, in accordance with Applicable Law, all areas of the Project Area including the buildings, parking areas, landscaping, streetscaping, sidewalks including curbing and traffic calming devices (but not the paved roadway, unless disturbed by the Redeveloper), trash collection and receptacles, and all such issues identified in Chapters 152 (Streets and Sidewalks), 48 (Brush, Grass and Weeds), 168 (Traffic and Parking), and 200 (Improvements) of the Township Code.

SECTION 5.04. Estoppel Certificates. Within thirty (30) days following written request therefor by a Party hereto, or of any Holder, purchaser, tenant or other party having an interest in the Project Area, the other party shall issue a signed certificate ("Estoppel Certificate") stating that (i) this Redevelopment Agreement is in full force and effect, (ii) there is no default or breach under this Redevelopment Agreement (nor any event which, with the passage of time and the giving of notice would result in a default or breach under this Redevelopment Agreement), or stating the nature of the default or breach or event, if any, and (iii) any other matter reasonably requested. No more than a reasonable number of Estoppel Certificates may be requested per year.

SECTION 5.05. Cooperation. The Parties shall fully cooperate with each other as necessary to effectuate the Project, including entering into additional agreements that may be

required; provided however, that such actions and/or agreements shall not result in a material increase or decrease in any Party's respective rights, obligations, and liabilities hereunder.

ARTICLE VI

PROJECT OVERSIGHT

SECTION 6.01. Progress Meetings. The Parties agree to attend and participate in quarterly progress meetings ("Progress Meetings") to report on the status of the Project and to review the progress under the Project Schedule. Progress Meetings may be held more frequently at the reasonable request of the Township. The Township shall give the Redeveloper seven (7) days advance written notice of any additional meetings. The Progress Meetings shall be held at Township Hall. Prior to the meeting, representatives of the Township may visit the Project Area to inspect the progress of the work on the Project, in accordance with Section 6.03.

The agenda for the Progress Meetings shall include, but not be limited to, (a) a status report with regard to Governmental Approval submissions and approvals, (b) financial commitments, (c) construction of the Project, and (d) compliance with the Redevelopment Plan. At the Progress Meetings, this information will be evaluated by the Township to determine compliance with the terms and conditions of this Redevelopment Agreement and the Project Schedule. The Township shall have the right at all reasonable times to inspect the construction contracts, financing commitments and agreements, books and records pertinent to the construction contracts, insurance policies, and such other agreements of the Redeveloper which are pertinent to the purposes of this Redevelopment Agreement and to the Progress Meetings in order to insure completion of the Project in accordance with the Project Schedule, provided, however, Redeveloper shall have the right to withhold from the Township's review, any materials that Redeveloper deems to be confidential and/or proprietary in nature.

SECTION 6.02. Progress Reports. The Redeveloper shall submit to the Township a detailed quarterly written progress report ("Progress Report") (or more frequent Progress Reports, if reasonably requested by the Township) which shall include a description of activities completed, the activities to be undertaken prior to the next quarterly Progress Report, the status of all Governmental Approvals, an explanation of each activity, if any, which is causing delay, a description of problem areas, current and anticipated delaying factors and their estimated impact on performance of other activities and completion dates in the Project Schedule and an explanation of corrective action taken or proposed. The written progress report shall also contain the most current Estoppel Certificate, if any.

SECTION 6.03. Access to Property. Upon the Commencement of Construction, the Township and its authorized representatives shall have the right to enter the Project Area in accordance with Applicable Law and upon reasonable notice to inspect the Project and any and all work in progress for the purpose of furthering its interest in this Redevelopment Agreement provided that such inspections shall not interfere with work in progress. In no event shall the Township's inspection of the Project (or any construction activities related thereto) be deemed acceptance of the work or be deemed to waive any right the Township has under this Redevelopment Agreement. The Township acknowledges hereby that the Project Area will be an active construction site, will abide by and observe all posted safety protocols, and that the

Redeveloper shall not be liable or responsible to the Township, its employees or agents for injury to person or property sustained in connection with any such inspection, except to the extent that the Redeveloper willfully or negligently violates its standard of due care owed to invitees.

SECTION 6.04. Submissions. The Redeveloper shall be required to provide the Township with a copy, either printed or electronic, of each and every application for Governmental Approvals submitted to Governmental Authorities at the same time the Redeveloper submits those applications to such Governmental Authorities.

ARTICLE VII

GENERAL DEVELOPMENT REQUIREMENTS

SECTION 7.01. Scope of Undertaking. Except as expressly provided, herein, the services and responsibilities undertaken by the Redeveloper hereunder include all aspects of the design, development, and construction of the Project, including without limitation, all design, engineering, permitting and administrative aspects, the performance of or contracting for and administration and supervision of all physical work required in connection with the Project, arrangement for interim and final inspections and any other actions required to satisfy the requirements of any applicable Governmental Approvals, the administration, operation and management, or contracting for the administration, operation and management of the Project and all aspects of the funding of the Project, including equity funding and construction, interim and permanent financing, all at the sole cost and liability of the Redeveloper.

SECTION 7.02. Standards of Construction. Without limitation, all work on the Project shall be performed in a good and workmanlike manner, with the materials called for under the Governmental Approvals being of such quality as is required by such approvals.

SECTION 7.03. Compliance With Applicable Law. The Project and all materials, fixtures and equipment used or installed in connection therewith shall be in full compliance with all Applicable Laws, subject to any waivers, variances, deviations, exceptions, or similar approval granted in accordance with Applicable Law.

SECTION 7.04. Payment of Project Costs. The Redeveloper shall pay (or cause to be paid) when due, all costs and expenses incurred by Redeveloper, including, without limitation, all contractors' requisitions and the cost of materials and equipment incurred in connection with work on the Project and all fees and expenses of any consultants and professionals and like providers acting for (or on behalf of) the Redeveloper, provided, however, nothing herein shall be construed to prohibit Redeveloper from withholding any payments if, for any reason, in Redeveloper's reasonable business judgment, Redeveloper disputes the amount alleged to be owed or the quality of the work performed.

ARTICLE VIII

APPROVAL OF APPLICATIONS FOR GOVERNMENTAL APPROVALS

SECTION 8.01. Applications for Governmental Approvals. (a) The Redeveloper (at its sole cost and expense) shall apply for and obtain all Governmental Approvals necessary to construct and use the Project. The Redeveloper shall provide the Township with a copy of each application for Governmental Approvals at such time as such applications are submitted. The Redeveloper shall provide the Township with a copy of each Governmental Approval received by the Redeveloper with respect to the Project.

(b) To the extent reasonably requested by the Redeveloper, and to the extent applicable, the Township shall provide assistance and support to the Redeveloper in connection with any applications for any Governmental Approvals required to be obtained for or with respect to the Project.

(c) In the event that all necessary Governmental Approvals for the Project are not obtained from the required Governmental Authorities prior to the 180th day after the Effective Date of this Redevelopment Agreement, on terms and conditions acceptable to Redeveloper in its sole discretion, or if Redeveloper determines that the Governmental Approvals for the Project cannot be obtained on terms and conditions reasonably acceptable to Redeveloper, then Redeveloper shall have the right to terminate this Redevelopment Agreement upon written notice to the Township. No Governmental Approval shall be deemed to have been obtained (i) until the Appeal Period relating thereto has expired and no appeal has been taken, or (ii) if an appeal is filed within the applicable Appeal Period, until such appeal shall have been finally resolved in a manner sustaining the challenged Governmental Approval. If this Redevelopment Agreement is terminated pursuant to the terms of this Section 8.01(c), then, except as expressly set forth herein to the contrary, this Redevelopment Agreement (including, without limitation, all the covenants contained herein) shall be of no further force and effect and the Parties hereto shall have no further rights, liabilities and/or obligations hereunder, except that the Redeveloper shall be responsible for the payment of all Township Costs incurred prior thereto.

ARTICLE IX

REPRESENTATIONS AND WARRANTIES; REDEVELOPER COVENANTS

SECTION 9.01. Representations and Warranties by the Redeveloper. The Redeveloper hereby represents and warrants the following to the Township for the purpose of inducing the Township to enter into this Redevelopment Agreement and to consummate the transactions contemplated hereby, all of which shall be true as of the Effective Date:

(a) The Redeveloper is a limited liability company organized under the laws of the State, is in good standing under the laws of the State, and has all requisite power and authority to carry on its business as now and whenever conducted, and to enter into and perform its obligations under this Redevelopment Agreement.

(b) The Redeveloper has the legal power, right and authority to enter into this Redevelopment Agreement and the instruments and documents referenced herein to which the Redeveloper is a party, to consummate the transactions contemplated hereby, to take any steps or actions contemplated hereby, and to perform its obligations hereunder.

(c) This Redevelopment Agreement has been duly authorized, executed and delivered by the Redeveloper; and is valid and legally binding upon the Redeveloper and enforceable in accordance with its terms. 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 Redeveloper is a party.

(d) No receiver, liquidator, custodian, or trustee of the Redeveloper has been appointed as of the Effective Date, and no petition to reorganize the Redeveloper pursuant to the United States Bankruptcy Code or any similar statute that is applicable to the Redeveloper has been filed as of the Effective Date.

(e) No adjudication of bankruptcy of the Redeveloper or a filing for voluntary bankruptcy by the Redeveloper under the provisions of the United States Bankruptcy Code or any other similar statute that is applicable to the Redeveloper has been filed as of the Effective Date.

(f) No indictment has been returned against any partner of the Redeveloper with respect to any transaction related to the transactions contemplated by the terms of this Redevelopment Agreement or otherwise.

(g) There are no suits, other proceedings or investigations pending or, to the best of the Redeveloper's knowledge, threatened against the Redeveloper that would have a material adverse effect on the financial condition of the Redeveloper.

(h) All materials and documentation submitted by the Redeveloper and its agents to the Township and their agents were, to the best of Redeveloper's knowledge, at the time of such submission, and as of the Effective Date, materially accurate, and the Redeveloper shall continue to inform the Township of any material and adverse changes in the documentation submitted. The Redeveloper acknowledges that the facts and representations contained in the information submitted by the Redeveloper are a material factor in the decision of the Township to enter into this Redevelopment Agreement.

(i) Subject to obtaining construction financing, the Redeveloper is financially and technically capable of developing, designing, financing, and constructing the Project.

(j) Except as otherwise provided in this Agreement, the cost and financing of the Project is the responsibility of the Redeveloper.

(k) The ownership structure of the Redeveloper is set forth in **Exhibit 5**. The Redeveloper shall, at such times as the Township may reasonably request, furnish the Township with a complete statement subscribed and sworn to by the managing member of the Redeveloper, setting forth all of the ownership interests in the Redeveloper greater than ten percent (10%), or other owners of equity interests of the Redeveloper greater than ten percent (10%) and the extent of their respective holdings, and in the event any other parties have a beneficial interest in the Redeveloper greater than ten percent (10%), their names and the extent of such interest.

If requested by the Township, the Redeveloper shall update and reaffirm the representations and warranties set forth in this Section 9.01.

SECTION 9.02. Representations and Warranties by the Township. The Township hereby represents and warrants the following to the Redeveloper for the purpose of inducing the Redeveloper to enter into this Redevelopment Agreement and to consummate the transactions contemplated hereby, all of which shall be true as of the Effective Date:

(a) The Township has the legal power, right and authority to enter into this Redevelopment Agreement and the instruments and documents referenced herein to which the Township is a party, to consummate the transactions contemplated hereby, and to perform its obligations hereunder.

(b) This Redevelopment Agreement has been duly authorized, executed and delivered by the Township and is valid and legally binding upon the Township and enforceable in accordance with its terms on the basis of laws presently in effect and the execution and delivery thereof shall not as of the Effective Date or with due notice or the passage of time, constitute a default under or violate the terms of any indenture, agreement, or other instrument to which the Township is a party.

(c) There is no pending or, to the best of the Township's knowledge, threatened litigation that would in any way (i) contest or seek to invalidate the Redeveloper's ability to commence performance of its obligations under the Redevelopment Agreement, or (ii) prevent the Township from performing its duties and obligations hereunder.

(d) There are no suits, other proceedings or investigations pending or, to the best of the Township's knowledge, threatened against the Township that would have a material adverse effect on the Township's financial condition.

