

REDEVELOPMENT AGREEMENT

BY AND BETWEEN

**THE EWING TOWNSHIP REDEVELOPMENT AGENCY,
as the Redevelopment Entity**

AND

**KRE ACQUISITION CORP.,
as the Redeveloper**

Dated as of _____, 2022

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Description of Exhibit

Approved Plan
Form of Project Covenant
Redevelopment Project Schedule
Redeveloper Ownership Structure

REDEVELOPMENT AGREEMENT (this “Redevelopment Agreement” or this “Agreement”), dated as of September ___, 2022, by and between:

EWING TOWNSHIP REDEVELOPMENT AGENCY (the “Agency”) a public body corporate and politic of the State of New Jersey with offices at 2 Jake Garzio Drive, Ewing, New Jersey 08628, acting in the capacity of a redevelopment entity pursuant to the provisions of the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.* (the “Redevelopment Law”) and its respective successors and assigns,

and

KRE ACQUISITION CORP., a limited liability company with offices at 515 Marin Blvd., Jersey City, New Jersey 07302 and its successors and assigns (the “Redeveloper” and, together with the Agency, the “Parties”).

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

WHEREAS, the Redevelopment Law authorizes municipalities to determine whether certain parcels of land located therein constitute areas in need of redevelopment; and

WHEREAS, under the Redevelopment Law, the Mayor and Council (the “Mayor and Council”) of the Township of Ewing, New Jersey (the “Township”), adopted Resolution No. 11R-154 on July 26, 2011, designating the properties located at Block 343, Lot 1.01, Block 374, Lot 4.02 and Block 365, Lot 9 on the Township’s tax map (collectively, the “Original Parkway Avenue Redevelopment Area”) as an area in need of redevelopment and authorizing and directing the Township’s Planning Board (the “Planning Board”) to prepare a redevelopment plan for the Parkway Avenue Redevelopment Area; and

WHEREAS, the Planning Board thereafter caused the preparation of a redevelopment plan for the Original Parkway Avenue Redevelopment Area (the “Original Redevelopment Plan”), and on January 3, 2013 adopted a resolution finding the Original Redevelopment Plan is not inconsistent with the Master Plan and recommending that the Mayor and Council adopt the Original Redevelopment Plan; and

WHEREAS, on January 29, 2013, the Mayor and Council adopted Ordinance No. 13-02 approving and adopting the Original Redevelopment Plan; and

WHEREAS, on _____, 2018, the Mayor and Council adopted Resolution No. _____, designating the properties located at Block 374, Lot 3 and 365, Lot 21 as an area in need of redevelopment and adding them to the Original Parkway Avenue Redevelopment Area (the “Parkway Avenue Redevelopment Area”); and

WHEREAS, the Original Redevelopment Plan was amended (as amended, the “Redevelopment Plan”), and on February 3, 2022, the Planning Board adopted a resolution finding the Redevelopment Plan is not inconsistent with the Master Plan and recommending that the Mayor and Council adopt the Redevelopment Plan; and

WHEREAS, on March 8, 2022, the Mayor and Council adopted Ordinance No. 22-06 approving and adopting the Redevelopment Plan; and

WHEREAS, in accordance with Section 65 of the Township Code, the Agency is the redevelopment entity responsible for implementing the Redevelopment Plan; and

WHEREAS, the Redeveloper is the contract purchaser of the portion of the Parkway Avenue Redevelopment Area designated as Block 374, Lot 4.02 and known as 1500 Parkway Avenue (the “Property”) and the Redeveloper proposes to redevelop same together with the Adjacent Parcel (as defined in Section 1.01); and

WHEREAS, on November 3, 2021, the Agency adopted a resolution (the “Designating Resolution”) conditionally designating the Redeveloper as the redeveloper of the Property, for a period of one hundred-twenty (120) days; and

WHEREAS, on December 20, 2021, the Parties executed an Interim Costs Agreement; and

WHEREAS, in order to set forth the terms and conditions under which the Parties shall carry out their respective obligations with respect to the construction of the Redevelopment Project (as defined in Section 1.01), and to ensure that the redevelopment occurs in a manner that corrects the conditions of the Project Area (as defined in Section 1.01) that led to the determination by the Township that it constituted an area in need of redevelopment, the Parties have determined to execute this Redevelopment Agreement pursuant to the provisions of the Redevelopment Plan and Redevelopment Law authorizing and directing such Redevelopment Agreement; and

WHEREAS, on _____, 2022, the Agency adopted a resolution designating the Redeveloper as the redeveloper for the Project Area and authorizing the execution of this Redevelopment Agreement.

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, unless a different meaning clearly appears from the context:

“Adjacent Parcel” is defined in Section 4.01(c).

“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.

“Agency” is defined in the recitals.

“Agency Event of Default” means, with respect to the Agency, an Event of Default, as such term is defined in Section 11.01 hereof.

“Agency Indemnified Parties” means the Agency and its officers, elected officials, agents, employees, contractors and consultants.

“Approved Plan” shall mean Redeveloper’s proposed plan for redevelopment of the Project Area, as set forth in the proposed site plan attached hereto as **Exhibit A**, and as same may be amended and modified in accordance with Section 2.02 hereof, and/or in accordance with the Permitted Deviations set forth herein.

“Applicable Law(s)” 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 Redevelopment Area, the Redevelopment Project, 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, Air Safety and Hazardous Zoning Act of 1983, N.J.S.A. 6:1-81 et seq., the Long Term Tax Exemption Law, the Economic Redevelopment and Growth (ERG) Program, and the Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-1 et seq.

“Bypass Improvements” means certain off-site infrastructure improvements for the development and construction of a by-pass roadway off Parkway Avenue, including certain roadway, sidewalk, curb, traffic signage and signal improvements, and other related improvements.

“Certificate of Completion” means a certificate or certificates issued by the Agency in accordance with Section 4.15 of this Redevelopment Agreement, acknowledging that the Redeveloper has substantially completed all work for which the Redeveloper is responsible related to the Redevelopment Project (or portion thereof) in accordance with the terms of this Redevelopment Agreement and Applicable Laws and is released from all obligations and liabilities hereunder, including the Project Covenant (as defined herein).

“Certificate of Occupancy” means a temporary or permanent Certificate of Occupancy, as such term is defined in the New Jersey Administrative Code, issued by the Township authorizing occupancy of any building or structure within the Redevelopment Project, or portion thereof.

“Change in Law” means the enactment, promulgation, modification or repeal of or with respect to any Applicable Law subsequent to the Effective Date (as defined herein), which establishes requirements affecting performance by the Party relying thereon as a justification for its failure to perform any obligation under this Redevelopment Agreement which are materially more burdensome than and adversely inconsistent with the requirements which are applicable to the performance of such obligations as of the Effective Date. Actions or inactions of the Agency shall not constitute a Change in Law giving rise to a suspension of any performance or other obligation of the Agency under this Redevelopment Agreement. However, nothing herein shall preclude the Redeveloper from challenging any Change in Law by the Agency or any action or inaction which materially, adversely affects the Redevelopment Plan as proposed by the Redeveloper. In addition, if any Agency, Township or Planning Board action is appealed, the Redeveloper’s performance obligations hereunder shall be tolled and/or extended by the amount of time during which such appeal of the Agency, Township or Planning Board’s action (whether approval, denial or conditional approval) is continuing.

“Commence Construction” or “Commencement of Construction” means the undertaking by Redeveloper of any actual physical construction of the Redevelopment Project, including site preparation, construction of new structures or construction or upgrading of infrastructure.

“Commencement Default Date” means the respective date(s) by which the Redeveloper shall Commence Construction of the Redevelopment Project, as set forth in the Redevelopment Project Schedule (as defined herein).

“Completion”, “Complete” or “Completed” means with respect to the Redevelopment Project or portion thereof, as the case may be, that (a) all work related to the Redevelopment Project, or portion thereof (including any building or structure), as the case may be, 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 Redevelopment Project, or portion thereof (including any building or structure) 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 Redevelopment Project, or portion thereof, including any Certificates of Occupancy, subject to minor finish tasks, as sufficient evidence of completion and (c) such “completion” has been evidenced by a written notice provided

by the Redeveloper to the Agency with respect to the Redevelopment Project or portion thereof, which determination is reasonably acceptable to the Agency.

“Completed Approvals Date” means the date that all Governmental Approvals have been issued in final and unappealable form necessary for Redeveloper to Commence Construction of the Redevelopment Project.

“Completion Dates” are as set forth in the Redevelopment Project Schedule, subject to any tolling or extensions as provided in or pursuant to this Redevelopment Agreement, whether due to Uncontrollable Circumstance or otherwise.

“Construction Period” means the period of time that commences on the Commencement of Construction date and ends on the Completion Date.

“Effective Date” means the date on which this Redevelopment Agreement is fully and finally authorized and executed, or such other date as may be agreed in writing by the Parties.

“Environmental Laws” means all federal, state, and local laws, statutes, ordinances, regulations, rules, codes, consent decrees, judicial or administrative orders or decrees, directives or judgments relating to environmental contamination, damage to or protection of the environment, environmental conditions, or the use, handling, processing, distribution, generation, treatment, storage, disposal, manufacture or transport of Hazardous Substances materials or wastes, 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.*); the Industrial Site Recovery Act, as amended (“ISRA”) (N.J.S.A. 13:1K-6, *et seq.*); the New Jersey Underground Storage of Hazardous Substances Act (N.J.S.A. 58:10A-21, *et seq.*), the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-1 *et seq.*); the New Jersey Site Remediation Reform Act (“SRRA”) (N.J.S.A. 58:10C-1 *et seq.*); and the rules and regulations promulgated thereunder.

“Event of Default” means the occurrence of any Redeveloper Event of Default or Agency Event of Default, as the case may be, that continues beyond any applicable notice and cure period provided in this Redevelopment Agreement.

“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.

“Financial Agreement” or “Financial Agreements” means the agreement to be executed by the Township and the Urban Renewal Entity, pursuant to the Long Term Tax Exemption Law with respect to tax exemption of all or a portion of the Project Area.

“Foreclosure” is defined in Section 10.03.

“Funding Sources” shall mean agencies, authorities or departments of local, county, State or the federal governments which customarily offer funding programs that may apply to any aspect of the Redevelopment Project.