SECTION 9.03. Delivery of Documents by the Redeveloper. The Redeveloper agrees to deliver the following fully executed collateral documents simultaneously with the execution of this Redevelopment Agreement and the Township hereby acknowledges the receipt of such documents:

(a) Certified copies of the certificate of formation and certificate of good standing of the Redeveloper.

(b) A comprehensive list of the names, addresses, email addresses and telephone numbers of all individuals who will comprise the Redeveloper's "Project Team" including, but not limited to, those individuals who will be directly responsible for managing the Project's design, approvals, and construction. The Redeveloper shall provide notice to the Township of any changes in the representatives on the Project Team.

SECTION 9.04. Redeveloper Covenants. Redeveloper covenants and agrees that, subject to the terms hereof, and except as explicitly provided herein, including Section 9.07 below (collectively, "**Redeveloper Covenants**"):

(a) The Redeveloper shall use diligent efforts to obtain all Governmental Approvals necessary for the construction and development of the Project. The Redeveloper shall construct, improve, operate, and maintain the Redeveloper Construction in compliance with all

Governmental Approvals, and other laws, ordinances, approvals, rules, regulations, and requirements applicable thereto including, but not limited to, such zoning, sanitary, pollution and other environmental safety ordinances, laws and such rules and regulations thereunder as shall be binding upon the Redeveloper under Applicable Laws.

(b) The Redeveloper shall use commercially reasonable efforts to (i) obtain financing for the Project, (ii) construct and develop the Redeveloper Construction with due diligence, and (iii) commence and Complete each item in the Project Schedule on or prior to the applicable date set forth in the Project Schedule and, for those items for which commencement dates only are given, such items shall be completed in a commercially reasonable period. All activities performed under this Redevelopment Agreement shall be performed in accordance with the level of skill and care ordinarily exercised by reputable developers of similar developments of the character, scope, and composition of the Project.

(c) The Redeveloper shall construct the Project in accordance with this Redevelopment Agreement, the Redevelopment Law, the Redevelopment Plan, and all other Applicable Law and, in the event that the Redeveloper wishes to materially change or modify the Project, notwithstanding the fact that such material change or modification is authorized by the Redevelopment Plan, the Township's written approval (which shall not be unreasonably withheld, conditioned or delayed) must be secured prior to proceeding with any activities relating to such proposed material modifications. The Redeveloper acknowledges that the Township has relied on the Project Schedule in entering into its obligations under this Redevelopment Agreement.

(d) The Redeveloper shall fulfill its material obligations under any and all agreements it enters into with third parties with respect to the acquisition, construction, leasing, financing, and other matters relating to the Project; provided, however, that this covenant is not intended to prevent the Redeveloper from contesting the scope or nature of such obligations as and to the extent provided in such agreements.

(e) The Redeveloper shall use commercially reasonable efforts to complete the Project or cause same to be completed, on or prior to the date set forth in the Project Schedule at its sole cost and expense; provided, however, that the Parties acknowledge that moneys may be made available towards the completion of same from other outside sources. In the event that moneys made available pursuant to any outside source are not sufficient to pay the costs necessary to complete the Project, the Redeveloper shall not be entitled to any funds from the Township.

(f) Upon completion of the development and construction of the Redeveloper Construction, the Redeveloper shall use diligent efforts to obtain all Governmental Approvals authorizing the occupancy and uses of the Redeveloper Construction for the purposes contemplated hereby.

(g) The Redeveloper shall not discriminate against or segregate any person, or group of persons, on account of race, color, religion, creed, national origin, ancestry, physical handicap, age, marital status, affectional preference or gender in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Project, nor shall the Redeveloper itself, or any Person claiming under or through the Redeveloper, establish or permit any such practice or practices of

discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the Project.

(h) The Redeveloper shall not restrict the sale, lease, sublease, rental, transfer, use, occupancy, tenure, or enjoyment of the Project on the basis of race, color, religion, creed, national origin, ancestry, physical handicap, age, marital status, affectional preference, or gender of any person.

(i) The Redeveloper shall immediately notify the Township of any material change in its financial condition from the information provided to the Township by the Redeveloper indicating the Redeveloper's financial capability to develop, finance and construct the Project in furtherance of the Township's consideration in designating the Redeveloper as the redeveloper of the Project Area.

(j) The Redeveloper shall not use the Project Area, Project, or any part thereof, for which a Certificate of Completion has not been issued, in a manner that is inconsistent with the Redevelopment Plan and this Redevelopment Agreement.

(k) The Redeveloper shall not use the Project Area, Project, or any part thereof for which a Certificate of Completion has not been issued, as collateral for an unrelated transaction.

(l) Redeveloper shall promptly pay the Township Costs, Condemnation Costs, Acquisition Costs, and all taxes, service charges or similar obligations when owed to the Township with respect to the Project Area.

SECTION 9.05. Declaration of Covenants and Restrictions. The Redeveloper shall execute and record one or more declaration(s) of project covenant(s) in form of **Exhibit 2** attached hereto (the "**Declaration**") imposing on the Project and the Project Area, the Redeveloper Covenants set forth in Section 9.04 (as may be limited by the terms of this Redevelopment Agreement, including Section 9.06 hereof), and those other matters indicated in this Redevelopment Agreement to be included in the Declaration.

SECTION 9.06. Effect and Duration of the Covenants. It is intended and agreed, and the Declaration shall so expressly provide, that the agreements and covenants set forth in Section 9.04 hereof and those elsewhere in this Redevelopment Agreement designated for inclusion in the Declaration shall be covenants running with the land until the Project is Completed, and such covenants shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Redevelopment Agreement, be binding, to the fullest extent permitted by Applicable Law and equity, for the benefit and in favor of, and enforceable by, the Township, its successors and assigns, and any successor in interest to the Project, or any part thereof, the Redeveloper, its successors and assigns and every successor in interest therein, and any Party in possession or occupancy of the Project, or any part thereof provided, however, that such covenants shall not be binding on any Holder except in accordance with the terms of Article 13 hereof. Such agreements and covenants, however, shall be binding on the Redeveloper itself, each successor in interest to the Redeveloper and each party in possession or occupancy, respectively, only for such period as the Redeveloper

or such successor or party shall be in possession or occupancy of the Project Area, the buildings and structures thereon, or any part thereof.

SECTION 9.07. Enforcement of Covenants by the Township. In amplification, and not in restriction of the provisions of this Article IX, it is intended and agreed that the Township 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 run in favor of the Township for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether the Township has at any time been, remains, or is an owner of any land or interest therein, or in favor of which such agreements and covenants relate. The Township shall have the right, in the event of any breach of any such agreement or covenant, to terminate this Redevelopment Agreement in accordance with the terms of Section 14.03 hereof. Upon redevelopment of the Project Area and completion of the Project (as evidenced by the Township's issuance of a Certificate of Completion), the conditions that were found and determined to exist at the time the Project Area was determined to be an "area in need of redevelopment" shall be deemed to no longer exist, the land and improvements thereon shall no longer be subject to eminent domain as a result and the conditions and requirements of N.J.S.A. 40A:12A-9 shall be deemed to have been satisfied with respect to the Project.

SECTION 9.08. Township Covenants. The Township hereby covenants and agrees that:

(a) The Township agrees to support any applications for Governmental Approvals that are consistent with the terms of the Redevelopment Plan and this Redevelopment Agreement, and to otherwise cooperate with the Redeveloper with respect to the Governmental Approvals; provided that nothing contained in this Section 9.08(a) shall be deemed: (i) to constitute an approval of all or any portion of the Project for which applications have been submitted or are required or (ii) a waiver of the ability of any Governmental Authority, to exercise its statutorily authorized responsibilities with respect to such applications or Governmental Approvals. Without limiting the generality of the foregoing, the Township shall (A) schedule, convene and conclude all required public hearings in an expeditious manner consistent with Applicable Laws, and (B) cause all of the planners, engineers and other consultants engaged by the Township to review and comment on all submittals by Redeveloper in an expeditious manner.

(b) The Township shall undertake and complete, with due diligence, all of its obligations under this Agreement.

(c) The Redeveloper has been designated as the exclusive redeveloper of the Project Area and shall have the exclusive right and obligation to redevelop the Project Area and implement the Project in accordance with the terms and conditions of this Redevelopment Agreement.

(d) The Township will not amend the Redevelopment Ordinance or the Redevelopment Plan with respect to the Project Area, during the Term, without the prior written consent of the Redeveloper, such consent to not be unreasonably withheld, conditioned or delayed.

SECTION 9.09. Certification of Non-Involvement in Prohibited Activities in Russia

or Belarus. Redeveloper represents, warrants, and certifies that it is not engaged in any Prohibited Activities in Russia or Belarus pursuant to P.L.2022, c.3., except as permitted by Federal Law. Simultaneously with the execution of this Agreement, Redeveloper agrees to submit to the Township a signed form Certification of Non-Involvement in Prohibited Activities in Russia or Belarus pursuant to P.L.2022, c.3, which shall be attached to this Agreement **Exhibit 6.**

ARTICLE X

CERTIFICATES OF OCCUPANCY AND COMPLETION

SECTION 10.01. Certificate of Occupancy. The Redeveloper shall apply to the appropriate governmental officer or body for a Certificate of Occupancy for any building constructed as part of the Project. The Redeveloper shall take all actions required for issuance of a Certificate of Occupancy.

SECTION 10.02. Certificate of Completion. The Township shall, within thirty (30) days after Completion or Substantial Completion of the Project or a portion thereof, and receipt of a written request from the Redeveloper, issue a Certificate of Completion, provided there is not then an existing Redeveloper Event of Default. The Certificate of Completion shall constitute a recordable, conclusive determination of the satisfaction (in accordance with the terms of this Redevelopment Agreement, the Redevelopment Plan and Applicable Law) and termination of this Redevelopment Agreement, and of all of Redeveloper's agreements and covenants in this Redevelopment Agreement and shall discharge and release the lien of this Redevelopment Agreement and the Declaration from the Project Area or portion thereof, as the case may be. If the Township determines that the Redeveloper is not entitled to a Certificate of Completion, the Township shall, at the written request of the Redeveloper, within thirty (30) days of receipt of the written request, provide the Redeveloper with a written statement of the reasons the Township refused or failed to furnish a Certificate of Completion. Notwithstanding the foregoing, if the Project or portion thereof is Substantially Complete, the Township will issue its Certificate of Completion upon the posting of a bond (or other reasonably satisfactory security) by the Redeveloper with the Township in an amount representing one hundred twenty-five percent (125%) of the value of the work not yet completed less the amount of any completion guaranty posted for such work in accordance with the Municipal Land Use Law.

ARTICLE XI

TRANSFERS

SECTION 11.01. Prohibition Against Speculative Development. The Redeveloper covenants that its undertakings pursuant to this Redevelopment Agreement shall be for the purpose of redevelopment of the Project Area and not for speculation in land holding.

SECTION 11.02. Prohibition Against Transfers. The Redeveloper recognizes the importance of the redevelopment to the general welfare of the community and the public assistance to be made available by law and by the Township on the conditions stated herein for the purpose of making such redevelopment possible. The Parties acknowledge and agree that a change in

control of the Redeveloper is for practical purposes a transfer or disposition of the property interest then owned by the Redeveloper, and that, therefore, the qualifications and identity of the Redeveloper and its principals are of particular concern to the Township.

In light of the foregoing, except for Permitted Transfers, during the Term of this Redevelopment Agreement, the Redeveloper shall not, without the prior written consent of the Township, which shall not be unreasonably withheld, conditioned or delayed: (a) effect or permit any change, directly or indirectly, in the control of the Redeveloper prior to the issuance of the final Certificate of Completion for the Project or any portion thereof, (b) assign or attempt to assign this Redevelopment Agreement or any rights herein, or (c) make any total or partial sale, transfer, or conveyance of the whole or any part of the Project Area or Project (individually and collectively, a "Transfer"). If the Township has consented to one of the aforesaid Transfers, it is referred to herein as a "Special Transfer."

SECTION 11.03. Permitted Transfers. (a) The Redeveloper, without violating the provisions of Section 11.01 or Section 11.02 hereof, may affect the following Transfers, to which the Township hereby consents upon receipt of notice thereof, without the necessity of further action by the Township ("Permitted Transfers"):

(i) security for, and only for, the purpose of obtaining the financing necessary to enable the Redeveloper to perform its obligations under this Redevelopment Agreement with respect to completing the Project and any other purpose authorized by this Redevelopment Agreement;

(ii) the Declaration;

(iii) a mortgage or mortgages and other liens and encumbrances (but not including mechanic's liens) for the purposes of financing costs associated with the acquisition, development, construction, and marketing of the Project;

(iv) utility and other development easements;

(v) environmental covenants and restrictions imposed by a regulatory Governmental Authority as a condition of any permit or approval;

(vi) a lease, option agreement or contract of sale to a residential tenant or a tenant or end user of the Project for the purpose of operating a permitted business as a part of the Project under the Redevelopment Plan;

(vii) a transfer to an Affiliate of the Redeveloper, including without limitation a transfer among members of the Redeveloper and their family members and/or trustees for their benefit;

(viii) a Transfer pursuant to a foreclosure or deed in lieu of foreclosure, and any Transfer by any Holder or any Holder's successor and/or assigns after foreclosure.

(ix) any contract or agreement with respect to any of the foregoing exceptions.

SECTION 11.04. Notice of Permitted and Special Transfers. With respect to any Permitted Transfers, the Redeveloper shall provide to the Township prior written notice of such Permitted Transfer including a description of the nature of such Permitted Transfer, and the name(s) and address(es) of the transferee. With respect to a Special Transfer, the Redeveloper shall provide to the Township written notice at least thirty (30) days prior to such Special Transfer, including a description of the nature of such Permitted Transfer, and the name(s) and address(es) of the transferee and any parties, individuals and/or entities comprising such transferee. The Redeveloper shall cause the transferee of a Special Transfer to execute such documentation as is reasonably requested by the Township in order to assure that the transferee has assumed all of the Redeveloper's obligations under this Redevelopment Agreement and the Declaration as to the Project (if the Redeveloper's right, title and interest in the Project is being transferred) or any portion thereof (if the Redeveloper's right, title and interest in a portion of the Project is being transferred).

SECTION 11.05. Transfers Void. Any transfer of the Redeveloper's interest in violation of this Redevelopment Agreement shall be a Redeveloper Event of Default and shall be null and void *ab initio*. Such default shall entitle the Township to seek all remedies available under the terms hereof, and those available pursuant to law or equity, including termination of this Redevelopment Agreement. In the absence of specific written consent by the Township, or a deemed approval in accordance with the terms hereof, no such sale, transfer, conveyance or assignment or approval thereof by the Township, shall be deemed to relieve the Redeveloper from any obligations under this Redevelopment Agreement. 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, the Township shall be entitled to the *ex parte* issuance of an injunction restraining such transfer, and the award of legal fees and related expenses of the Township in connection with any such legal action. Upon recording of the final Certificate of Completion for the Project or a portion thereof, the provisions of the Declaration set forth in this Article as to the Project or portion thereof shall be deemed terminated, and the Declaration shall so state.

ARTICLE XII

INDEMNIFICATION; INSURANCE

SECTION 12.01. Redeveloper Indemnification. (a) The Redeveloper covenants and agrees, at its expense, to pay and to indemnify, protect, defend and hold the Township Indemnified Parties harmless from and against all liability, losses, damages, demands, costs, claims, lawsuits, administrative proceedings, fines, penalties, and expenses (including attorneys' fees and court costs) of every kind, character and nature resulting, wholly or partially, from the condition, use, possession, conduct, management, planning, design, acquisition, construction, installation, financing, leasing or sale of the Project, including but not limited to any lawsuit or proceeding relating to the death of any person or any accident, injury, loss, and damage whatsoever to any person or to the property of any person which shall occur on or adjacent to the Project Area and results from any negligence or willful misconduct of Redeveloper, its agents, servants, employees, or contractors, but excluding damage, liability, costs and expenses to the extent that same may result from the negligence or willful misconduct of the Township, its employees, representatives or agents.

(b) The Redeveloper shall defend, indemnify and hold harmless the Township Indemnified Parties and their officers, agents, employees, contractors, and consultants from any claims, investigations, liability, loss, injury, damage, remediation costs, lawsuits, civil proceedings, fines, penalties, and expenses including reasonable attorneys' fees and disbursements which result, wholly or partially, from (i) the performance or any failure or delay of performance by the Redeveloper of its obligations under the Redevelopment Agreement; or (ii) any bodily injury or property damage that may occur in the Project Area during the term of the Redevelopment Agreement; provided, however, that such indemnity shall not include the actions or inactions of third-parties over whom the Redeveloper does not exercise control, as long as the Redeveloper maintains and enforces commercially reasonable security measures and commercial liability insurance to protect against such actions or inactions.

(c) In any situation in which a Township Indemnified Party is entitled to receive and desires indemnification by the Redeveloper, the Township Indemnified Party shall give prompt notice of such situation to the Redeveloper. Failure to give prompt notice to the Redeveloper shall not relieve the Redeveloper of any liability to indemnify the Township Indemnified Party, unless such failure to give prompt notice materially impairs the Redeveloper's ability to defend such party. Upon receipt of such notice, the Redeveloper shall resist and defend any action or proceeding on behalf of the Township Indemnified Party, including the employment of counsel reasonably acceptable to the Township Indemnified Party, the payment of all expenses and the right to negotiate and consent to settlement. All of the Township Indemnified Parties 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 such Township Indemnified Party. The Redeveloper shall not be liable for any settlement of any such action effected without its consent, but if settled with the consent of the Redeveloper or if there is a final judgment against the Township Indemnified Party in any such action, the Redeveloper agrees to indemnify and hold harmless the Township Indemnified Party from and against any loss or liability by reason of such settlement or judgment for which the Township Indemnified Party is entitled to indemnification hereunder. The Redeveloper shall have the right to settle any such action on terms it deems appropriate provided that a full release of the Township Indemnified Party is obtained and no admission of liability by the Township Indemnified Party is required. In the event the Township refuses to provide a release of such action, and a final judgment is rendered against the Redeveloper, the Township shall be responsible for the Redeveloper's counsel fees and costs incurred subsequent to the refusal by the Township to release the action and for that amount of the judgment which is in excess of the sum for which the Redeveloper would have otherwise settled the action.

(d) The Redeveloper's indemnity, defense, and hold harmless obligations provided under this Section 12.01 shall survive the expiration or termination of this Redevelopment Agreement with respect to occurrences prior to the date of expiration or termination and shall run with the land and be referenced in the Declaration.

SECTION 12.02. Insurance Required. (a) Prior to the commencement of construction of the Project, the Redeveloper shall furnish or shall cause to be furnished, to the Township, a certificate of insurance evidencing a policy of commercial general liability insurance, insuring the Township against losses, costs, liabilities, claims, causes of action and damages for bodily injury and property damage on all property in the Project Area or related to the construction thereon, in

the amount of at least Five Million Dollars (\$5,000,000.00) combined single limit coverage. Such insurance shall include blanket contractual liability coverage. All such policies shall be endorsed to add the Township as an additional insured, and to provide that such coverage shall be primary, and that any insurance maintained by the Township shall be excess insurance only. Such coverage shall be endorsed to waive the insurer's rights of subrogation against the Township if such a waiver is available.

(b) Redeveloper shall also provide a certificate of insurance evidencing a policy of Builder's Risk Insurance for the benefit of the 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, the standard extended coverage perils, vandalism, and malicious mischief. The limits of liability will be equal to one hundred percent (100%) of the replacement cost (to current building code) of the Project, including items of labor and materials connected therewith, whether in or adjacent to the structure(s) insured, and materials in place or to be used as part of the permanent construction.

(c) The Redeveloper shall also furnish or cause to be furnished to the Township evidence satisfactory to the Township that any contractor with whom it has contracted for the construction of the Project carries (i) workers' compensation insurance as required by law, (ii) employer's liability insurance in the amount of \$500,000.00 bodily injury each accident, \$500,000.00 bodily injury each employee and \$500,000.00 bodily injury policy limit, and (iii) commercial general liability insurance in the amount of \$1,000,000.00 each occurrence, \$2,000,000 general aggregate.

(d) All insurance policies required by this section shall be obtained from insurance companies licensed in the State and rated at least A VII in Best's Insurance Guide or such lesser rated provider that is proposed by the Redeveloper and is reasonably acceptable to the Township. All insurance policies required hereunder shall be kept in force until a Certificate of Completion is issued.

(e) All insurance policies required by this Section shall be non-assessable and shall contain language to the effect that (a) the policies are primary and noncontributing with any insurance that may be carried by the Township, (b) the policies cannot be canceled or materially changed except after thirty (30) days written notice by the insurer to the Township, and (c) the Township shall not be liable for any premiums or assessments. All such insurance shall have deductibility limits reasonably satisfactory to the Township and shall contain cross liability endorsements.

(f) The Redeveloper's obligation to maintain insurance in this Section 12.02 shall terminate upon issuance of a Certificate of Completion with respect to the Project.

ARTICLE XIII

MORTGAGE FINANCING; NOTICE OF DEFAULT TO MORTGAGEE; RIGHT TO CURE

SECTION 13.01. Mortgage Financing. (a) Neither the Redeveloper nor any successor in interest to the Project, or any part thereof, shall engage in any third-party financing or any other transaction creating any mortgage or other encumbrance or lien upon the Project, whether by express agreement or operation of law, or suffer any encumbrance or lien (other than liens for governmental impositions) to be made or attach to the Project, in excess of ninety percent (90%) of Project Costs, except as may be approved by the Township (which approval shall not be unreasonably withheld, delayed or conditioned) for the purpose of obtaining funds in connection with the payment of such Project Costs; provided, however, that upon the issuance of a Certificate of Completion for the Project, or any portion thereof, such prohibition shall no longer apply with respect to the corresponding parcel of land and improvements. The Redeveloper, or its successor in interest, shall notify the Township in advance of any such third-party financing secured by a mortgage or other lien instrument which it proposes to enter into with respect to the Project, or any part thereof (the mortgagee thereunder, a “Holder”) and, in any event, the Redeveloper shall promptly notify the Township of any encumbrance or lien (other than liens for governmental impositions) that has been created on or attached to any portion of the Project, whether by voluntary act of the Redeveloper or otherwise, upon obtaining knowledge or notice of same.

(b) If the Holder reasonably requires any change(s) or modification(s) to the terms of this Redevelopment Agreement, the Township shall reasonably cooperate with the Holder and the Redeveloper in reviewing and approving such proposed change(s) or modification(s); provided, however, that any such proposed change or modification shall not materially and adversely alter or modify the rights and obligations of the Redeveloper or the Township, as provided in this Redevelopment Agreement.

(c) To the extent reasonably requested by the Redeveloper, the Township shall execute such other agreements and/or documents, to the extent same are in form and content reasonably acceptable to the Township, as may be requested or required by any Holder (or any equity participant of the Redeveloper); provided, however, that any such agreement or document shall not materially or adversely alter any of the rights, liabilities or obligations of the Redeveloper or the Township under this Redevelopment Agreement.

(d) In the event that the Redeveloper is unable to obtain financing for the Project on terms and conditions acceptable to Redeveloper in its sole discretion, or if Redeveloper determines that financing for the Project cannot be obtained on terms and conditions acceptable to Redeveloper in its sole discretion, then Redeveloper shall have the right to terminate this Redevelopment Agreement upon written notice to the Township.

(e) If this Redevelopment Agreement is terminated pursuant to the terms of this Section 13.01 then, except as expressly set forth herein to the contrary and upon full payment of all Township Costs, Condemnation Costs, Acquisition Costs, respectively, accruing until the date of such termination, this Redevelopment Agreement (including, without limitation, all the covenants contained herein) shall be of no further force and effect and the Parties hereto

SECTION 13.02. Notice of Default to the Redeveloper and Right to Cure. Whenever the Township shall deliver any notice or demand to the Redeveloper with respect to any breach or default by the Redeveloper under this Redevelopment Agreement, the Township shall at the same time deliver to each Holder a copy of such notice or demand; provided that the Redeveloper has

delivered to the Township a written notice of the name and address of such Holder. Each such Holder shall (insofar as the rights of the Township are concerned) have the right at its option within ninety (90) days after the receipt of such notice (and the expiration of all applicable cure periods), to cure or remedy, or to commence to cure or remedy, any such default which is subject to being cured and to add the cost thereof to the debt and the lien which it holds. The Township shall not seek to enforce any of its remedies under this Redevelopment Agreement during the period in which any such Holder or Redeveloper is proceeding diligently and in good faith to cure a Redeveloper Event of Default. If possession of the Project Area is necessary to cure any default or breach, any Holder will be allowed to complete any proceedings required to obtain possession of the Project Area.