“Governmental Authority(ies)” 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 over any part of the permitting, financing, construction or operation of the Redevelopment Project or the Project Area, including without limitation, the Planning Board, Department of Transportation and the Department of Environmental Protection.

“Governmental Approvals” means all necessary reviews, consents, permits or approvals of any kind, in final and unappealable form, required by any local, county, state or federal governmental or quasi-governmental entity, including the Department of Environmental Protection and Department of Transportation, required to be obtained in order to commence construction of the Redevelopment Project, including without limitation, any necessary amendment to the Redevelopment Plan, the execution of the Financial Agreement(s), issuance of all permits, approvals and allocations for sanitary sewer and potable water, issuance of all permits and approvals for road construction and improvements, transfer of the Adjacent Parcel from the Agency to the Redeveloper as contemplated in Section 4.01, approvals necessary for the removal and/or relocation of buildings and/or structures that are part of the engineering controls of the approved site remediation plan for the Property.

“Hazardous Substance” means any element, compound, material, mixture, substance, chemical or waste that is defined or listed as hazardous, hazardous substance, hazardous material or hazardous waste in the Environmental Laws.

“Holder” is defined in Section 10.01.

“Holder Failure” is defined in Section 10.04(b).

“Liabilities” is defined in Section 9.01(a).

“Long Term Tax Exemption Law” means N.J.S.A. 40A:20-1 *et seq.*, as amended and supplemented.

“Master Plan” means the Township’s 2006 Master Plan, as most recently re-examined and amended in 2013, and as same may be amended or modified in the future in order to provide for development of the Redevelopment Project consistent with the Agreement, the Redevelopment Plan and any amendments thereto, the Approved Plan and in compliance with Applicable Laws.

“Mayor and Council” is defined in the recitals.

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

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

“Parkway Avenue Redevelopment Area” is defined in the recitals.

“Performance and Payment Bond(s)” is defined in Section 7.01.

“Performance Security” means the third-party performance security provided by the Redeveloper to secure the full and timely performance of certain obligations under the Agreement, such as Performance and Payment Bond(s) as described in Section 7.01.

“Permitted Deviation” shall mean deviations from or changes to the Approved Plan to accommodate marketing, tenant requirements or building conditions that (a) if made prior to Planning Board approval of the Redevelopment Project, or portion thereof, (i) have been approved by the Agency’s Executive Director, which approval shall not be unreasonably withheld, (ii) do not have a material, adverse effect on the overall Redevelopment Project to either the Redeveloper or the Agency and (iii) are consistent with the Redevelopment Plan; (b) if made after Planning Board approval of the Redevelopment Project, or portion thereof, are consistent with the Redevelopment Plan and are approved administratively or through the formal Planning Board application process; or (c) may be required by any other Governmental Authority in connection with Governmental Approvals necessary for the Redevelopment Project; provided, however, that such deviations or changes are consistent with the Redevelopment Plan.

“Permitted Transfers” is defined in Section 8.04.

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

“Planning Board” is defined in the recitals.

“Prevailing Wage Act” means N.J.S.A. 34:11-56.25 *et seq.*, as amended and supplemented.

“Progress Meetings” is defined in Section 5.01.

“Progress Report” is defined in Section 5.02.

“Project Area” means the real property located at Block 374, Lot 4.02 on the Tax Map of the Township, and otherwise known as 1500 Parkway Avenue, together with the Adjacent Parcel.

“Project Area Site Improvements” means one or more improvements to be constructed by the Redeveloper and/or such work as may be required in connection with the requirements of any Governmental Approvals and in accordance with the Municipal Land Use Law, whether or not such improvements are to be located on the Redevelopment Area, including, but not limited to, improvements necessary to address increased vehicular traffic as a result of the Redevelopment Project, including but not limited to the grading, site drainage, drainage outfalls, walkways, water service lines, including hookups and service laterals from a building to the curb for water, storm

and sanitary sewers, and other utilities, including electric, gas, telephone and cable services (which, except for existing overhead public utilities, are to be built underground), subsurface excavation and other site preparatory work for the Redevelopment Project, lighting within on-site parking areas, landscaping, fire hydrants and interior roadways, in each case, as more particularly described in the Redevelopment Plan.

“Project Covenant” means the covenant, by and between the Agency and the Redeveloper which will govern the development and use of the Redevelopment Project and the Project Area until construction of the Redevelopment Project, or any portion thereof, as the case may be, has been Completed and which Covenant will be recorded and will constitute a restrictive covenant that runs with the land, until the same shall be discharged (or deemed discharged pursuant to Section 4.15(c)) in accordance with the terms of this Redevelopment Agreement, and as such covenant may be amended or supplemented by the Parties in accordance with its terms. A copy of the form of the Project Covenant is attached hereto as **Exhibit B** and is more particularly described in Article VI hereof.

“Project Team” is defined in Section 6.03(b).

“Property” is defined in the recitals.

“Redeveloper” is defined in the recitals.

“Redeveloper Covenants” shall have the meaning ascribed to such term in Section 6.05.

“Redeveloper Event of Default” means, with respect to the Redeveloper, an Event of Default as defined in Section 11.01.

“Redevelopment Agreement” is defined in the recitals.

“Redevelopment Plan” is defined in the recitals, and as same may otherwise be amended and modified as necessary during the course of seeking the Governmental Approvals and build out of the Redevelopment Project.

“Redevelopment Project” means, collectively, the development of the Project Area with an approximately 285,440 square foot warehouse, three (3) flex buildings of approximately 20,000 square feet each, supportive parking and Project Area Site Improvements to be developed in accordance with the Approved Plan, the Redevelopment Plan and this Agreement.

“Redevelopment Project Costs” means the costs of design, permitting and construction of all or a portion of the Redevelopment Project.

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

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

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

“State” means the State of New Jersey.

“Term” means that period of time from the Effective Date of this Redevelopment Agreement until the Agency issues the final Certificate of Completion for all portions of the Redevelopment Project to be completed by Redeveloper; provided, however, that with respect to any portion of the Redevelopment Project, “Term” shall mean the period of time from the Effective Date until a final Certificate of Completion for such portion thereof, is issued.

“Township” is defined in the recitals.

“Township Costs” is defined in Section 3.03.

“Transfer” is defined in Section 8.03.

“Uncontrollable Circumstance” means the events or conditions set forth below, or any combination thereof, that has (have) had or may reasonably be expected to have a material adverse effect on the rights or obligations of the Parties to this Redevelopment Agreement; provided however, that such act, event or condition shall be beyond the reasonable control of the Party relying thereon as justification for not performing any obligation or complying with any condition required of such Party under the terms of this Redevelopment Agreement:

(a) An act of God, such as severe natural conditions such as landslide, lightning strike, earthquake, flood, hurricane, blizzard, tornado or other severe weather conditions, severe sea conditions affecting delivery of materials or similar cataclysmic occurrence, nuclear catastrophe, an act of a public enemy, war, blockade, insurrection, riot, general unrest or general restraint of government and people; provided, however, that any question as to whether any such conditions should be deemed to constitute an Uncontrollable Circumstance shall be considered in light of customary engineering practice and industry standards to protect against reasonably foreseeable severe weather conditions (such as, but not limited to, seasonable temperature and precipitation), taking into account the geographic location and topographic and geotechnical conditions of the Project Area.

(b) Change in Law.

(c) Action or inaction by any Governmental Authority which precludes or delays the Party relying thereon from performing its obligations under this Redevelopment Agreement,

including but not limited to the denial of requested tax exemption under the Long Term Tax Exemption Law, or financing under the Economic Redevelopment and Growth (ERG) Program, and the Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-1 et seq. or the failure of the Township to amend the Redevelopment Plan to allow for the construction of the Redevelopment Project pursuant to the Approved Plan, without the need to request any variances or waivers in connection with obtaining the Governmental Approvals or to transfer title to the Adjacent Parcel in accordance with Section 4.01(c), unless the Township has affirmatively determined that it will not so amend the Redevelopment Plan or convey the Adjacent Parcel, in which case either of such events shall not constitute an “Uncontrollable Circumstance”; provided, however, that (i) such action or failure to act shall not be the result of the willful, intentional or gross negligent action or inaction of the Party relying thereon, (ii) neither the contesting of any action or failure to act, in good faith, nor the reasonable failure to so contest shall constitute or be construed as a willful, intentional or gross negligent action or inaction by such Party, (iii) such action, inaction, issuance, denial or suspension shall not be the result of the illegal or unlawful actions of the Party relying thereon, and/or (iv) decisions interpreting Federal, State and local tax laws that are generally applicable to all similarly situated business taxpayers shall not constitute an Uncontrollable Circumstance under this paragraph (c).

(d) The suspension, termination, interruption, denial, failure of or delay in the renewal or issuance of any Governmental Approval; 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, intentional or gross negligent action or inaction of the Party relying thereon and that 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 (up to forty-five (45) days following such suspension, termination, interruption or failure of renewal or issuance) shall constitute or be construed as a willful or intentional action or inaction by such Party. The Redeveloper’s failure to timely and substantially complete submission for any Governmental Approval shall not constitute an Uncontrollable Circumstance under this paragraph (d).

(e) The presence of environmental contamination or pollution or the discharge of hazardous material on the Project Area, to the extent that the presence of such contamination or pollution or such discharge of such hazardous materials shall not have been caused by the willful, intentional or gross negligent actions of the Redeveloper, its employees, agents consultants, contractors or subcontractors.

(f) Delay caused by or arising out of legal action or lawsuits filed in challenge of the issuance or grant of any Governmental Approval, including, but not limited to, local Planning Board approval of the Redeveloper’s site plans.

(g) An appeal of any Governmental Approval by a third party therefrom until such appeal has been disposed of to the reasonable satisfaction of the Redeveloper without the right to further appeal or, if there is a right to further appeal, the time period therefore has expired without a further appeal having been taken.

“Urban Renewal Entity” means one or more urban renewal entities formed by the Redeveloper in accordance with the Long Term Tax Exemption Law and this Redevelopment Agreement to construct the Redevelopment Project or portion thereof.

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 Effective Date.

(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. The words "consent" or "approve" or words of similar import, shall mean the prior written consent or approval of the Agency or Redeveloper, as the case may be, unless expressly stated to the contrary herein.