SECTION 13.03. No Guarantee of Construction or Completion by Holder. (a) A Holder shall in no manner be obligated by the provisions of this Redevelopment Agreement to construct or complete the Project, or to guarantee such construction or completion; nor shall any covenant or any other provisions be construed so to obligate a Holder. Nothing contained in this Redevelopment Agreement shall be deemed to permit or authorize such Holder to undertake or continue the construction or completion of the Project (beyond the extent necessary to conserve or protect the Holder's security, including the improvements or construction already made) without the Holder or Affiliate of Holder first having expressly assumed the Redeveloper's obligations to the Township with respect to the Project by written agreement reasonably satisfactory to the Township.

(b) If a Holder forecloses its mortgage secured by the Project Area, or takes title (in its name or the name of an Affiliate) to the Project Area by deed-in-lieu of foreclosure or similar transaction (collectively a "**Foreclosure**"), the Holder or its Affiliate shall have the option to either (i) sell the Project Area, as applicable, to a responsible Person reasonably acceptable to the Township, which Person shall assume the obligations of the Redeveloper under this Redevelopment Agreement in accordance with Applicable Law, and/or (ii) itself, or its affiliate, assume the obligations of the Redeveloper under this Redevelopment Agreement in accordance with Applicable Law. In the event of a Foreclosure and provided the Holder or the purchaser is in compliance with this Redevelopment Agreement, the Township shall not seek to enforce against the Holder or purchaser of such parcel any of the remedies available to the Township pursuant to the terms of this Redevelopment Agreement available in connection with the events preceding the Foreclosure. The Holder, or the entity assuming the obligations of the Redeveloper as to the parcel affected by such Foreclosure or sale, in that event must agree to complete the Project in accordance with the terms of this Redevelopment Agreement, but subject to reasonable extensions of the Project Schedule, and shall submit evidence reasonably satisfactory to the Township that it has the qualifications and financial resources necessary to perform such obligations. Any such Holder, or other entity assuming such obligations of the Redeveloper, properly completing the Project shall be entitled, upon written request made to the Township, to Certificates of Completion. Nothing in this Redevelopment Agreement shall be construed or deemed to permit or to authorize any Holder, or such other entity assuming such obligations of the Redeveloper, to devote the Project Area, or any part thereof, to any uses, or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Redevelopment Agreement and the Redevelopment Plan. The Holder or such other entity that assumes the obligations of the Redeveloper shall be entitled to develop the Project Area and Project in accordance herewith.

ARTICLE XIV

EVENTS OF DEFAULT AND REMEDIES

SECTION 14.01. Events of Default. Any one or more of the following shall, beyond the expiration of the applicable cure period, constitute an event of default hereunder ("Event of Default"), subject to the occurrence of an event of Force Majeure (with none of the following to be construed as a limitation on any other):

(a) Failure of the Redeveloper or the Township to observe and perform any covenant, condition or agreement under this Redevelopment Agreement, and continuance of such failure for a period of thirty (30) days, after receipt by the defaulting party of written notice from the non-defaulting party specifying the nature of such failure and requesting that such failure be remedied; provided, however, if the failure is one which cannot be remedied within the thirty (30) days after such written notice has been given, it shall not be an Event of Default as long as the defaulting party is proceeding with due diligence to remedy the same as soon as practicable but in no event later than one hundred eighty (180) days after such written notice.

(b) (i) The Redeveloper shall have applied for or consented to the appointment of a custodian, receiver, trustee or liquidator of all or a substantial part of its assets; (ii) a custodian shall have been legally appointed with or without consent of the Redeveloper; (iii) the Redeveloper (A) has made a general assignment for the benefit of creditors, or (B) has filed a voluntary petition in bankruptcy or a petition or an answer seeking an arrangement with creditors or has taken advantage of any insolvency law; (iv) the Redeveloper has filed an answer admitting the material allegations of a petition in any bankruptcy or insolvency proceeding; (v) the Redeveloper shall take any action for the purpose of effecting any of the foregoing; (vi) a petition in bankruptcy shall have been filed against the Redeveloper and shall not have been dismissed for a period of ninety (90) consecutive days; (vii) an order for relief shall have been entered with respect to or for the benefit of the Redeveloper under the Bankruptcy Code; (viii) an order, judgment or decree shall have been entered, without the application, approval or consent of the Redeveloper by any court of competent jurisdiction appointing a receiver, trustee, custodian or liquidator of the Redeveloper or a substantial part of its assets and such order, judgment or decree shall have continued unstated and in effect for any period of ninety (90) consecutive days; or (ix) the Redeveloper shall have suspended the transaction of its usual business.

(c) The Redeveloper shall materially default in or violate its obligations with respect to the design, development and/or construction of the Project in accordance with this Redevelopment Agreement (including, but not limited to, the Project Schedule) and the Site Plan, or shall abandon or substantially suspend construction work (unless such suspension arises out of an event of Force Majeure), and any such default, violation, abandonment or suspension shall not be cured, ended, or remedied within ninety (90) days after written demand by the Township to do so; provided however, that if the default or violation is one which cannot be completely remedied within the ninety (90) days after such written notice has been given, it shall not be an Event of Default as long as the Redeveloper is proceeding with due diligence to remedy the same as soon as practicable, but in no event later than one hundred eighty (180) days after such written notice.

(d) The Redeveloper or its successor in interest (except for third parties to which a portion of the Project has been conveyed in the ordinary course of business) shall fail to pay any real estate taxes or assessments on any real property or any part thereof owned by it in the Township when due, or shall place thereon any encumbrance or lien unauthorized by this Redevelopment Agreement, or shall suffer any levy or attachment to be made, or any materialman's, mechanics' or construction lien, or any other unauthorized encumbrance or lien to attach and such real estate taxes or assessments shall not have been paid, or the encumbrance or lien removed or discharged or provision satisfactory to the Township made for such payment, removal, or discharge, within sixty (60) days after written demand by the Township to do so.

(e) There is, in violation of this Redevelopment Agreement, any Transfer.

SECTION 14.02. Force Majeure. Performance by either Party hereunder shall not be deemed to be in default where delays or failure to perform are the result of events or conditions 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 under the terms of this Redevelopment Agreement, including, without limitation, the following (a "**Force Majeure**"):

(a) An act of God, lightning, blizzards, hurricane, tornado, earthquake, acts of public enemy, war (whether or not declared), terrorism, blockade, insurrection, riot or civil disturbance, sabotage or similar occurrence, pandemic, epidemic, code red air quality warning, economic disruptions including the scarcity of material necessary for the construction of the Project, but not including reasonably anticipated weather conditions for the geographic area of the Project Area, other than those set forth above (such events being required to physically affect a Party's ability to fulfill its obligations hereunder; and the consequential effect of such events (e.g., impact on market conditions) shall not be considered a Force Majeure event);

(b) A landslide, fire, explosion, flood, release of nuclear radiation, damage to or theft of any part of the Project, or any casualty not created by the willful misconduct or

(c) The order, judgment, action or inaction and/or determination of any Governmental Authority (other than the Township when acting in conformance with this Redevelopment Agreement) excepting decisions interpreting federal, State and local tax laws generally applicable to all business taxpayers; provided, however, that such order, judgment, action or inaction and/or determination shall not be the result of the willful misconduct or grossly negligent action or inaction of the Party relying thereon. Neither the contesting of any such order, judgments, action or inaction and/or determination, in good faith, nor the reasonable failure to so contest, shall constitute or be construed as willful misconduct or grossly negligent action or inaction by such Party;

(d) The suspension, termination, interruption, denial, or failure of or delay in renewal or issuance of any Governmental Approval (including due to any appeal), provided, however, that such suspension, termination, interruption, denial, or failure of or delay in renewal or issuance shall not be the result of the willful misconduct or grossly negligent action or inaction of the Party relying thereon. Neither the contesting of any such suspension, termination, interruption, denial or failure of renewal or issuance, in good faith, nor the reasonable failure to so contest, shall constitute or be construed as willful misconduct or grossly negligent action or

inaction by such Party. Delay in issuance of a Governmental Approval resulting from the Redeveloper's failure to make an administratively complete submission for a Governmental Approval in accordance with Applicable Law shall not be an event of Force Majeure; or

(e) An inability to procure goods or services for any reason not caused by the willful misconduct or grossly negligent act or omission of the party claiming Force Majeure, including, without limitation, the limited manufacturing capacity of any suppliers; a general shortage of labor, equipment, facilities, energy, materials or supplies in the open market; failure of transportation, strikes, lockouts, slowdowns or similar labor action by trade unions or any of their members, equipment manufacturers, suppliers of material and/or transporters of same; or any other economic condition that may adversely affect the Project, the Project Area or the real estate markets; or

(f) Acts or omissions of the other Party (except in conformance with this Redevelopment Agreement or Applicable Law) e.g., as to the Redeveloper, acts or omissions of the Township.

Any event of Force Majeure affecting any counterparty to an agreement with any or all of the Parties hereto shall be considered an event of Force Majeure hereunder. Notice by the Party claiming such extension shall be sent to the other Party within thirty (30) calendar days of the commencement of the cause. During any Force Majeure event that affects part of the Project, to the extent reasonably practicable, the Redeveloper shall continue to perform its obligations for the rest of the Project. The existence of an event of Force Majeure shall not prevent a Party from declaring the occurrence of an Event of Default by the Party relying on such Force Majeure event; provided that the event that is the basis of the Event of Default is not a result of the Force Majeure event. Except for an event or events of Force Majeure resulting from acts or omissions of the Township, any event or events of Force Majeure will be deemed to have ceased to exist as of a date twenty-four (24) months from its initial occurrence.

SECTION 14.03. Remedies Upon Events of Default by the Redeveloper. If an Event of Default by the Redeveloper occurs, and during its continuance, the Township may take whatever action at law or in equity as may appear necessary or desirable to enforce the performance or observance of any rights, remedies, obligations, agreements, or covenants of the Redeveloper, as applicable, under this Redevelopment Agreement, including enforcement of the terms stated in Sections 3.03, 3.04, 3.06(e), 3.06(f), 3.06(g), 3.06(h), and 3.06(j)herein, and the seeking of damages. Further, but subject to any cure provisions afforded the Redeveloper hereunder, the Township shall have the right, in its sole and absolute discretion, upon sixty (60) days' notice to the Redeveloper and any Holder, to terminate this Redevelopment Agreement and the Redeveloper's designation as the redeveloper of the Project Area.

In the event that the Township terminates the Redeveloper's designation as the 'redeveloper' of the Project Area, the Township shall, pursuant to its responsibilities under State law, use reasonable efforts to designate a replacement redeveloper for the Project Area (subject to the obligations of the Township pursuant to Article XIII, such permitted mortgage liens as may exist against the Project and the rights of a Holder as set forth in Article XIII hereof). Such replacement Redeveloper shall be designated as soon and in such manner as the Township shall find feasible and consistent with the objectives of State law and of the Redevelopment Plan, to a qualified and responsible party or parties as determined by the Township, who will assume the

obligation of completing the Project or such other improvements in its stead as shall be satisfactory to the Township and in accordance with the uses specified in this Redevelopment Agreement and the Redevelopment Plan. This provision shall be entered in the Declaration. The Redeveloper shall deliver to such replacement Redeveloper assignments of all other rights and agreements pertaining to the Project. Any proceeds resulting from the designation of the replacement Redeveloper under this Section shall be applied:

(a) First, to all reasonable costs and expenses incurred by the Township, as defined in and not reimbursed pursuant to §§ Sections 3.03, 3.04, 3.06(e), 3.06(f), 3.06(g), 3.06(h), and 3.06(j)herein, in connection with the Project; all taxes, payments in lieu of taxes, assessments, and water and sewer charges owed by the Redeveloper as of such date, if any, with respect to the Project or any part thereof; any payments made or necessary to be made to discharge any encumbrances or liens existing on the Project at the time of the Township's designation of the replacement redeveloper, or to discharge or prevent from attaching, or being made, any subsequent encumbrances or liens due to obligations, defaults, or acts of the Redeveloper, its successors or transferees; any expenditures made or obligations incurred with respect to the completion of the Project, or any part thereof, on the uncompleted portion or any part thereof; and any amounts otherwise owed to the Township by the Redeveloper and its successors or transferees in accordance with the terms of this Redevelopment Agreement; and

(b) Second, to reimburse the Redeveloper, its successor or transferee, up to the amount equal to the Redeveloper's actual costs associated with the Project, including but not limited to, property acquisition, legal, engineering, architectural, planning, site improvement, marketing and other development costs paid for by the Redeveloper. Any balance remaining after such reimbursements shall (subject to the obligations of the Township pursuant to Article XIII, such permitted mortgage liens as may exist against the Project and the rights of a Holder as set forth in Article XIII hereof) be divided equally between the Township and the Redeveloper.

SECTION 14.03. Remedies Upon Events of Default by the Redeveloper. If an Event of Default by the Redeveloper occurs, the Township shall have as its sole and exclusive remedy under this Redevelopment Agreement, the right, in its sole and absolute discretion, upon sixty (60) days' notice to the Redeveloper and any Holder, to terminate this Redevelopment Agreement and the Redeveloper's designation as the 'redeveloper' (as defined in the Redevelopment Law) of the Project and the Project Area.

SECTION 14.04. Remedies Upon Events of Default by the Township. In the event that an Event of Default by the Township occurs, then the Redeveloper may take whatever action at law or in equity as may appear necessary or desirable to enforce the performance or observance of any rights, remedies, obligations, agreements, or covenants of the Township under this Redevelopment Agreement, including an action for specific performance and/or damages.

Further, but subject to any cure provisions afforded the Township hereunder, the Redeveloper shall have the right, in its sole and absolute discretion, upon sixty (60) days' notice to the Township to terminate this Redevelopment Agreement. Notwithstanding the foregoing, neither the Township nor any of its respective Affiliates, directors, officers, managers, agents, employees, or representatives shall be liable in any action, at law or in equity, in contract, tort, strict liability or otherwise, to Redeveloper or to any other person, including Redeveloper's

Affiliates, partners, shareholders, members, directors, officers, managers, agents, employees, or representatives for loss of profits, revenues or expectancies, loss of use or loss of business opportunities or for any special, consequential, indirect or incidental damages, or punitive, exemplary or multiplier damages with respect to the redevelopment of the Project Area and/or construction of the Project.

SECTION 14.05. Failure or Delay. Except as otherwise expressly provided in this Redevelopment Agreement, any failure or delay by either party in asserting any of its rights or remedies as to any default, shall not operate as a waiver of any default, or of any such rights or remedies, or 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 14.06. Remedies Cumulative. No remedy in favor of either Party conferred by any of the provisions of this Redevelopment Agreement is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies by a Party shall not constitute a waiver of the right to pursue other available remedies.

SECTION 14.07. Continuance of Obligations. The occurrence of an Event of Default shall not relieve the defaulting party of its obligations under this Redevelopment Agreement unless this Redevelopment Agreement is terminated as a result of such Event of Default, as and to the extent permitted hereunder.

SECTION 14.08. Mitigation. The Parties shall act reasonably to mitigate any damages that may be incurred as a result of an Event of Default hereunder; provided, however, that the costs of any mitigation efforts shall be at the sole cost of the defaulting Party.

SECTION 14.09. Documents to be Delivered Upon Termination. In the event this Redevelopment Agreement is terminated for any reason, except as a result of the default of the Township, the Redeveloper shall deliver to the Township, within ten (10) days after such termination, copies of all reports, studies, data, plans, surveys, title reports, subdivision maps and specifications prepared by the Redeveloper and third parties with respect to the Project Area and all documents, reports, permits and approvals obtained by the Redeveloper relating to the Project provided, however, Redeveloper shall not be obligated to deliver any materials to the Township that Redeveloper deems to be confidential and proprietary in nature.

SECTION 14.10. Agreement Not to Develop Upon Termination. Subject to the rights of any Holders, in the event this Redevelopment Agreement is terminated as a result of a Redeveloper Event of Default, then the Redeveloper agrees that, for a period of six (6) months following such termination, in the event that the Redeveloper still owns or controls the Project Area (or any part thereof), it shall take no further steps to construct the Project or to develop the Project Area, except (a) as may be necessary to protect partially completed construction or maintain and repair completed construction and (b) as may be agreed to by the Township in its sole discretion, notwithstanding the fact that the Redeveloper may be in possession of Governmental Approvals required for such development.

ARTICLE XV

MISCELLANEOUS

SECTION 15.01. Notices. Formal notices, demands and communications between the Township and the Redeveloper shall be deemed given if dispatched to the address set forth below by a commercial overnight delivery service with package tracking capability and for which proof of delivery is available or by facsimile or electronically followed by overnight courier. In this case such notice is deemed effective upon delivery. Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by written notice. Copies of all notices, demands and communications shall be sent as follows:

If to the Township:

Township of West Windsor
Attn: Township Clerk, Gay M. Huber
Municipal Building
271 Clarksville Road
West Windsor, New Jersey 08550
Email: ghuber@westwindsortwp.com

With copies to:

Township of West Windsor
Attn: Samuel J. Surtees, Land Use Manager
Municipal Building
271 Clarksville Road
West Windsor, New Jersey 08550
Email: ssurtees@westwindsortwp.com

Township of West Windsor
Attn: Marlena Schmid, Business Administrator
Municipal Building
271 Clarksville Road
West Windsor, New Jersey 08550
Email: mschmid@westwindsortwp.com

Kevin P. McManimon, Esq.
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue, 2nd Floor
Roseland, New Jersey 07068
E-mail: kmcmanimon@msbnj.com

If to the Redeveloper:

Penns Neck Associates, LLC
c/o Penns Neck Plaza, LLC
463 Jefferson Road
Princeton, New Jersey 08540

with a copy to:

Ryan P. Kennedy, Esq.
Stevens & Lee, P.C.
Princeton Pike Corporate Center
100 Lenox Drive, Suite 200
Lawrenceville, New Jersey 08648
Email: ryan.kennedy@stevenslee.com

SECTION 15.02. Conflict of Interest. No member, official or employee of the Township shall have any direct or indirect interest in this Redevelopment Agreement, nor participate in any decision relating to this Redevelopment Agreement which is prohibited by law.

SECTION 15.03. No Consideration For Redevelopment Agreement. The 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. The Redeveloper further warrants it has not paid or incurred any obligation to pay any officer or official of the Township, any money or other consideration for or in connection with this Redevelopment Agreement.

SECTION 15.04. Lender Changes. If the Redeveloper's lender requires a change in the terms of this Redevelopment Agreement, the Township shall reasonably cooperate with the Redeveloper in approving such change, so long as such change, if any, does not modify or change the substantial rights or obligations of the Parties as set forth in this Redevelopment Agreement. In addition, the Township agrees to enter into such agreements as the Redeveloper's lender (or its equity participants) may reasonably require provided that such agreement shall not be inconsistent with the terms of this Redevelopment Agreement (*i.e.*, shall not increase the responsibilities of the Township, or decrease its benefits hereunder).

SECTION 15.05. Non-Liability of Officials and Employees of the Township. No member, official or employee of the Township shall be personally liable to the Redeveloper, or any successor in interest, in the event of any default or breach by the Township, or for any amount which may become due to the Redeveloper or its successor, or on any obligation under the terms of this Redevelopment Agreement.

SECTION 15.06. Non-Liability of Officials and Employee of Redeveloper. No member, officer, shareholder, director, partner, or employee of the Redeveloper shall be personally liable to the Township, or any successor in interest, in the event of any default or breach by the

Redeveloper or for any amount which may become due to the Township, or its successors, on any obligation under the terms of this Redevelopment Agreement.

SECTION 15.07. No Brokerage Commissions. The Township and the Redeveloper each represent one to the other that no real estate broker initiated, assisted, negotiated, or consummated this Redevelopment Agreement as broker, agent, or otherwise acted on behalf of the Township or the Redeveloper, and the Township and the Redeveloper shall indemnify each other with respect to any claims made by any person, firm or organization claiming to have been so employed by the indemnifying party.

SECTION 15.08. Provisions Not Merged With Deeds. To the extent that the provisions of this Redevelopment Agreement are intended to bind the Redeveloper's assigns and successors, its provisions shall not be merged by reason of any deeds transferring title to any portion of the Project Area from the Redeveloper or any successor in interest, and any such deeds shall not be deemed to affect or impair the provisions and covenants of this Redevelopment Agreement.

SECTION 15.09. Successors and Assigns. This Redevelopment Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of the parties hereto, and their heirs, executors, and administrators.

SECTION 15.10. Titles of Articles and Sections. The titles of the several Articles and Sections of this Redevelopment Agreement are inserted for the convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

SECTION 15.11. 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, or the 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 other term and provision of this Redevelopment Agreement shall be valid and shall be enforced to the extent permitted by law.

SECTION 15.12. 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 signed by the party against which the enforcement of such modification, waiver, amendment, discharge, or change is or may be sought.

SECTION 15.13. Execution of Counterparts. This Redevelopment Agreement may be executed in one or more counterparts (which may be copies delivered electronically or by facsimile) and when each party has executed and delivered at least one counterpart, this Redevelopment Agreement shall become binding on the parties and such counterparts shall constitute one and the same instrument.

SECTION 15.14. Prior Agreements Superseded. This Redevelopment Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes any prior agreement and all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.

SECTION 15.15. Waivers and Amendments in Writing. All waivers of the provisions of this Redevelopment Agreement must be in writing and signed by the appropriate authorities of the Township and the Redeveloper and all amendments hereto must be in writing and signed by the appropriate authorities of the Township and the Redeveloper.

SECTION 15.16. 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 one of the parties drafted this Redevelopment Agreement, each party acknowledging that it and its counsel have had an opportunity to review this Redevelopment Agreement and have contributed to the final form of same.

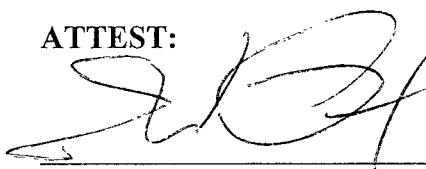
SECTION 15.17. Governing Law. This Redevelopment Agreement shall be governed by and construed in accordance with the Applicable Laws of the State, and any disputes arising hereunder shall be resolved in the Superior Court, State of New Jersey, Mercer County Vicinage.

[END OF ARTICLE XV]

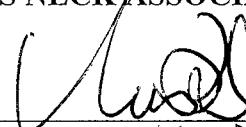
[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.
SIGNATURES APPEAR ON THE FOLLOWING PAGE].

IN WITNESS WHEREOF, the parties hereto have caused this Redevelopment Agreement to be executed, all as of the date first above written.

ATTEST:



PENNS NECK ASSOCIATES, LLC

By: 

Name: Martin W. Kahan
Title: Managing Member

ATTEST:

TOWNSHIP OF WEST WINDSOR

By: _____

EXHIBIT 1

PROJECT SCHEDULE

1	The Township and the Redeveloper execute the Redevelopment Agreement	Effective Date
2	Redeveloper to deposit with the Township the Condemnation Costs Funds required by Section 3.06(e) and the Acquisition Costs required by Section 3.06(f)	Simultaneously with the date of the Property Notice pursuant to Section 3.06(c)(ii) hereof
3	Redeveloper submits preliminary and final site plan application to the Planning Board	270 days after the Effective Date
4	Redeveloper submits applications for all other Governmental Approvals required for Commencement of site work Construction	Within 60 days after the receipt of Preliminary Site Plan Approval from the Planning Board
5	Redeveloper closes on financing	Within 90 days after obtaining all Governmental Approvals
6	Commencement of Redeveloper Construction	Within 90 days after Redeveloper closes on financing
7	Completion of Redeveloper Construction	Within 24 months after Commencement of site work Construction
8	Commencement of Tenant Construction, on a Tenant-by-Tenant basis	Within 180 days of completion of Redeveloper Construction
9	Completion of Tenant Construction, on a Tenant-by-Tenant basis	Within 24 months after commencement of Tenant Construction on a Tenant-by-Tenant basis
10	If a particular Tenant does not meet the aforesaid milestone, Redeveloper shall make all commercially reasonable efforts to recapture said Tenant's space and complete said Tenant's Tenant Construction or lease to a new Tenant deemed capable of completing Tenant Construction.	Within 36 months of the particular Tenant's failure to meet the milestone in 9 above

EXHIBIT 2

FORM OF DECLARATION OF PROJECT COVENANTS

Record and Return to:

Kevin P. McManimon, Esq.
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue, 2nd Floor
Roseland, New Jersey 07068

THIS REDEVELOPMENT PROJECT COVENANT (the “**Project Covenant**”) is made this _____ day of _____ by **PENNS NECK ASSOCIATES, LLC**, a limited liability company formed under the laws of the State of New Jersey, with offices at c/o Penns Neck Plaza, LLC, 463 Jefferson Road, Princeton, New Jersey 08540, and its successors and assigns (the “**Redeveloper**”).