(f) Each right of the Agency or Redeveloper to review or approve any actions, plans, specifications, or other obligations hereunder shall be exercised by the official(s) with the legal authority to conduct such review or grant such approvals. Any review contemplated by the Agreement shall be made in a timely manner. Upon request of the either Party, the applicable Person shall inform the Person requesting such information of all applicable officials having requisite approval powers to review or grant such requests for approval.

(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 more than twenty (20) days, unless the Agreement expressly provides, or the context dictates, otherwise.

(h) Unless otherwise indicated, any “fees and expenses” shall be required to be customary and reasonable.

[END OF ARTICLE I]

**ARTICLE II
DESCRIPTION OF PROJECT AREA
AND REDEVELOPMENT PROJECT**

SECTION 2.01. Project Area. Subject to the terms of the Agreement, the Project Area consists of the surface, subsurface and airspace above the real property upon which the Redevelopment Project will be constructed.

SECTION 2.02. Redevelopment Project. (a) The overall development of the Project Area will include the Redevelopment Project to be constructed by the Redeveloper. The Redeveloper shall construct the Redevelopment Project on the Project Area under the terms of the Agreement, and in accordance with the Redevelopment Plan and the Governmental Approvals, and within the Redevelopment Project Schedule established herein. The Redeveloper shall construct the Project Area Site Improvements in accordance with the Governmental Approvals.

(b) The Agency's designation of the Redeveloper as the redeveloper of the Project Area is premised upon the Agency's desire to ensure that the Redevelopment Project is Completed by the Redeveloper.

(c) Notwithstanding any provision in the Agreement that may be construed to the contrary, the following are conditions precedent to the Redeveloper being obligated to construct the Redevelopment Project:

(i) The Redeveloper shall have acquired title to the Property;

(ii) The Township enters into an agreement with the Redeveloper providing for the transfer to the Redeveloper of title to the Adjacent Parcel in accordance with Section 4.01(c); provided, however, that this condition may be satisfied by the Township's counter-execution of this Agreement with respect to such Section 4.01(c);

(iii) The Redeveloper shall have acquired title to the Adjacent Parcel;

(iv) The Parties have executed a Financial Agreement for the Redevelopment Project in accordance with Section 3.05 and on terms acceptable to the Redeveloper;

(v) The Redeveloper shall have secured an agreement with the Department of the Navy, and the approval of the NJDEP, for the removing and/or relocating of buildings and/or structures that are part of the engineering controls of the approved plan for the site remediation of the Property;

(vi) Obtained all Governmental Approvals for the Redevelopment Project.

(d) Notwithstanding any provision in this Agreement that may be construed to the contrary, Redeveloper shall have the right to determine, in its sole discretion, the purchase price, rental rates and terms of the Redevelopment Project.

(e) Notwithstanding any provision in this Agreement that may be construed to the contrary, the Redeveloper agrees that it will incorporate a landscape plan into the site plan that will

be presented to the Planning Board for the Redevelopment Project, which landscape plan shall contain a variety of ornamental trees, shrubs and plants, as well as foundation plantings and street trees along internal drives and sidewalk throughout the Project Area. All landscaping shall be irrigated and designed and placed so as to create an aesthetically desirable appearance, however the landscape species shall be designed to preserve needed views and vistas to the buildings from Parkway Avenue and so as not to impair visibility by motorists either passing the site, or using the site internally so as to maximize sight visibility and safety.

[END OF ARTICLE II]

**ARTICLE III
FINANCIAL OBLIGATIONS**

SECTION 3.01. The Redeveloper's Financial Commitment. The Redeveloper represents and warrants that, except as may be otherwise available from Funding Sources, it has obtained or will obtain and commit the requisite equity and debt financing in an amount necessary to implement and complete the Redevelopment Project. The Agency agrees that it will cooperate with the Redeveloper in connection with applications to secure funding from Funding Sources.

SECTION 3.02. Redevelopment Project Costs. Except as may be otherwise available from Funding Sources, the Redeveloper will bear all costs of implementing and completing the Redevelopment Project, including the Township Costs, provided, however, Redeveloper shall not be obligated for the costs associated with the remediation of environmental matters that are the responsibility of the Department of the Navy.

SECTION 3.03. Payment to the Agency. Redeveloper agrees that simultaneously with the execution of this Redevelopment Agreement:

(a) Redeveloper shall establish with the Township an escrow account (the "Escrow Account") having an initial balance of Thirty-Five Thousand Dollars (\$35,000.00) (the "Escrow Deposit") to reimburse the Township for (i) all reasonable outside professional and consultant fees, out of pocket costs or expenses incurred by the Township arising out of or in connection with the preparation, performance, administration, or enforcement of this Redevelopment Agreement or arising out of or in connection with the Redevelopment Project, except as to costs resulting from litigation between the Redeveloper and the Agency, after the date of this Redevelopment Agreement; (ii) subject to Redeveloper's termination rights pursuant to Section 11.01 herein, litigation costs arising out of or in connection with a dispute with a third party with respect to this Redevelopment Agreement or the Redevelopment Project; and (iii) any other out of pocket fee, cost or expense reasonably incurred by the Township, after the date of this Redevelopment Agreement, to satisfy its obligations under this Redevelopment Agreement or in furtherance of the Redevelopment Project, but shall not include any and all costs incurred in connection with Redeveloper's site plan application to the Planning Board and governed by the escrow deposited by Redeveloper in connection with such application in accordance with the Municipal Land Use Law (the "Township Costs").

(b) Redeveloper shall replenish the Escrow Account in the event that the balance drops below Five Thousand Dollars (\$5,000.00) such that the Escrow Account balance shall not be less than Twenty Thousand Dollars (\$20,000.00). 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 date hereof in accordance with the terms of this Section 3.03 to the extent not previously paid by the Redeveloper. As of the Completion Date, as evidenced by the issuance of the Certificate of Completion, or upon termination of this Redevelopment Agreement, except in the event of a termination caused by a Redeveloper Event of Default, any money remaining in the Escrow Account shall be disbursed to the Redeveloper within sixty (60) days after issuance of the Certificate of Completion or the termination of this Redevelopment Agreement and the terms of this Section 3.03 shall survive the issuance of the Certificate of Completion or termination of this Redevelopment Agreement. Notwithstanding

anything to the contrary contained herein, if the Township retains a different professional or consultant in the place of any professional originally responsible for any aspect of the Redevelopment Project, the Township shall be responsible for all time and expenses of the new professional to become familiar with the Redevelopment Project and the Township shall not bill Redeveloper or charge the escrow account for any such services.

(c) The Parties make reference to the escrow payment of Thirty Thousand Dollars (\$30,000.00) made pursuant to the Interim Costs Agreement executed by the Parties on December 20, 2021 (the “Interim Costs Agreement”) which established an escrow account to pay certain costs of the Township prior to the date of this Redevelopment Agreement. To the extent there is any balance in that escrow account as of the date hereof, such balance shall be transferred to the Escrow Account and shall be credited against the initial required balance set forth above. To the extent there is a deficiency in that escrow account to pay for such costs incurred prior to the date of this Redevelopment Agreement that are required to be paid in accordance with the terms of the Interim Costs Agreement, then such costs shall be paid from the funds in the Escrow Account in accordance with the terms hereof. The Interim Costs Agreement is hereby terminated.

(d) The Redeveloper may dispute the propriety or reasonableness of Township Costs paid out of the Escrow Account by written Notice to the Township. A copy of such Notice shall be sent simultaneously to the professional(s) whose charges or estimated costs are the subject of the dispute. Such written Notice of a disputed charge shall be given within 15 days after the Redeveloper’s receipt of the informational copy of the professional’s voucher, invoice, statement or bill, except that if the professional has not supplied the Redeveloper with an informational copy of the voucher, invoice, statement or bill, then the Redeveloper shall send Notice within 15 days after receipt of the first statement of activity against the Escrow Account containing the disputed charge. Failure to dispute a charge in writing within the prescribed time shall constitute the Redeveloper’s acceptance of the charge and a waiver by the Redeveloper of all objections to the charge and to payment thereof out of the Escrow Account. The terms of this Section shall survive termination of this Agreement. If the Township and the Redeveloper cannot agree on the resolution of a disputed charge, the Parties agree to arbitrate the matter, with a retired judge mutually agreeable to the Parties acting as arbitrator. During the pendency of a dispute, the Township shall not pay the disputed charges out of the Escrow Account, but may continue to pay undisputed charges out of the Escrow Account.

SECTION 3.04. Permit/Approval Fees. Redeveloper shall pay all ordinary costs or fees (based upon existing Applicable Law) payable to the Planning Board in connection with the processing of the Governmental Approvals. The Redeveloper shall pay any fees for the actual issuance of any permits required pursuant to the Governmental Approvals, which fees shall be in accordance with standard fees provided under existing Applicable Law. Nothing herein will constitute a waiver of Redeveloper's right to challenge any fee or other assessment in accordance with Applicable Law.

SECTION 3.05. Application for Tax Exemption; Urban Renewal Entity. The Parties acknowledge that the Project Area cannot be redeveloped with the Redevelopment Project pursuant to the Redevelopment Plan by private capital investment alone, and, therefore, an exemption from *ad valorem* taxes is necessary for the success of the Redevelopment Project.