W-I-T-N-E-S-S-E-T-H:

WHEREAS, on September 3, 2019, the Municipal Council of the Township (the “**Township Council**”) adopted Resolution 2019-R191 designating the properties within the Township of West Windsor (the “**Township**”) identified as Block 38, Lots 1, 2, 3, 25 and 45, and Block 39, Lots 4, 5, 7, 16 and 27 on the Township’s official tax map (collectively, the “**Penns Neck Redevelopment Area**”) as an “area in need of redevelopment” under the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the “**Redevelopment Law**”); and

WHEREAS, on February 24, 2020, the Township Council, after appropriate review by, and at the recommendation of the Planning Board, adopted Ordinance No. 2020-05, approving and adopting a redevelopment plan for the Penns Neck Redevelopment Area, entitled the “Penns Neck Redevelopment Plan” (the “**Redevelopment Plan**”); and

WHEREAS, on February 24, 2020, the Township Council, after appropriate review by, and at the recommendation of the Planning Board, adopted Ordinance No. 2020-06 (“**Redevelopment Ordinance**”), codified at §200-289 of the Township Code, amending the Land Use Ordinance of the Township to place the Penns Neck Redevelopment Area in the Route 1 Penns Neck Business Commercial Redevelopment Zone (“**Redevelopment Zone**”) and establishing use and bulk regulations therefor; and

WHEREAS, the uses, which the Redevelopment Ordinance permits in the Redevelopment Zone are referred to herein as the “**Permitted Uses**;” and

WHEREAS, the **Redeveloper**, together with its affiliates, owns or controls, as contract purchaser, that portion of the Penns Neck Redevelopment Area identified as Block 38, Lots 1, 2, 3, 45 and 25 and Block 39, Lots 16 and 7 on the Township’s official tax map (the “**Redeveloper Property**”); and

WHEREAS, three of (3) of the parcels located within the Penns Neck Redevelopment Area identified as Block 39, Lots 4, 5 and 27 on the Township’s official tax map, are presently

owned by a third-party (individually, each a “**Third-Party Property**” or collectively, the “**Third-Party Properties**”); and

WHEREAS, Redeveloper proposes to assemble the Redeveloper Property and the Third-Party Properties (collectively, the “**Project Area**”), and redevelop same by constructing thereon a mixed-use commercial redevelopment project consisting of the Permitted Uses (collectively, the “**Project**”) as depicted/described in more detail in the concept plan (the “**Concept Plan**”) attached to the Redeveloper Agreement as **Exhibit 4**, and all in accordance with the Redevelopment Plan; and

WHEREAS, on _____, 2023, the Township and the Redeveloper executed that certain Redevelopment Agreement (the “**Redevelopment Agreement**”) setting forth the terms and conditions under which the Redeveloper will construct the Project on the Project Area; and

WHEREAS, at such time as the Project is completed in accordance with the terms of the Redevelopment Plan and the Redevelopment Agreement, this Project Covenant and the existing conditions which rendered the Project Area an area in need of redevelopment, will no longer exist.

NOW, THEREFORE, the Redeveloper, intending to be legally bound hereby and to bind its successors and assigns, does promise, covenant, and declare as follows:

The Redeveloper hereby declares and covenants that, absent variances or waivers granted by the Township or amendments made to the Redevelopment Ordinance, the Project Area shall be used only for the uses allowed under the Redevelopment Plan, and subject to and in accordance with the covenants and restrictions herein, which covenants and restrictions shall, subject to the terms hereof, run with the Project Area and shall be binding upon the Redeveloper, and its successors and assigns and, to the extent applicable, to all future lessees and occupants of all or any portion of the Project Area including, without limitation, the rights or easements appurtenant thereto.

1. **Terms and Definitions.** Capitalized terms used but not defined herein shall be afforded the meanings provided in the Redevelopment Agreement.

2. **Applicable Laws.** The Redeveloper’s development, construction, use, operation, and maintenance of the Project Area and all improvements thereon and thereto, as provided in the Redevelopment Plan and the Redevelopment Agreement shall be undertaken and carried out in accordance with all Applicable Laws, including without limitation, the Redevelopment Plan, as it may be amended from time to time by the agreement of the Redeveloper and the Township.

3. **Redeveloper Covenants.**

3.1. The Redeveloper covenants and agrees as follows, provided, however that all such covenants and agreements shall be subject to the terms of the Redevelopment Agreement and that in case of a conflict between the Redevelopment Agreement and this Project Covenant, the terms of the Redevelopment Agreement shall control:

(a) The Redeveloper shall use diligent efforts to obtain all Government Approvals necessary for the construction and development of the Project. The Redeveloper shall construct, improve, operate, and maintain the Redeveloper Construction in compliance with all Governmental Approvals, and other laws, ordinances, approvals, rules, regulations, and requirements applicable thereto including, but not limited to, such zoning, sanitary, pollution and other environmental safety ordinances, laws and such rules and regulations thereunder as shall be binding upon the Redeveloper under Applicable Laws.

(b) The Redeveloper shall use commercially reasonable efforts to (i) obtain financing for the Redeveloper Construction, (ii) construct and develop the Redeveloper Construction with due diligence, and (iii) commence and Complete each item in the Project Schedule on or prior to the applicable date set forth in the Project Schedule on or prior to the applicable date set forth in the Project Schedule and, for those items for which commencement dates only are given, such items shall be completed in a commercially reasonable period. All activities performed under the Redevelopment Agreement shall be performed in accordance with the level of skill and care ordinarily exercised by reputable developers of similar developments of the character, scope, and composition of the Project.

(c) The Redeveloper shall construct the Project in accordance with the Redevelopment Agreement, the Redevelopment Law, the Redevelopment Plan, and all other Applicable Law and, in the event that the Redeveloper wishes to materially change or modify the Project, notwithstanding the fact that such material change or modification is authorized by the Redevelopment Plan, the Township's written approval (which shall not be unreasonably withheld, conditioned or delayed) must be secured prior to proceeding with any activities relating to such proposed material modifications. The Redeveloper acknowledges that the Township has relied on the proposed Project Schedule in entering into its obligations under the Redevelopment Agreement.

(d) The Redeveloper shall fulfill its material obligations under any and all agreements it enters into with third parties with respect to the acquisition, construction, leasing, financing, and other matters relating to the Project; provided, however, that this covenant is not intended to prevent the Redeveloper from contesting the scope or nature of such obligations as and to the extent provided in such agreements.

(e) The Redeveloper shall use commercially reasonable efforts to complete the Redeveloper Construction or cause same to be completed, on or prior to the date set forth in the Project Schedule at its sole cost and expense; provided, however, that the Parties acknowledge that moneys may be made available towards the completion of same from other outside sources. In the event that moneys made available pursuant to any outside source are not sufficient to pay the costs necessary to complete the Project, the Redeveloper shall not be entitled to any funds from the Township.

(f) Upon completion of the development and construction of the Redeveloper Construction, the Redeveloper shall use diligent efforts to obtain all Governmental Approvals authorizing the occupancy and uses of the Redeveloper Construction for the purposes contemplated hereby.

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

(h) The Redeveloper shall not restrict the sale, assignment, lease, sublease, rental, transfer, use, occupancy, tenure, or enjoyment of the Project on the basis of race, color, religion, creed, national origin, ancestry, physical handicap, age, marital status, affectional preference, or gender of any person.

(i) The Redeveloper shall immediately notify the Township of any material change in its financial condition from the information provided to the Township by the Redeveloper indicating the Redeveloper's financial capability to develop, finance and construct the Project in furtherance of the Township's consideration in designating the Redeveloper as the redeveloper of the Project Area.

(j) The Redeveloper shall not use the Project Area, Project, or any part thereof for which a Certificate of Completion has not been issued, in a manner that is inconsistent with the Redevelopment Plan and the Redevelopment Agreement. The foregoing notwithstanding, Redeveloper shall not be prohibited from continuing any existing uses in the Project Area until such a time as the suspension of such uses are necessary for the commencement of Construction.

(k) The Redeveloper shall not use the Project Area, Project, or any part thereof for which a Certificate of Completion has not been issued, as collateral for an unrelated transaction.

(l) Redeveloper shall promptly pay the Township Costs, Condemnation Costs, Acquisition Costs, and all taxes, service charges or similar obligations when owed to the Township with respect to the Project Area.

3.2. Effect and Duration of the Redeveloper Covenants. The covenants set forth in Section 3.1 hereof shall be covenants running with the Project Area until the Project is Completed, all in accordance with the Redevelopment Agreement, and they shall, and except only as otherwise specifically provided in the Redevelopment Agreement, be binding to the fullest extent permitted by Applicable Law and equity, for the benefit and in favor of, and enforceable by, the Township, its successors and assigns, and any successor in interest to the Project, or any part thereof, against the Redeveloper, its successors and assigns and every successor in interest therein; provided, however, that such covenants shall not be binding on any Mortgagee except in accordance with the terms of Article XIV of the Redevelopment Agreement. Such agreements and covenants, however, shall be binding on the Redeveloper itself, and each successor in interest to the Redeveloper, respectively, only for such period as the Redeveloper or such successor shall be in possession or occupancy of the Project Area, the buildings, and structures thereon, or any part thereof.

3.3. **Enforcement of the Covenants.** The Township and its successors and assigns shall be deemed beneficiaries of the agreements and covenants contained in this Project Covenant, both for and in their own right, and 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 run in favor of the Township for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether the Township has at any time been, remains, or is an owner of any land or interest therein, or in favor of which such agreements and covenants relate. The Township shall have the right, in the event of any breach of any such agreement or covenant, to terminate the Redevelopment Agreement in accordance with Section 15.03 thereof.

3.4. **Completion of Project.** Upon redevelopment of the Project Area and completion of the Project, 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, the land and improvements thereon shall no longer be subject to eminent domain as a result and the conditions and requirements of *N.J.S.A. 40A:12A-9* shall be deemed to have been satisfied with respect to the Project or any applicable portion thereof. The covenants contained herein shall terminate and this Project Covenant will be discharged of record upon Redeveloper's receipt of a Certificate of Completion and termination of the Redevelopment Agreement pursuant to Section 10.02 thereof for the Project or an portion thereof; provided, however, that the Redeveloper's indemnity, defense and hold harmless obligations provided under Section 4.02 and Section 12.01 of the Redevelopment Agreement shall survive the termination or expiration of the Redevelopment Agreement for matters that occurred prior to the termination or expiration of the Redevelopment Agreement.

[Signature page follows.]

IN WITNESS WHEREOF, the Redeveloper has caused this Project Covenant to be executed on the date first above written.

PENNS NECK ASSOCIATES, LLC

By: _____
Name:
Title:

ACKNOWLEDGMENT

STATE OF NEW JERSEY :
:SS
COUNTY OF _____ :

BE IT REMEMBERED, that on this _____ day of _____, _____ before me, the subscriber, a Notary Public of the State of New Jersey, personally appeared _____ who, being by me duly sworn on his/her oath, deposes and makes proof to my satisfaction that he is the Authorized Representative of **PENNS NECK ASSOCIATES, LLC**, the Redeveloper named in the within Instrument; that the execution, as well as the making of this Instrument, having been duly authorized by the Redeveloper, and said Instrument was signed and delivered by said _____ as and for the voluntary act and deed of said Redeveloper.

Notary Public of New Jersey

Exhibit A

LEGAL DESCRIPTION OF THE PROJECT AREA

EXHIBIT 3a

FORM OF CERTIFICATE OF COMPLETION

Record and Return to:

Ryan P. Kennedy, Esq.
Stevens & Lee, a Pennsylvania professional corporation
100 Lenox Drive, Suite 200
Lawrenceville, New Jersey 08648

CERTIFICATE OF COMPLETION

(respecting Block 38, Lots 1, 2, 3, 25 and 45, and Block 39, Lots 4, 5, 7, 16 and 27 on the tax maps of the Township of West Windsor)

Pursuant to Section 10.02 of the Redevelopment Agreement by and between the Township of West Windsor (the “**Township**”) and PENNS NECK ASSOCIATES, LLC (the “**ReDeveloper**”), dated as of _____, 20____, (the “**Redevelopment Agreement**”), the undersigned, as of the date hereof, certifies that (all undefined terms used herein shall have the same meaning ascribed to them in the Redevelopment Agreement):

(i) the Project in its entirety has been completed as of [_____], 20____ in accordance with the Redevelopment Agreement and in compliance with Applicable Laws so that the Project in its entirety may, in all material respects, be used and operated under the applicable provisions of the Redevelopment Agreement;

(ii) all permits, licenses and approvals that are required in order for the Redeveloper to Complete the Project or such other work or action to which such term is applied are, to the extent so required, in full force and effect;

(iii) such Completion has been further evidenced by a written certificate of the Redeveloper and a certificate of the Redeveloper’s engineer evidencing Completion of the Project, which certificates are attached hereto as **Schedule 1**:

(iv) the Project is being operated in accordance with the terms and provisions of the Redevelopment Agreement, the Redevelopment Plan and Applicable Law; and

(v) a copy of any Certificate of Occupancy issued with respect to any portion or portions of the Project for which a Certificate of Occupancy is required is attached hereto as **Schedule 2**.

The conditions determined to exist at the time the Project Area was determined to be an ‘area in need of redevelopment’ under the Redevelopment Law no longer exist with respect to the Project Area. The Project Area shall no longer be subject to (i) any covenant running with the land covered by this Certificate of Completion for the benefit of the Township, and (ii) eminent domain for purposes of redevelopment as a result of those determinations.

The Declaration recorded in the office of the Mercer County clerk on _____ in Deed Book _____, at Page _____ is hereby discharged of record and is void and of no further force and effect.

This certificate is given without prejudice to any rights against third parties which exist on the date hereof or which may subsequently come into being.

IN WITNESS WHEREOF, the undersigned has caused this Certificate of Completion as to the Project to be executed as of the ____ day of _____, 20____.

WITNESS:

TOWNSHIP OF WEST WINDSOR

By: _____

By: _____

ACKNOWLEDGMENT

STATE OF NEW JERSEY : :

: :SS

COUNTY OF MERCER : :

On this ____ day of _____, 20____ before me, personally appeared _____, the _____ of the Township of West Windsor, a public body corporate and politic organized and existing under and by virtue of the laws of the State of New Jersey , who I am satisfied is the person who executed the foregoing instrument; and s/he acknowledged that s/he executed the foregoing instrument as the act of the entity and that s/he was authorized to execute the foregoing instrument on behalf of the entity.

Notary Public of the State of New Jersey

EXHIBIT 3b

FORM OF PARTIAL CERTIFICATE OF COMPLETION

Record and Return to:

Ryan P. Kennedy, Esq.
Stevens & Lee, a Pennsylvania professional corporation
100 Lenox Drive, Suite 200
Lawrenceville, New Jersey 08648

CERTIFICATE OF PARTIAL COMPLETION

(respecting those portions of Block 38, Lots 1, 2, 3, 25 and 45, and Block 39, Lots 4, 5, 7, 16 and 27 on the tax maps of the Township of West Windsor set forth on the attached **Schedule 3**)

Pursuant to Section 10.02 of the Redevelopment Agreement by and between the Township of West Windsor (the "**Township**") and PENNS NECK ASSOCIATES, LLC (the "**Redeveloper**"), dated as of _____, 20____, (the "**Redevelopment Agreement**"), the undersigned, as of the date hereof, certifies that (all undefined terms used herein shall have the same meaning ascribed to them in the Redevelopment Agreement):

(i) the _____ portion of the Project has been completed as of [____], 20____ in accordance with the Redevelopment Agreement and in compliance with Applicable Laws so that the portion of the Project in its entirety may, in all material respects, be used and operated under the applicable provisions of the Redevelopment Agreement;

(ii) all permits, licenses and approvals that are required in order for the Redeveloper to Complete the Project or such other work or action to which such term is applied are, to the extent so required, in full force and effect;

(iii) such Completion has been further evidenced by a written certificate of the Redeveloper and a certificate of the Redeveloper's engineer evidencing Completion of the portion of the Project, which certificates are attached hereto as **Schedule 1**:

(iv) the Project is being operated in accordance with the terms and provisions of the Redevelopment Agreement, the Redevelopment Plan and Applicable Law; and

(v) a copy of any Certificate of Occupancy issued with respect to any portion or portions of the portion of the Project for which a Certificate of Occupancy is required is attached hereto as **Schedule 2**.

The conditions determined to exist at the time the portion of the Project Area was determined to be an 'area in need of redevelopment' under the Redevelopment Law no longer exist with respect to said portion of the Project Area. Said portion of the Project Area shall no longer be subject to (i) any covenant running with the land covered by this Certificate of Completion for

the benefit of the Township, and (ii) eminent domain for purposes of redevelopment as a result of those determinations.

The Declaration recorded in the office of the Mercer County clerk on _____ in Deed Book _____, at Page _____ is hereby discharged of record and is void and of no further force and effect as to the portion of the Project set forth on **Schedule 3**.

This certificate is given without prejudice to any rights against third parties which exist on the date hereof or which may subsequently come into being.

IN WITNESS WHEREOF, the undersigned has caused this Partial Certificate of Completion as to the portion of the Project set forth in **Schedule 3** hereof to be executed as of the _____ day of _____, 20_____.

WITNESS:

TOWNSHIP OF WEST WINDSOR

By: _____

By: _____

ACKNOWLEDGMENT

STATE OF NEW JERSEY : :

: :SS

COUNTY OF MERCER : :

On this _____ day of _____, 20____ before me, personally appeared _____, the _____ of the Township of West Windsor, a public body corporate and politic organized and existing under and by virtue of the laws of the State of New Jersey , who I am satisfied is the person who executed the foregoing instrument; and s/he acknowledged that s/he executed the foregoing instrument as the act of the entity and that s/he was authorized to execute the foregoing instrument on behalf of the entity.

Notary Public of the State of New Jersey

Schedule 1

REDEVELOPER'S CERTIFICATE

Pursuant to the Redevelopment Agreement by and between the Township of West Windsor (the "Township") and **PENNS NECK ASSOCIATES, LLC** (the "Redeveloper"), dated as of _____, 20____, (the "Redevelopment Agreement"), the Redeveloper certifies as follows to the best of its knowledge information and belief (capitalized terms used herein and not otherwise defined shall have the same meanings ascribed to them in the Redevelopment Agreement):

- (i) the Project [in its entirety] or [the attached portion thereof] has been completed as of _____, 20____ in accordance with the Township building and construction code, the Redevelopment Agreement, the Redevelopment Plan and in compliance with Applicable Laws so that the Project in its entirety] or [the attached portion thereof] may, in all material respects, be used and operated under the applicable provisions of the Redevelopment Agreement;
- (ii) all permits, licenses and approvals that are required in order for Redeveloper to Complete the in its entirety] or [the attached portion thereof] or such other work or action to which such term is applied are, to the extent so required, in full force and effect;
- (iii) Redeveloper has performed or has caused to be performed all of its duties and obligations under the Redevelopment Agreement with respect to the in its entirety] or [the attached portion thereof];
- (iv) attached hereto is a certificate of completion, from Redeveloper's engineer, evidencing and certifying that construction of the in its entirety] or [the attached portion thereof] is complete in accordance with the terms of the Redevelopment Agreement; and
- (v) the Project is being operated in accordance with the terms and provisions of the Redevelopment Agreement, the Redevelopment Plan and Applicable Law.

PENNS NECK ASSOCIATES, LLC

By: _____

Name:

Title:

Schedule 2
CERTIFICATE OF OCCUPANCY

200

EXHIBIT 4
CONCEPT PLAN

TOWNSHIP OF WEST WINDSOR - ZONING STATISTICS TABLE
ZONING DISTRICT: ROUTE 1 PENNS NECK
ROUTE 1 PENNS NECK

BLOCK #, LOTS 2, 2A, & 2C, CTS. 4, 5, 7, 8, 22
TOWNSHIP OF WEST WINDSOR, MERCER COUNTY, NEW JERSEY

ROUTE 1 PENNS NECK COMMERCIAL REDEVELOPMENT AREA

ROUTE SECTION

DESCRIPTION

PERMITTED/PROHIBITED

REQUIRED/PERMITTED

PROHIBITED

NOTICE

NOTICE</p

EXHIBIT 5

REDEVELOPER OWNERSHIP STRUCTURE

PENNS NECK ASSOCIATES, LLC, a New Jersey limited liability company is owned as follows:

Martin Kahn (Managing Member) - 3.557% ownership interest

Penns Neck Plaza LLC – 96.443% ownership interest

Penns Neck Plaza LLC is owned as follows:

Martin Kahn – 40.453% ownership interest

Andrew Chon – 38.957% ownership interest

David Newton – 10.369% ownership interest

Steven Gilbert – 5.184% ownership interest

Jongkeun Joh – 5.036% ownership interest

EXHIBIT 6

**CERTIFICATION OF NON-INVOLVEMENT IN PROHIBITED ACTIVITIES IN
RUSSIA OR BELARUS**



CERTIFICATION OF NON-INVOLVEMENT IN PROHIBITED ACTIVITIES IN RUSSIA OR BELARUS PURSUANT TO P.L.2022, c.3

CONTRACT / BID SOLICITATION TITLE

REDEVELOPMENT AGREEMENT BY AND BETWEEN TOWNSHIP OF WEST WINDSOR, as Redevelopment Entity, and PENNS NECK ASSOCIATES, LLC, as Developer

CONTRACT / BID SOLICITATION No.

N/A

CHECK THE APPROPRIATE BOX

I, the undersigned, am authorized by the person or entity seeking to enter into or renew the contract identified above, to certify that the Vendor/Bidder is not engaged in prohibited activities in Russia or Belarus as such term is defined in P.L.2022, c.3,¹ section 1.e, except as permitted by federal law.

I understand that if this statement is willfully false, I may be subject to penalty, as set forth in P.L.2022, c.3, section 1.d.

OR

I, the undersigned am unable to certify above because the person or entity seeking to enter into or renew the contract identified above, or one of its parents, subsidiaries, or affiliates may have engaged in prohibited activities in Russia or Belarus. A detailed, accurate and precise description of the activities is provided below.

Failure to provide such description will result in the Quote being rendered as non-responsive, and the Department/Division will not be permitted to contract with such person or entity, and if a Quote is accepted or contract is entered into without delivery of the certification, appropriate penalties, fines and/or sanctions will be assessed as provided by law.

Description of Prohibited Activity

Attach Additional Sheets If Necessary.

If you certify that the bidder is engaged in activities prohibited by P.L. 2022, c. 3, the bidder shall have 90 days to cease engaging in any prohibited activities and on or before the 90th day after this certification, shall provide an updated certification. If the bidder does not provide the updated certification or at that time cannot certify on behalf of the entity that it is not engaged in prohibited activities, the State shall not award the business entity any contracts, renew any contracts, and shall be required to terminate any contract(s) the business entity holds with the State that were issued on or after the effective date of P.L. 2022, c. 3.

Signature of Vendor's Authorized Representative

Martin D. Kahn, Managing Member

Print Name and Title of Vendor's Authorized Representative

7/5/2023

Date

Penns Neck Plaza, LLC

609-252-1111

Vendor Name

Vendor Phone Number

463 Jefferson Road, Princeton, New Jersey 08540

Vendor Fax Number

Vendor Address (Street Address)

martindkahn@gmail.com

Princeton, New Jersey 08540

Vendor Email Address for Authorized Representative

Vendor Address (City/State/Zip Code)

¹ Engaged in prohibited activities in Russia or Belarus" means (1) companies in which the Government of Russia or Belarus has any direct equity share; (2) having any business operations commencing after the effective date of this act that involve contracts with or the provision of goods or services to the Government of Russia or Belarus; (3) being headquartered in Russia or having its principal place of business in Russia or Belarus, or (4) supporting, assisting or facilitating the Government of Russia or Belarus in their campaigns to invade the sovereign country of Ukraine, either through in-kind support or for profit.