Following the Effective Date, the Parties shall continue to negotiate terms of such tax exemption. If the Parties agree on such terms, the Redeveloper shall submit to the Township an application for tax exemption in accordance with the Long Term Tax Exemption Law and the terms of such Financial Agreement, which shall provide, *inter alia*, that Urban Renewal Entity established by the Redeveloper to construct the Redevelopment Project shall make annual payments to the Township in lieu of taxes in an amount set forth in the Financial Agreement. The Redeveloper shall, prior to the execution of the Financial Agreement, create or cause to be created and shall obtain approval of an Urban Renewal Entity in accordance with the Long Term Tax Exemption Law. Upon such creation, this Agreement may be assigned by the Redeveloper to the Urban Renewal Entity to develop the Redevelopment Project and to enter into a Financial Agreement in connection therewith, consistent with the application described above. The Urban Renewal Entity shall be responsible for the Completion of the Redevelopment Project, and the performance of all other Redeveloper obligations in accordance with the terms of this Agreement. The Urban Renewal Entity shall be fully bound by the provisions of this Redevelopment Agreement. At such time as the Urban Renewal Entity executes a Financial Agreement, the Redeveloper shall deliver those documents described in Section 6.03 as to such Urban Renewal Entity and such Financial Agreement. The Agency acknowledges that the Township's approval of the tax exemption described herein and in the Financial Agreement is an essential element of the Redevelopment Project and that the financial viability of the Redevelopment Project is dependent upon the tax exemption provided for in such Financial Agreement. The Redeveloper acknowledges that the Agency is not authorized to approve such a tax exemption or enter into any Financial Agreement. However, the Agency shall use its good faith and diligent best efforts to cooperate with the Urban Renewal Entity's application for tax exemption submitted to the Township in connection with the Redevelopment Project in accordance with the terms of this Section 3.05. If, however, the Parties fail to agree on acceptable terms for tax exemption, or if Township fails to approve and/or execute the Financial Agreement, the Redeveloper shall have the right to immediately terminate this Agreement by providing written notice to the Agency, at which time this Agreement shall terminate and be of no force and effect, and the parties shall have no further obligations hereunder.

[END OF ARTICLE III]

**ARTICLE IV
CONSTRUCTION OF REDEVELOPMENT PROJECT**

SECTION 4.01. Undertaking by the Redeveloper to Construct Redevelopment Project.

(a) Subject to the conditions set forth in Section 2.02, the Redeveloper shall construct or cause to be constructed the Redevelopment Project in accordance with all of the provisions of this Redevelopment Agreement. The Redeveloper shall Commence Construction on the Redevelopment Project on or prior to the Commencement Default Date for the Redevelopment Project, and the Redevelopment Project, shall be Completed on or prior to the Completion Date in accordance with the Redevelopment Project Schedule, as defined herein, and as such may be amended.

(b) In the event that the Redeveloper is unable, for reasonable cause whether due to Uncontrollable Circumstances or otherwise, to Commence Construction on the Redevelopment Project, or any portion thereof, prior to an applicable Commencement Default Date, the Redeveloper shall provide written notice to the Agency at least thirty (30) days prior to such Date(s), setting forth in reasonable detail (a) the reason for the failure to satisfy the required tasks necessary to reach the applicable Commencement Default Date(s), (b) the Redeveloper's proposed actions to remedy any delay, and (c) the Redeveloper's proposed schedule for reaching the Commencement Default Date(s), and requesting an extension of such Commencement Default Date(s). The Agency shall not unreasonably deny, delay or condition such extension request(s). In the event that an extension of the Commencement Default Date is granted, the Redevelopment Project Schedule shall be revised and restated (as of the date such extension is granted) to reflect the Commencement Default Date(s), as extended, and corresponding extensions in the other dates therein. Notwithstanding the foregoing, or any provision in the Agreement that may be construed to the contrary, the Commencement Default Date shall automatically be extended due to Uncontrollable Circumstances in accordance with this Agreement, without the need for Agency consent or Redeveloper notice, except as provided in Section 12.06.

(c) The Township owns that parcel designated as Block 374, Lot 3 on the Township's tax map (the "Adjacent Parcel"). The Parties acknowledge that the Adjacent Parcel is required to effectuate the Redevelopment Project as contemplated by the Redevelopment Plan and the Agreement. Redeveloper's obligation to undertake the Redevelopment Project is conditioned upon the Township's conveyance to Redeveloper of title to the Adjacent Parcel. Accordingly, upon the latter of (i) execution of the Agreement and (ii) the Redeveloper's receipt of un-appealable preliminary and final site plan approval for the Redevelopment Project, the Agency will request that the Township enter into an agreement, acceptable to the Township and the Redeveloper, and take all steps reasonably necessary to transfer all rights, title, and interest in the Adjacent Property to the Redeveloper by such legal instrument as will vest title in the Redeveloper, and otherwise in accordance with and to the extent permitted under Applicable Law. The Redeveloper shall have no obligation to file for any Governmental Approvals unless and until the Township conveys, or enters into a separate agreement with the Redeveloper providing for the conveyance of title to the Adjacent Parcel to the Redeveloper, as contemplated in this Section. The Redeveloper acknowledges and agrees that the Township will continue to utilize the Adjacent Parcel until same

is conveyed to the Redeveloper; provided, however, that such use does not materially interfere with Redeveloper's ability to construct the Redevelopment Project. With regard to the Adjacent Parcel and conveyance of same to the Redeveloper, the Agency acknowledges that the specific terms and conditions of such conveyance shall be subject to the approval of the Redeveloper in its sole discretion and, in the event that the Redeveloper and Township fail to agree to the terms of the conveyance of the Adjacent Parcel, the Redeveloper may elect to proceed with the Redevelopment Project without acquiring and including the Adjacent Parcel in the Redevelopment Project.

SECTION 4.02. Construction of Redevelopment Project in Compliance with Redevelopment Plan and Governmental Approvals.

(a) The Redevelopment Project shall be designed and constructed by the Redeveloper in accordance with the Redevelopment Plan, as same may be amended to provide for the Redevelopment Project to be consistent with the Approved Plan, and the Governmental Approvals obtained by the Redeveloper, subject to Redeveloper's right to make Permitted Deviations in accordance with the terms of the Agreement. Any applications made for Governmental Approvals shall be in substantial accordance with the Redevelopment Plan.

(b) At least sixty (60) days prior to the date that the Redeveloper reasonably expects to Commence Construction on the Redevelopment Project, the Redeveloper shall provide the Agency with written notice setting forth, at a minimum, (i) the current status of the submittal, review and/or issuance of the Governmental Approvals and (ii) an estimate of the date on which each Governmental Approval is expected to be received (which shall be prior to the date on which the Redeveloper expects to Commence Construction, to the extent that such Governmental Approvals are required to be obtained prior to, or as a condition precedent, to the Commencement of Construction). The Redeveloper shall also provide such supporting documentation as the Redeveloper reasonably believes will be necessary or beneficial to the Agency for the Agency's review of such notice. Notwithstanding the provisions of this subsection, the Agency may waive such notice requirement for purposes of groundbreaking ceremonies, or for other reasons including, but not limited to early commencement of earth moving activities prior to actual construction.

(c) The Redeveloper and the Agency shall cooperate and use diligent efforts to secure, or cause to be secured, all Governmental Approvals. The Agency agrees to fully cooperate with the Redeveloper in obtaining the Governmental Approvals, to the extent reasonably requested by the Redeveloper, including without limitation, execution (as a co-applicant) of any application relating to such Governmental Approvals in a timely manner so as not to cause Redeveloper any delay in securing the Governmental Approvals in accordance with the Redevelopment Project Schedule. Upon the execution of this Agreement, the Agency will request that the Township take all steps reasonably necessary to enter into an agreement with the Redeveloper providing for the conveyance of title to the Adjacent Parcel as contemplated in Section 4.01(c). In the event the Township fails to enter into an agreement with the Redeveloper providing for the conveyance of title to the Adjacent Parcel as set forth herein within 180 days of the Effective Date, the Redeveloper may, in its discretion, elect to proceed with the Project without the inclusion of the

Adjacent Parcel or terminate this Agreement. The Redeveloper shall provide to the Agency copies of any and all applications to Governmental Authorities promptly upon submission of same, in accordance with Section 5.04. Further, the Redeveloper shall promptly inform the Agency of the results of such hearings and applications. The Agency shall undertake to hold special meetings, if reasonably necessary, to expedite the review of any requests, submissions or applications by the Redeveloper. Redeveloper's obligation to Commence Construction is expressly contingent upon Redeveloper securing all Governmental Approvals. In the event that any Governmental Approval application is denied, or any Governmental Approval is appealed, or if any condition or requirement is imposed on any Governmental Approval that is deemed unacceptable to the Redeveloper, in Redeveloper's reasonable business judgment, the Governmental Approval shall be deemed not to have been obtained and Redeveloper shall have the right to contest such denial, appeal, condition or requirement, or terminate the Agreement. The Governmental Approval shall not require any impositions or obligations in excess of what is currently required under the existing Township building code, as amended by the Redevelopment Plan and the Agreement.

(d) The Agency shall also cooperate to expedite the processing of the Governmental Approvals including, if necessary and desirable to both Parties, requesting that the Planning Board: (i) render a completeness determination within ten (10) days following submission of an application for development by the Redeveloper; (ii) commence consideration of any application submitted by the Redeveloper for approval within thirty (30) days following the Planning Board's written determination that such application is deemed complete, and (iii) convene special meetings as frequently as may reasonably be required (consistent with the requirements of Applicable Law) in order to complete the Planning Board's hearings with respect to such applications as expeditiously as practicable in light of the scope and nature of the questions/comments of the Planning Board and members of the public with respect to such application.

(e) The Redeveloper shall provide written notice to the Agency as part of the Progress Reports to be provided pursuant to Section 5.02 hereof, of any material deviation from the list of Governmental Approvals.

(f) The Agency and its Executive Director shall have the right to request a review and discussion with the Redeveloper of reasonable amendments to the Approved Plan as market conditions may allow; provided, however, that the Redeveloper shall be under no legal obligation to make such amendments.

SECTION 4.03. Modifications. The Parties acknowledge that certain technical matters, environmental matters, end user requirements, financial and market considerations may make it necessary to consolidate, subdivide or condominiumize all or any portion of the Project Area as may be reasonably determined by the Redeveloper due to market conditions or changed circumstances not determinable at this time. Subject to the provisions of Applicable Law, the Agency hereby consents to the Redeveloper's right to consolidate, subdivide or condominiumize the Project Area or any portion thereof, and agrees that no additional Agency consent to consolidate, subdivide and/or condominiumize the Project Area shall be required. In addition to the foregoing, the Redeveloper shall have the right to make Permitted Deviations to the Approved Plan without the consent of the Agency. Any other material changes to the Approved Plan shall

require the consent of the Agency, which consent shall not be unreasonably withheld, conditioned or delayed.

SECTION 4.04. Relocation of Utilities. The Redeveloper acknowledges that utility providers may have certain rights with respect to the Redevelopment Area and may own certain facilities located therein. The Redeveloper agrees that it is its sole responsibility to undertake the appropriate measures to negotiate with, acquire, relocate or otherwise address the existence of these utilities and improvements and easements therefor, in order to Complete construction of the Redevelopment Project, as provided by this Redevelopment Agreement. To the extent that utilities are owned or operated by the Township, the Township must approve utility relocation expeditiously. To the extent reasonably requested by the Redeveloper, the Agency shall cooperate in facilitating the installation and/or relocation of any such affected utilities.

SECTION 4.05. Environmental Matters. The Parties acknowledge that the Project Area contains Hazardous Substances, which have been, and will be, the subject of approved site remediation plans, the responsibility for which shall be allocated between the Department of the Navy and the Redeveloper pursuant to a future agreement.

SECTION 4.06. Traffic; Train Station.

(a) The parties hereby acknowledge that the direction, flow and amount of traffic in and around the Project Area during the time of construction are an issue to be addressed during the construction of the Redevelopment Project. The Redeveloper hereby agrees to exert its reasonable efforts to minimize the traffic impacts on the surrounding area during this period of time. The Redeveloper shall be bound by any reasonable conditions imposed by the Planning Board, which has jurisdiction with respect to traffic issues related to the Redevelopment Project, and will address same during the review of the Redeveloper's site plan applications, including in connection with any permanent improvements deemed necessary to address increased vehicular traffic, as compared to the Project Area's previous uses, as a result of the Redevelopment Project.

(b) On-site parking shall be provided for the exclusive use by the employees of the Redevelopment Project. No transit or bus parking within the Project Area shall be designated for, nor shall parking be permitted for use by any future transit passengers or buses, and the designated Redeveloper shall be entitled to enforce same.

SECTION 4.07. Affordable Housing Requirements. The Redeveloper is not required to provide any affordable housing units on the Project Area or as part of the Redevelopment Project. The Redeveloper agrees to comply with Applicable Laws in effect at the time the Redeveloper makes application for a construction permit for any structure or improvement that would be subject to a fee pursuant to the Statewide Non-Residential Development Fee Act, N.J.S.A. 40:55D-8.1 *et seq.*

SECTION 4.08. Project Labor; Prevailing Wages.

(a) The Redeveloper agrees that it offer the construction of the Project out to bid and if a construction company utilizing union labor presents a bid for the Project that is within ten

(10%) per cent of the lowest non-union labor bid, the Redeveloper will use union labor in connection with the construction of all aspects of the Redevelopment Project.

(b) The Redeveloper shall be responsible for determining whether and the extent to which the Prevailing Wage Act applies to the Redevelopment Project, and the Redeveloper shall be responsible for costs associated therewith.

SECTION 4.09. Affirmative Action. During the construction of the Redevelopment Project, the Redeveloper covenants that it will use good faith efforts to comply with, and shall provide in its contracts with its contractors and subcontractors, the following:

(a) The Redeveloper agrees to attempt in good faith to schedule minority and female workers consistent with the applicable county employment goals prescribed by N.J.A.C. 17:27-5.2 promulgated by the Treasury pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time.

(b) Where applicable it will at all times conform to the laws, regulations, policies of the State, the Federal government, and other governmental bodies with respect to affirmative action and equal employment opportunities requirements, and particularly those which are imposed as a condition to receipt of any government-sponsored funding for the Redevelopment Project, notwithstanding any other provision of this Redevelopment Agreement to the contrary.

(c) The Redeveloper and its contractors and subcontractors shall submit reports regarding their compliance with this Section as the Agency may reasonably require.

(d) The Redeveloper covenants to enforce its contracts with its contractors and subcontractors if such parties are not in compliance with this Section.

SECTION 4.10. Nondiscrimination During Construction; Equal Opportunity. The Redeveloper for itself and its successors and assigns agrees that in the construction of the Redevelopment Project:

(a) The Redeveloper will not discriminate against any employee or applicant for employment because of race, color, religion, creed, national origin, ancestry, physical handicap, age, marital status, affectional preference or gender. The Redeveloper will ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed; national origin, ancestry, physical handicap, age, marital status, affectional preference or gender. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Redeveloper agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

(b) The Redeveloper will, in all solicitations or advertisements for employees placed by or on behalf of the Redeveloper state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, national origin, ancestry, physical handicap age, marital status, affectional preference or gender.

(c) The Redeveloper will cause the foregoing provisions to be inserted in all contracts for any work covered by this Redevelopment Agreement so that such provisions will be binding upon each contractor and subcontractor.

SECTION 4.11. Condition of Project Area. Following commencement of physical construction of the Redevelopment Project, the Redeveloper will keep the Project Area free from any unreasonable accumulation of debris or waste materials. The Agency acknowledges, however, that the Redevelopment Project may entail crushing and stockpiling of demolished material, and the stockpiling of various soils and related construction materials, and that such reasonable activities shall not constitute a violation of this Section.

SECTION 4.12. No Warranty. The Agency specifically acknowledges that, except as otherwise specifically set forth herein, the Redeveloper makes no representation or warranty, express, implied or otherwise, as to the fitness of the Redevelopment Project or the Project Area for use for any particular purpose, condition or durability thereof, or that it will be suitable for the Redeveloper's purposes. No representations are made herein as to the requirements of any other agency or governmental entity other than the Agency.

SECTION 4.13. Estoppel Certificates. Within fourteen (14) days following written request therefor by a Party hereto, or of any Holder, the other Party shall issue a signed certificate ("Estoppel Certificate") either stating that this Redevelopment Agreement is in full force and effect and that 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. In the event the Estoppel Certificate discloses such a default or breach or event, it shall also state the manner in which such default, breach and/or event may be cured. No more than a reasonable number of Estoppel Certificates may be requested per year.

SECTION 4.14. Cooperation. The Parties shall fully cooperate with each other as necessary to effectuate the Redevelopment 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 the Agency's and the Redeveloper's respective obligations hereunder.

SECTION 4.15. Certificate of Completion. (a) The completion of the Redevelopment Project, or portion thereof, shall be evidenced by a certificate issued by the Agency, accepting the terms of a written certification of a duly authorized officer of the Redeveloper stating that: (i) the Redevelopment Project, or portion thereof that is the subject of the application for the Certificate of Completion, has been completed in material compliance with the approved final site plan and all labor, services, materials and supplies used in connection therewith have been paid for or adequate security has been posted in connection therewith; (ii) the Certificate(s) of Occupancy

necessary for the occupancy and use, if required, of any particular building or structure of the Redevelopment Project that is the subject of the application for the Certificate of Completion, have been obtained; and (iii) all Project Area Site Improvements necessary for the use and operation of the redevelopment Project (or portion thereof) have been completed in material compliance with the Agreement. The Agency shall not unreasonably withhold or delay the delivery of the Certificate of Completion for the Redevelopment Project or portion thereof. If the Agency determines that the Redeveloper is not entitled to a Certificate of Completion for the Redevelopment Project or portion thereof, the Agency shall provide the Redeveloper with a written statement of the reasons the Agency refused or failed to furnish a Certificate of Completion. In no event shall Redeveloper be responsible for the remediation of environmental matters that are the responsibility of the Department of Navy.

(b) The Certificate of Completion shall constitute a recordable, conclusive determination of the satisfaction and termination of the agreements and covenants in this Redevelopment Agreement and in the Redevelopment Plan with respect to the Redeveloper's obligation to construct the Redevelopment Project, or portion thereof to which the application for the Certificate of Completion relates, within the dates for the Commencement and Completion of same. The Certificate of Completion shall release the Redeveloper from all responsibility, obligation or liability under the Agreement with respect to the Redevelopment Project, or portion thereof to which such Certificate of Completion relates.

(c) Notwithstanding any provision in the Agreement that may be construed to the contrary, Redeveloper shall have the right to receive Certificates of Occupancy for each building or structure as and when such building or structure is constructed in accordance with the Governmental Approvals and Applicable Laws regardless of whether the Redevelopment Project (or portion thereof) is Completed for purposes of issuing a Certificate of Completion. The issuance of a Certificate of Occupancy for any building or structure within the Redevelopment Project, or portion thereof, shall be conclusive determination that such building or structure has been Completed in accordance with the terms of this Redevelopment Agreement and Applicable Laws and is automatically released from all obligations and liabilities hereunder, including without limitation, the Project Covenants.

(d) Notwithstanding any provision in this Agreement that may be construed to the contrary, the Parties acknowledge that if this Agreement is lawfully terminated under any provision herein, then the Agency shall, within thirty (30) days of such notice of termination, execute and record in the Office of the Mercer County Clerk, all documents necessary to discharge any recorded Project Covenant and to affirmatively release the Redeveloper and the Project Area from the covenants and agreements set forth in the Project Covenant and this Agreement.

[END OF ARTICLE IV]

ARTICLE V
REDEVELOPMENT PROJECT OVERSIGHT

SECTION 5.01. Progress Meetings. The Parties agree to attend and participate in quarterly progress meetings (“Progress Meetings”) to report on the status of the Redevelopment Project and to review the progress under the Redevelopment Project Schedule. The Progress Meetings shall be held in the Township Municipal Building. Prior to the meeting, representatives of the Agency may visit the Project Area, upon reasonable advance written notice, to inspect the progress of the work on the Redevelopment Project, however, the Agency acknowledges that the Project Area will be an active construction site and that the Redeveloper shall not be liable or responsible to the Agency, its employees or agents for injury to person or property sustained in connection with such inspection, unless and except to the extent that the Redeveloper violates the standard of due care owed to invitees.

The agenda for the Progress Meetings shall include, but not be limited to a status report with regard to Governmental Approval submissions and approvals, financial commitments, construction of the Redevelopment Project, compliance with the Redevelopment Plan and activities concerning marketing, sales and leasing, as applicable. At the Progress Meetings, this information will be evaluated by the Agency to determine compliance with the terms and conditions of this Redevelopment Agreement and the Redevelopment Project Schedule.

SECTION 5.02. Progress Reports. The Redeveloper shall submit to the Agency a quarterly written progress report (“Progress Report”) 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 showing 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 Redevelopment Project Schedule and an explanation of corrective action taken or proposed.