§ 200-289

§ 200-289

Part 7

**Route 1 Penns Neck Business Commercial Redevelopment Area
[Adopted 2-24-2020 By Ord. No. 2020-06]**

**ARTICLE XL
Regulations**

§ 200-289. Route 1 Penns Neck Business Commercial Redevelopment Zone.

- A. Goal. The goal of the Route 1 Penns Neck Business Commercial Redevelopment Zone is to facilitate the development of a small-scale neighborhood commercial center which shall serve the daily needs of both the local residents of the Penns Neck community as well as those traveling along the US Route 1 corridor. It is also this Part's intent that the Redevelopment Area serve as an attractive gateway for those entering the Township from both US Route 1 and Washington Road.
- B. Permitted uses. The following uses shall be permitted as principal uses within the Route 1 Penns Neck Business Commercial Redevelopment Zone:
 - (1) Convenience stores in conjunction with a gasoline service station with hours of operation limited to 5:00 am to 12:00 midnight.
 - (2) Banks and financial institutions, with or without drive-throughs.
 - (3) Pharmacies, with or without drive-throughs.
 - (4) Retail sales and services.
 - (5) Urgent care services, including emergency outpatient services.
 - (6) Personal services.
 - (7) Medical and professional offices.
 - (8) Cafes, with or without drive-throughs, provided that they are not in excess of 2,500 square feet.
 - (9) Senior day care, which is defined as a nonresidential facility providing care for the elderly and/or functionally impaired adults in a protective environment. Operators shall be licensed as required by the State of New Jersey as applicable to operate and offer services such as providing meals, social services, recreational outings and trips, physical therapy, general supervision, and support. Senior day-care centers may not provide services to participants for longer than 12 hours in a day.
- C. Permitted accessory uses. The following shall be permitted as accessory uses in the Route 1 Penns Neck Business Commercial Redevelopment Zone:
 - (1) Off-street parking and loading.
 - (2) Signs.
 - (3) Street furnishings, planters, street lights, and exterior garden type shade structures (gazebos).
 - (4) Fences and walls, which shall complement the architectural style, type, and design of the building and the overall project design.
 - (5) A static community landmark feature which shall serve as a gateway to the Township.

§ 200-289

(6) High-speed electric vehicle charging stations.

§ 200-289

(7) Accessory uses customarily incidental to permitted principal uses.

D. Prohibited uses. Any use or structure other than those uses or structures permitted herein shall be prohibited.

E. Intensity, bulk, and other regulations. The following shall be the standards of the Route 1 Penns Neck Business Commercial Redevelopment Area:

- (1) Minimum tract area: The entirety of the district, which shall be planned and developed in a comprehensive manner as a single integrated entity with one development application showing the proposed development for the entire district.
- (2) Minimum setbacks for principal buildings.
 - (a) Setback from US Route 1: 40 feet, with a minimum fifteen-foot landscape buffer, as measured after any road dedication by either fee simple easement or conveyance.
 - (b) Setback from Washington Road: 40 feet, with a minimum twenty-five-foot landscape buffer, as measured after any road dedication by either fee simple easement or conveyance.
 - (c) Side and rear yard: 50 feet, as measured from the district boundary line.
- (3) Yards abutting residential properties: Yards abutting residential properties shall have a minimum setback of 100 feet with a minimum forty-foot-wide landscape buffer, as measured from the district boundary line. The buffer shall have a berm of no less than 12 feet in height, topped by an eight-foot-high fence constructed of highly effective sound-deadening material or an equivalent combination of berm, wall, and/or fence.
- (4) Maximum FAR. The maximum permitted FAR shall be 0.13.
- (5) Maximum improvement coverage: 60%.
- (6) Maximum building height: 2.5 stories or 35 feet.
- (7) Setbacks for buildings with drive-throughs.
 - (a) Minimum distance between any drive-through building and any residence district: 100 feet.
 - (b) Minimum distance between any drive-through access driveway and any residence district: 50 feet.
- (8) Number of fueling stations: Gasoline service stations shall not have more than 16 fueling stations, exclusive of any high-speed electric vehicle charging stations. A fueling station shall be defined as a location that can accommodate one vehicle fueling at a time. Stand-alone diesel fueling stations are prohibited.
- (9) Garbage and recycling collection shall be restricted to the hours of 6:00 a.m. to 8:00 p.m.

F. Building and design layout.

- (1) The material and design of facades of buildings and structures shall relate to one another to the greatest extent possible in order to promote a visually cohesive environment. Buildings should reflect a continuity of treatment throughout the district, obtained by: maintaining base courses;

§ 200-289

§ 200-289

maintaining cornice lines in buildings of the same height; extending horizontal lines of fenestration (windows); and reflecting architectural style and details, design themes, building materials and colors used in surrounding buildings to the greatest extent possible. Fenestration shall be provided on each building façade to the extent practical.

- (2) Pitched roofs (6/12 to 12/12) and mansard roofs are encouraged for buildings. Exposed flat roofs shall be allowed if the architectural detail, style, proportion and massing is complementary of adjacent structures; and further provided that buildings may have flat roofs only if all rooftop mechanical equipment are screened from public view.
- (3) The roof of the gas station canopy shall be sloped. The columns of the canopy shall be designed with decorative materials which shall match those materials used for the buildings on site. Solar panels are encouraged on the roof of the canopy.
- (4) Decorative pavers to distinguish pedestrian areas and routes as well as traffic control areas shall be required.

G. Permitted signage. In lieu of § 200-32, the following shall apply:

- (1) Signage shall be designed in a manner complementary to the building's architecture and in keeping with a visually cohesive environment.
- (2) Wall signage.
 - (a) One wall sign shall be permitted per business for each front business façade and each rear or side business façade.
 - (b) The following types of wall signs shall be permitted:
 - [1] Internally lit raised letters with concealed ballast.
 - [2] Back-lit raised letters with concealed ballast.
 - [3] Signage board with gooseneck lighting.
 - [4] Individual cut letters with gooseneck lighting.
 - (c) The maximum sign area shall be the square footage calculated by taking 90% of the linear business frontage, with a maximum of 75 square feet.
 - (d) Letters may project a maximum of eight inches.
 - (e) Wall signs shall not be permitted above the roofline.
- (3) Street address signage.
 - (a) Street address signage shall be provided on each building for each individual tenant.
 - (b) Street address numbers shall have a maximum height of eight inches.
- (4) Ground-mounted project/tenant identification signage.
 - (a) One ground-mounted project/tenant identification sign shall be permitted along the US Route 1 frontage.
 - [1] The maximum sign area shall be 72 square feet.

§ 200-289

- [2] The maximum sign height, including structure and sign area, shall be 20 feet above existing grade.
- [3] The base of the sign shall be constructed of materials that are consistent with the building architecture and shall be landscaped with plantings.
- [4] If lighted, the sign shall be lit by direct, external light sources, internally illuminated letters/logos, or back-lit raised letters/logos.
- [5] Mounting hardware shall be hidden from view.
- (b) One ground-mounted project identification sign shall be permitted along the Washington Road frontage.
- [1] The maximum sign area shall be 64 square feet.
- [2] The maximum sign height, including structure and sign area, shall be eight feet above existing grade.
- [3] The base of the sign shall be constructed of materials that are consistent with the building architecture and shall be landscaped with plantings.
- [4] If lighted, the sign shall be lit by direct, external light sources, internally illuminated letters/logos, or back-lit raised letters/logos. Gasoline prices may be permitted to be displayed with LED lighting.
- [5] Mounting hardware shall be hidden from view.
- (5) Ground-mounted gas station service signage.
- (a) In addition to the above identified signage, one ground-mounted gas station service sign along the US Route 1 frontage shall be permitted for gas service station use only.
- (b) The maximum sign area shall be 130 square feet for a ground-mounted gas station service sign, inclusive of gas pricing panels.
- (c) The maximum sign height, including the structure and sign area, shall be 25 feet above existing grade.
- (d) The base of the sign shall be constructed of materials that are consistent with the building architecture and shall be landscaped with plantings.
- (e) If lighted, the sign shall be lit by direct, external light sources, internally illuminated letters/logos, or back-lit raised letters/logos. Gasoline prices may be permitted to be displayed with LED lighting.
- (f) Mounting hardware shall be hidden from view.
- (6) Awnings.
- (a) One sign with lettering per business shall be permitted on an awning.
- (b) Logos shall be permitted on all awnings, provided that:
- [1] The letter and logo height do not exceed 50% of the diagonal portion of the awning.

§ 200-289

§ 200-289

- [2] The letter and logo area do not exceed 15% of the area of the diagonal portion of the awning.
- [3] The letter and logo height on a vertical flap do not exceed eight inches.
- (c) Awnings shall be aesthetically compatible with the building and consistent with each other.
- (d) Awnings shall be kept in good order and repair.
- (7) Gas station canopy signage.
 - (a) A maximum of two canopy signs shall be permitted.
 - (b) Canopy signs shall only be permitted on canopy facades facing a public street.
 - (c) The width and height of the canopy sign shall not exceed the width and height of the canopy façade to which it is attached.
- (8) Window lettering and signs. Window lettering and signs shall be permitted, provided that they:
 - (a) Are inside the window.
 - (b) Do not exceed 15% of the window area.
 - (c) Pertain only to the establishment occupying the premises where the window is located.
 - (d) Shall have a professional appearance.
- (9) Instructional signage.
 - (a) Instructional wall and ground signs are permitted.
 - (b) The maximum number shall be determined by safety considerations.
 - (c) The maximum instructional sign area shall be two square feet.
- (10) Flagpoles.
 - (a) Freestanding flagpoles shall be permitted for the district, excluding commercial messages.
 - (b) The flagpole shall be no taller than 25 feet measured from existing grade.
 - (c) The maximum flag area shall be 15 square feet.
 - (d) Flag signs shall be kept in good order and repair. All flags shall be maintained and/or flown in accordance with applicable federal law, regulation, and/or protocol.
- (11) Static community landmark feature.
 - (a) One static community landmark feature shall be permitted along the US Route 1 frontage, the purpose of which shall be to serve as a gateway feature for the Township. No on-site or off-premises advertising shall be permitted on this feature.
 - (b) The site plan shall delineate an area of no greater than 12 feet by 12 feet wherein a static community landmark feature shall be permitted to be placed.
 - (c) The static community landmark feature shall be setback from US Route 1 no further than

§ 200-289

§ 200-289

any on-site ground-mounted project/tenant identification signs and/or ground-mounted project identification signs located within 100 feet along US Route 1 in the redevelopment area.

- (d) The static community landmark feature may have up to two display faces.
 - (e) The height and size of the static community landmark feature shall be determined relative to the design of the sign and the structure as a whole, balancing visibility; its scale relative to adjacent signs and buildings; the architectural design of the sign structure; and the relationship to other nearby elements along the road. The height shall not exceed 15 feet.
 - (f) The design of the static community landmark feature shall incorporate visual art or architectural elements and architectural structure with its visual messaging function, thereby creating a unique or distinctive architectural design. It shall incorporate one or more of the following architectural elements: natural or reproduced stone, wood, brick, ornamental iron or decorative steel. It shall also complement the overall building design and site layout of the redevelopment area, as well as the neighborhood, to the greatest extent feasible.
- H. Road vacation plan. Portions of Varsity Avenue and/or Mather Avenue public right-of-way that lie within the redevelopment area may be vacated by the Township, in its discretion. Any such right-of-way vacation shall preserve a remaining utility easement for all utilities located within the vacated right-of-way and easement for public access, the timing and parameters of which will be set forth in a redevelopment agreement by and between the Township and a designated redeveloper.
- I. Site plan application. Potential redevelopers will be required to enter into a redevelopment agreement with the Township for the purpose of setting forth such details as the Township and such redeveloper may agree regarding the development or redevelopment of the redevelopment area. No application for development or redevelopment of property subject to this redevelopment plan may be filed with the Planning Board until the applicant has been designated, by the Township, as the redeveloper and the applicant has entered into a redevelopment agreement with the Township. Alternatively, any application filed with the Planning Board regarding development or redevelopment of property subject to this redevelopment plan shall be subject to the conditions that the applicant be so designated and enter into such redevelopment agreement.