SECTION 5.03. Access to Project Area. Upon reasonable advance written notice specifying a legitimate purpose and identifying authorized representatives (except for Township construction code officials performing their duties in the ordinary course, who shall not be obligated to provide advance written notice specifying a legitimate purpose), the Agency and its authorized representatives shall have the right to enter the Project Area to inspect the Project Area and any and all work in progress for the purpose of furthering its interest in this Redevelopment Agreement. In no event shall the Agency’s inspection of the Redevelopment Project (or any construction activities related thereto) be deemed acceptance of the work or be deemed to waive any right the Agency as under this Redevelopment Agreement. In no event shall the Agency or its authorized representatives provide direction to the Redeveloper’s contractors, subcontractors or professionals in the performance of their respective contracts, apart from that direction that they may be duly authorized to provide pursuant to permits or approvals granted by the Agency to the Redeveloper for the Redevelopment Project. The Agency acknowledges hereby that the Project Area will be an active construction site and that the Redeveloper shall not be liable or responsible to the Agency, its employees or agents for injury to person or property sustained in connection with any such inspection, except to the extent that the Redeveloper violates the standard of due care owed to invitees.

SECTION 5.04. Submissions to the Agency. The Redeveloper shall be required to provide the Agency with a copy 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.

[END OF ARTICLE V]

ARTICLE VI
REPRESENTATIONS AND WARRANTIES; REDEVELOPER COVENANTS

SECTION 6.01. Representations and Warranties by the Redeveloper. The Redeveloper hereby represents and warrants the following to the Agency for the purpose of inducing the Agency to enter into this Redevelopment Agreement and to consummate the transactions contemplated hereby, all of which shall be true as of the date hereof:

(a) The Redeveloper is a limited liability company organized and existing 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 their obligations hereunder.

(c) The Redeveloper is the contract purchaser of the Property and, subject to Section 4.03(c) of this Agreement, will be acquiring title to the Adjacent Parcel.

(d) 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.

(e) No receiver, liquidator, custodian or trustee of the Redeveloper shall have 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 shall have been filed as of the Effective Date.

(f) 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.

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

(h) To the best of the Redeveloper's knowledge, no material action, suit, proceeding or official investigation has been threatened, publicly announced or commenced by any federal, state or local governmental authority or agency, or in any federal, state or local court, that seeks to enjoin, assess civil or criminal penalties against, assess civil damage against or obtain any judgment, order or consent decree with respect to the Redeveloper, this Redevelopment Agreement, the Financial Agreement(s) or to any of the agreements which are referred to herein,

as a result of the Redeveloper's negotiation, execution, delivery or performance of any such agreement or its participation or intended participation in any transaction contemplated thereby; except that this Section 6.01(h) shall not apply to any material action, suit, proceeding or official investigation not involving criminal penalties which does not challenge the validity, binding effect or enforceability of any of the agreements which are referred to in this Redevelopment Agreement or the Financial Agreement(s), and which, if adversely determined, would not materially adversely affect any of such agreements, the performance by the Redeveloper of its obligations thereunder, or transactions contemplated thereby.

(i) 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.

(j) To the best of the Redeveloper's knowledge, all materials and documentation submitted by the Redeveloper and its agents to the Agency and its agents were, at the time of such submission, materially accurate.

(k) The Redeveloper is financially and technically capable of developing, designing, financing and constructing the Redevelopment Project or causing such development, design, financing or construction, excluding any obligation for the costs and or work associated with the remediation of environmental matters that are and shall remain the responsibility of the Department of the Navy.

SECTION 6.02. Representations and Warranties by the Agency. The Agency 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 date hereof:

(a) The Agency has the legal power, right and authority to enter into this Redevelopment Agreement and the instruments and documents referenced herein to which the Agency 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 Agency and is valid and legally binding upon the Agency and enforceable in accordance with its terms on the basis of laws presently in effect and the execution and delivery thereof shall not, 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 Agency is a party.

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

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

(e) The Agency acknowledges that Funding Sources may be available to help fund a portion or portions of the Redevelopment Project and the Agency shall, in good faith, cooperate with the Redeveloper in applications for Funding Sources related to the Redevelopment Project.

SECTION 6.03. 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 Agency hereby acknowledges the receipt of such documents:

(a) A Certified copy of Redeveloper's filed Certificate of Incorporation.

(b) A list of names, addresses, email addresses and telephone numbers of key individuals who will comprise the Redeveloper's "Project Team" and who can be contacted by the Agency. The Redeveloper shall provide notice to the Agency of any changes in the representatives on the Project Team.

SECTION 6.04. INTENTIONALLY OMITTED

SECTION 6.05. Redeveloper Covenants. Subject to Section 6.07 below and Redeveloper acquiring title to the Property, and in addition to covenants set forth elsewhere herein, the Redeveloper covenants and agrees that the following covenants shall be effective until the termination or expiration of the Redevelopment Agreement, but shall not survive such termination or expiration (collectively, "Redeveloper Covenants"):

(a) The Redeveloper shall use reasonable diligent efforts to obtain all Applicable Government Approvals necessary for the construction and development of the Redevelopment Project. To the extent Uncontrollable Circumstances exist that in Redeveloper's reasonable business judgment would cause delay in securing all Governmental Approvals, Redeveloper may toll prosecution of any Governmental Approvals until the Uncontrollable Circumstance has been resolved. The Redeveloper shall construct, improve, operate and maintain the Redevelopment Project in compliance with all Governmental Approvals, and Applicable Law.

(b) The Redeveloper shall use reasonable diligent efforts to (i) obtain financing for the Redevelopment Project, (ii) construct and develop the Redevelopment Project with reasonable due diligence, and (iii) subject to the terms and conditions of this Redevelopment Agreement, use reasonable efforts to Commence Construction of and Complete construction of the Redevelopment Project in accordance with the Redevelopment Project Schedule, on or prior to the applicable date set forth in the Redevelopment Project Schedule or any extensions thereof (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 Redevelopment Project.

(c) The Redeveloper shall construct, or cause same to be constructed, the Redevelopment Project in accordance with the material terms of this Redevelopment Agreement, the Redevelopment Law, the Redevelopment Plan, and all other Applicable Laws. The Redeveloper and the Agency acknowledge that each Party has relied on the proposed Redevelopment Project Schedule in entering into its obligations under this Redevelopment Agreement.

(d) The Redeveloper shall use reasonable efforts to fulfill its material obligations under any and all agreements it enters into with third parties with respect to the acquisition, construction, leasing, sale, financing and other matters relating to the Redevelopment 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 or as otherwise may be available at law or in equity.

(e) The Redeveloper shall use reasonable efforts to Complete, or cause same to be Completed, the Redevelopment Project, on or prior to the date set forth in the Redevelopment Project Schedule, or any extension thereof, at its sole cost and expense, subject to receipt of any Funding Sources that may be available. In the event that moneys made available pursuant to any outside source are not sufficient to pay the costs necessary to Complete the Redevelopment Project, the Redeveloper shall nonetheless be responsible for Completion of the Redevelopment Project (except for any obligation for costs associated with the remediation of environmental matters that are the responsibility of the Department of the Navy) at its expense and shall not be entitled to any reimbursement therefor from the Agency, except to the extent otherwise expressly provided in this Redevelopment Agreement or the Financial Agreement. The Redeveloper shall have three (3) years from the Effective Date to secure additional financing for the Redevelopment Project from Funding Sources.

(f) Upon Completion of Construction of any portion of the Redevelopment Project, the Redeveloper shall use reasonable efforts to obtain Certificates of Occupancy authorizing the occupancy and uses of the Redevelopment Project 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 Redevelopment 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 and occupancy of tenants, lessees, subtenants, sublessees, or vendees of the Redevelopment Project.

(h) The Redeveloper shall immediately notify the Agency of any material change in its financial condition from the information provided to the Agency by the Redeveloper that would adversely affect the Redeveloper's financial capability to develop, finance and construct the

Redevelopment Project as provided herein, in furtherance of the Agency’s consideration in designating it as the Redeveloper.

(i) The ownership structure of the Redeveloper is set forth in **Exhibit D** hereto. Once created, the Redeveloper may assign this Agreement to the Urban Renewal Entity and shall provide a description of the ownership structure of the Urban Renewal Entity. The Redeveloper shall, at such times as the Agency may reasonably request, furnish the Agency with a complete statement subscribed and sworn to by the managing member(s) of the Redeveloper, and/or the Urban Renewal Entity, setting forth all of the ownership interests of the Redeveloper and/or the Urban Renewal Entity, or other owners of equity interests of the Redeveloper and/or the Urban Renewal Entity and the extent of their respective holdings, and in the event any other parties have a beneficial interest of greater than ten percent (10%) in the Redeveloper and/or the Urban Renewal Entity, their names and the extent of such interest(s).

(j) The Redeveloper shall not use the Project Area, the Redevelopment Project, or any part thereof, in a manner that is inconsistent with the Redevelopment Plan and this Redevelopment Agreement.

(k) The Redeveloper will cooperate with the Agency, the Township and Mercer County, as necessary, to facilitate the design, financing and construction of the Bypass Improvements including, but not limited to, participation in meetings regarding such issues and consideration of participation in such design, financing and construction.

SECTION 6.06. Declaration of Covenants and Restrictions. Upon the closing of title on the Property and the satisfaction of the conditions set forth in Sections 2.02(c)(i) and (ii) hereof, the Redeveloper shall execute and record one or more Project Covenant(s), approved by the Agency, imposing on the Redevelopment Project and the Project Area, certain covenants (as may be limited by Section 6.07 hereof), and those other matters indicated in this Redevelopment Agreement to be included in the Project Covenant. Such Project Covenant shall be in the form of **Exhibit B** attached hereto.

SECTION 6.07. Effect and Duration of the Covenants. It is intended and agreed, and the Project Covenant shall so expressly provide, that the agreements and covenants set forth in in this Redevelopment Agreement designated for inclusion in the Project Covenant shall be covenants running with the land until the Redevelopment Project, or portion thereof, is Completed pursuant to the requirements set forth in this Redevelopment Agreement, 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 (including, without limitation, the provisions of Section 4.15(c)), be binding, to the fullest extent permitted by Applicable Law and equity, for the benefit and in favor of, and enforceable by, the Agency, its successors and assigns, and any successor in interest to the Redevelopment Project, or any part thereof, the Redeveloper, its successors and assigns and every successor in interest therein. 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 Redevelopment Project, the buildings and structures thereon, or any part thereof.

SECTION 6.08. Enforcement of Covenants by Agency. In amplification, and not in restriction, of the provisions of this Article VI, it is intended and agreed that the Agency 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 Agency for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether the Agency 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 Agency shall have the right, in the event of any material breach of any such agreement or covenant, to exercise all the rights and remedies and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breach of agreement or covenant, to which it or any other beneficiaries of such agreement or covenant may be entitled, including all other rights as more specifically set forth in Article XI. This Section is not intended to confer standing to sue on any party other than the Agency. Upon Redevelopment of the Project Area and Completion of the Redevelopment 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 and the conditions and requirements of N.J.S.A. 40A:12A-9 shall be deemed to have been satisfied with respect to the Redevelopment Project and the Project Area.

[END OF ARTICLE VI]

**ARTICLE VII
SECURITY FOR CONSTRUCTION OF REDEVELOPMENT PROJECT**

SECTION 7.01. Performance and Payment Bonds.

(a) Except for the remediation of environmental matters that are the responsibility of the Department of the Navy, in connection with the Redevelopment Project, the Redeveloper shall require its contractor(s) for such improvements (to the extent not already posted in connection with Governmental Approvals or to a construction lender (in which case, the Agency shall be named as additional insured)), to furnish performance and payment bonds (the “Performance and Payment Bond(s)”) as security for the performance of the obligations of the contractor(s) under the contract(s) related to such improvements. Said Performance and Payment Bond(s) shall be in form and content most often accepted by government agencies in the State and sufficient for the protection of the Agency and that are standard in the underwriting industry for ensuring full performance and completion of construction by contractors and payment of all payments to multiple prime contractors, subcontractors, workers and material suppliers by contractors and subcontractors pursuant to the contracts related to such improvements in accordance with the laws of the State and the regulations promulgated thereunder. Notwithstanding any provision herein that may be construed to the contrary, Redeveloper’s obligations hereunder shall be applicable only with respect to that portion of the Redevelopment Project (or applicable Phase or portion thereof) then being constructed by Redeveloper. Moreover, anything contained in this Section to the contrary notwithstanding, the Performance Bond to be posted in favor of the municipality as a condition of any Governmental Approval(s) pursuant to N.J.S.A. 40:55D-53 shall suffice to satisfy the obligation under this paragraph, provided the Agency is named as an additional beneficiary of such bond.

(b) In the event that the Redeveloper is entitled to and fails to exercise its rights under the Performance and Payment Bond(s) and/or if an Event of Default by the Redeveloper occurs, then subject to the rights of a Holder, the Agency shall have the right to the protections and guarantee(s) available through and from the surety provided by the Performance and Payment Bond(s). The Agency shall also have all other rights and remedies available to it under the Performance and Payment Bond(s), this Redevelopment Agreement and/or at law, excluding any consequential or speculative damage and subject to mitigation. The Performance and Payment Bond(s) shall name the Redeveloper and the Agency, as their respective interests may appear, as beneficiaries of the Performance and Payment Bond(s) and of all rights, payments and benefits flowing or deriving from the Performance and Payment Bond(s).

(c) The Agency acknowledges that the Performance and Payment Bonds to be provided by the contractors shall be in lieu of any Payment or Performance bond by Redeveloper and Redeveloper shall have no obligation to provide or post any Payment or Performance bonds or other security in connection with the development of all or any portion of the Redevelopment Project or the Agreement.

[END OF ARTICLE VII]

**ARTICLE VIII
TRANSFERS**

SECTION 8.01. 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 8.02. Prohibition Against Transfers. The Redeveloper recognizes that, in view of (a) the importance of the Redevelopment Project to the general welfare of the community; (b) the public assistance to be made available by law and by the Agency on the conditions stated herein, for the purpose of making such Redevelopment Project possible; and (c) the fact that a change in ownership or control of the Redeveloper, or any other act or transaction involving or resulting in a change in ownership or control of the Redeveloper to the degree thereof, is for practical purposes a transfer or disposition of the property interest then owned by the Redeveloper, the qualifications and identity of the Redeveloper and its principals are of particular concern to the Agency and no voluntary or involuntary successor in interest of the Redeveloper (other than Holders as set forth in Article X) shall acquire any interest in or rights or powers under this Redevelopment Agreement except as expressly set forth herein.

SECTION 8.03. Retention of Title to Property; Redeveloper to Maintain its Existence. Except as expressly permitted in Section 8.04, Section 8.05 and Article X of this Redevelopment Agreement, during the Term of this Redevelopment Agreement, the Redeveloper shall not, without the prior written consent of the Agency, which shall not be unreasonably withheld, conditioned or delayed: (a) effect or permit any change, directly or indirectly, in the ownership or control of the Project Area prior to the issuance of the final Certificate of Completion for the Redevelopment Project, (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 its interest in the Redevelopment Project, except transfers to a Holder in a deed in lieu of foreclosure transaction, to a transferee resulting from foreclosure, or with respect to such portion of the Redevelopment Project, or any Phase or portion thereof, for which a Certificate of Completion has been issued (individually and collectively, a “Transfer”), in which case, the Agency’s consent shall not be required.

SECTION 8.04. Permitted Transfers. Notwithstanding Section 8.01, Section 8.02 or Section 8.03 hereof, the following transfers are deemed to be “Permitted Transfers”, and shall serve as exceptions to the general prohibition set forth in Section 8.02 hereof, and, except as otherwise set forth herein, shall not require prior approval of the Agency:

(a) to Holders as security for, and only for, the purpose of obtaining construction financing and permanent financing necessary to enable the Redeveloper to perform its obligations under this Redevelopment Agreement with respect to completing the Redevelopment Project and any other purpose authorized by this Redevelopment Agreement, including deeds to Holders in lieu of foreclosure or transfers at foreclosure sales;

(b) a mortgage or mortgages and other liens and encumbrances for the purposes of financing costs associated with the acquisition, development, construction and marketing of the Redevelopment Project;

- (c) utility and other development easements;
- (d) environmental covenants and restrictions imposed by a regulatory agency as a condition of any permit or approval;
- (e) any lease, option agreement or contract of sale for all or any portion of the Redevelopment Project provided that the conveyance contemplated thereby occurs following the issuance of a Certificate of Completion as to the Redevelopment Project or portion thereof;
- (f) change in the ownership or control of the Redeveloper resulting from the death of an individual(s) having such ownership or control;
- (g) Transfers to affiliates of the Redeveloper including, but not limited to, transfers to an Urban Renewal Entity formed pursuant to Section 3.05 hereof and the Long Term Tax Exemption Law;
- (h) Transfers of any interest in a member of the Redeveloper or any Affiliate, any merger or sale of substantially all of the assets of a member of the Redeveloper or Affiliate, or any similar corporate transaction involving a member of Redeveloper or Affiliate, so long as there is no change in control of Redeveloper;
- (i) any direct or indirect transfer of interests in Redeveloper among current equity owners thereof, so long as there is no change in control of Redeveloper;
- (j) Transfer to a reputable developer with whom the Redeveloper has entered into a joint venture agreement for the development of the Redevelopment Project, or portion thereof, provided that the Redeveloper or an affiliate maintains a controlling interest (at least 51%) in the joint venture entity;
- (k) Transfers to any end users, whether as tenant or purchaser of commercial or land available to be leased, including, without limitation, the sale or lease of commercial space in the ordinary course of business after the issuance of a Certificate of Occupancy therefor shall be free and clear of the provisions of this Redevelopment Agreement;
- (l) Subject to the prior approval of the Agency, which approval shall not be unreasonably withheld, the Redeveloper may transfer the Redevelopment Project, or a portion thereof, to a reputable developer transferee with the qualifications and financial responsibility necessary and adequate to fulfill the obligations undertaken in this Agreement with respect to any portion of the Redevelopment Project and other obligations pursuant to Governmental Approvals or any part of such obligations that may pertain to the transferred portion of the Redevelopment Project provided that the developer transferee provide to the Agency (i) audited financial statements indicating net worth or unencumbered lines of credit, or evidence of loan commitments sufficient to carry out the relative aspects of the Redevelopment Project; and (ii) letters of recommendations from reputable parties for whom the developer transferee has undertaken a

comparable redevelopment, stating that the developer transferee of the relevant aspect of the Redevelopment Project possesses the competence and integrity to undertake same; and

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

SECTION 8.05. Notice of Permitted Transfers. Except as provided in Section 8.04(f) and (k), with respect to any Permitted Transfers described in Section 8.04 hereof, the Redeveloper shall provide to the Agency written notice at least thirty (30) days prior to such Transfer, including a description of the nature of such Transfer, and the name(s) and address(es) of the transferee, except that a mortgage of the Property and Adjacent Parcel, foreclosure sale or deed in lieu of foreclosure shall not require the prior consent of the Agency. The Redeveloper shall cause the transferee to execute such documentation as is reasonably requested by the Agency in order to assure that the transferee has assumed all of the Redeveloper's obligations under this Redevelopment Agreement and the Project Covenant as to any portion of the Redevelopment Project for which a Certificate of Completion has not issued (if the Redeveloper's right, title and interest in the entire Redevelopment Project is being transferred) or the applicable portion of the Redevelopment Project (if less than the Redeveloper's right, title and interest in the entire Redevelopment Project is being transferred). The Redeveloper shall exercise its best efforts with respect to the provisions of any documentation relating to the Transfer as the Agency may reasonably request.

SECTION 8.06. Transferee to be Bound. The terms of this Redevelopment Agreement and the Exhibits attached hereto shall be binding upon the transferee or assignee, as to that portion of the Redevelopment Project transferred or assigned only, unless otherwise amended in writing, and any agreement between the Redeveloper and any transferee shall expressly state the transferee agrees to be so bound.

SECTION 8.07. 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 Agency 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 Agency, when required to be given, not to be unreasonably withheld, conditioned or delayed, no such sale, transfer, conveyance or assignment or approval thereof by the Agency shall be deemed to relieve the Redeveloper from any obligations under this Redevelopment Agreement. The Project Covenant 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 Agency 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 Agency in connection with any such legal action. Upon the recording of the Project Covenant in the Office of the Mercer County Clerk, the provision affording such injunctive relief shall have the same force and effect as a Notice of Lis Pendens. Upon recording of a Certificate of Completion for the Redevelopment Project, or any portion thereof, the provisions of the Project Covenant set forth in this Article shall be deemed terminated with respect to the Redevelopment Project, or portion thereof, as applicable, and the Project Covenant shall so state. In addition, upon the sale or lease of commercial space within the Redevelopment Project, following the issuance of a Certificate of Occupancy therefor, the Project Covenant shall

be deemed terminated with respect to such building or structure for which such Certificate of Occupancy has been issued.

[END OF ARTICLE VIII]

**ARTICLE IX
INDEMNIFICATION; INSURANCE**

SECTION 9.01. Redeveloper Indemnification. (a) Except for the remediation of environmental matters that are the responsibility of the Department of the Navy, and as otherwise specifically set forth in the Agreement, the Redeveloper covenants and agrees, at its expense, to pay and to indemnify, protect, defend and hold the Agency Indemnified Parties harmless from and against all liability, losses, damages, demands, costs, claims, injury, investigations, remediation costs, lawsuits, civil proceedings, administrative proceedings, fines, penalties, and expenses (including attorney's fees and court costs) and disbursements 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 Redevelopment Project, including but not limited to, (i) 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 the Project Area, prior to any Permitted Transfer, and which results, wholly or partially, from any negligence or willful misconduct of the Redeveloper, its agents, servants, employees, or contractors, but excluding damage, liability, costs and expenses to the extent that same may result from gross negligence or willful misconduct of the Agency, its employees, representatives or agents, or (ii) any lawsuit or other proceeding commenced by any person or entity, because of action(s) or omissions taken by the Redeveloper, its contractors, employees, agents, representatives and elected or appointed officials in connection with the Redevelopment Project, this Redevelopment Agreement or the Financial Agreement, except to the extent that any loss is caused by the act or negligence of the Agency Indemnified Party (hereinafter "Liabilities").

(b) The Redeveloper shall defend, indemnify and hold harmless the Agency Indemnified Parties from Liabilities which result, wholly or partially, from (i) unless by reason of an Uncontrollable Circumstance, the performance or any unexcused failure or delay of performance by the Redeveloper of its obligations under this Redevelopment Agreement; or (ii) any bodily injury or property damage that may occur in the Project Area during the term of this Redevelopment Agreement; provided, however, that such indemnity shall not include the actions or inactions of third-parties or the Agency Indemnified 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, or to the extent that any loss is caused by the act or negligence of the Indemnified Party.

(c) In any situation in which an Agency Indemnified Party is entitled to receive and desires indemnification by the Redeveloper, the Agency Indemnified Party shall provide notice to the Redeveloper of the subject Liabilities as soon as reasonably possible after their occurrence but in any case within fifteen (15) days of the Agency Indemnified Party receiving actual or constructive notice of the subject Liabilities. Failure to give prompt notice to the Redeveloper shall not relieve the Redeveloper of any liability to indemnify the Agency 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 Agency Indemnified Party, including the employment of counsel reasonably acceptable to the Agency Indemnified Party, the payment of all reasonable expenses and the right to negotiate and consent to settlement. All of the Agency 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 the Agency Indemnified Party; provided, however, that if the defense of such action is assumed by Redeveloper's insurance carrier, employment of such separate counsel by the Agency Indemnified Party shall be at the sole discretion of such carrier but in no event at the Redeveloper's expense. 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 Agency Indemnified Party in any such action, the Redeveloper agrees to indemnify and hold harmless the Agency Indemnified Party from and against any loss or liability by reason of such settlement or judgment for which the Agency 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 Agency Indemnified Party is obtained and no admission of liability by the Agency Indemnified Party is required. In the event the Agency refuses to provide a release of such action, and a final judgment is rendered against the Redeveloper, the Agency shall be responsible for the Redeveloper's attorney's fees and costs incurred subsequent to the Agency's refusal 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 provided under this Section 9.01 shall terminate upon the issuance of a Certificate of Completion for the Redevelopment Project or portion thereof.

SECTION 9.02. Insurance Required. (a) Prior to the Commencement of Construction of the Redevelopment Project, the Redeveloper shall furnish or shall cause to be furnished, to the Agency, in connection with the Redevelopment Project, evidence of commercial general liability insurance, insuring the Agency against losses, costs, liabilities, claims, causes of action and damages for bodily injury and property damage on portions of the Project Area being improved, or related to the construction thereon, in the amount of at least Three Million Dollars (\$3,000,000.00) combined single limit coverage. Such insurance shall include blanket contractual liability coverage. All such policies shall be written to apply to all bodily injury, property damage, personal injury and other covered loss, including, but not limited to, claims of subcontractors, however occasioned, occurring during the policy term, shall be endorsed to add the Agency as an additional insured, and to provide that such coverage shall be primary and that any insurance maintained by the Agency shall be excess insurance only. Such coverage shall be endorsed to waive the insurer's rights of subrogation against the Agency.

(b) The Redeveloper shall also furnish or cause to be furnished to the Agency evidence satisfactory to the Agency that the Redeveloper and any contractor with whom it has contracted for the construction of the Redevelopment Project carries workers' compensation insurance as required by law, and an employer's liability insurance endorsement with customary limits, and shall be endorsed with a waiver of subrogation clause for the Agency.

(c) All insurance policies required by this section shall be obtained from insurance companies licensed in the State and rated at least A- in Best's Insurance Guide or such lesser rated provider that is proposed by the Redeveloper and is reasonably acceptable to the Agency.

(d) The Redeveloper's obligation to maintain insurance in this Section 9.02 shall terminate upon issuance of a Certificate of Completion with respect to the Redevelopment Project or portion thereof.

(e) Redeveloper shall have the right to satisfy the insurance requirements set forth in this Section 9 with coverage provided by Redeveloper's contractors or subcontractors.

[END OF ARTICLE IX]

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

SECTION 10.01. Mortgage Financing. (a) Neither the Redeveloper nor any successor in interest therein or to the Redevelopment Project, or part thereof, shall engage in any financing or any other transaction creating any mortgage or other encumbrance or lien upon the Redevelopment 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 Redevelopment Project, in excess of ninety percent (90%) of the sum of all land acquisition costs and all Redevelopment Project Costs (excluding the costs associated with the remediation of environmental matters that are the responsibility of the Department of the Navy), or in excess of ninety percent (90%) of such costs for any portions of the Redevelopment Project or the Project Area, to the extent applicable, or as may be approved by the Agency (which approval shall not be unreasonably withheld, conditioned or delayed) for the purpose of obtaining funds in connection with the construction of the Redevelopment Project; provided, however, that upon the issuance of a Certificate of Completion for the Redevelopment Project, or portion thereof, such prohibition shall no longer apply with respect to the corresponding parcel of land and improvements thereon. The Redeveloper, or its successor in interest, shall notify the Agency in advance of any such financing secured by a mortgage or other lien instrument which it proposes to enter into with respect to the Redevelopment Project or any portion thereof (the mortgagee thereunder, including Governmental Authorities and/or the existing holders, if any, a “Holder”) and, in any event, the Redeveloper shall promptly notify the Agency of any encumbrance or lien (other than liens for governmental impositions) that has been created on or attached to any portion of the Redevelopment 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 Agency 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 Agency, as provided in this Redevelopment Agreement.

(c) To the extent reasonably requested by the Redeveloper, the Agency shall execute estoppel certificates and such other agreements and/or documents (to the extent same are in form and content reasonably acceptable to the Agency) 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 and adversely alter any of the rights or obligations of the Redeveloper or the Agency under this Redevelopment Agreement.

SECTION 10.02. Notice of Default to Redeveloper and Right to Cure. (a) Whenever the Agency shall deliver any notice or demand to the Redeveloper with respect to any breach or default by the Redeveloper under this Redevelopment Agreement, the Agency shall at the same time deliver to each Holder a copy of such notice or demand; provided that the Redeveloper has delivered to the Agency a written notice of the name and address of such Holder.

Each such Holder shall (insofar as the rights of the Agency 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. If such default shall be a default that can only be remedied or cured by such Holder upon obtaining possession, such Holder may seek to obtain possession of the Project Area properties (or such portion to which its mortgage relates) with diligence and continuity through a receiver or otherwise, and if it takes possession, it shall remedy or cure such default within ninety (90) calendar days after obtaining possession. In the case of a default that cannot with diligence be remedied or cured, or the remedy or cure of which cannot be commenced, within such ninety (90) day period, such Holder, the Township may, in its sole discretion, to provide additional time as reasonably necessary to remedy or cure of such default with diligence and continuity.

(b) To the extent that any Holder forecloses against any lien it has with respect to the Redevelopment Project (as a result of a Redeveloper Event of Default or a default by the Redeveloper under any agreements executed by the Redeveloper and its lenders), the Agency agrees to forebear, for a commercially reasonable period of time, from the enforcement of any remedies provided under this Redevelopment Agreement that it may have against the Redeveloper in order to permit such Holder, or its successor, to assume the obligations of the Redeveloper under this Redevelopment Agreement; provided however, that the Agency shall not be obligated to forebear from the exercise of any remedies available to it hereunder if such forbearance will result (or may result, in the reasonable judgment of the Agency) in a waiver of the Agency's rights under this Redevelopment Agreement or a material and adverse effect on the Agency's rights or performance obligations hereunder or any material increase in the Agency's financial obligations hereunder.

SECTION 10.03. 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 Redevelopment 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 Redevelopment Project (beyond the extent necessary to conserve or protect the Holder's security, including Completing the improvements already undertaken) without the Holder or Affiliate of Holder first having expressly assumed the Redeveloper's obligations to the Agency with respect to the Redevelopment Project, or portion thereof to which its mortgage relates, by written agreement reasonably satisfactory to the Agency.

(b) If a Holder forecloses its mortgage secured by the Redevelopment Project, or any portion thereof, or takes title (in its name or the name of an Affiliate) to the Redevelopment Project 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 Redevelopment Project, as applicable, to a responsible Person reasonably acceptable to the Agency, which Person shall assume the obligations of the Redeveloper under this Redevelopment Agreement and the Financial Agreement in accordance with Applicable Laws, and/or (ii) itself, or its affiliate, assume the obligations of the Redeveloper under this Redevelopment Agreement and the Financial Agreement in accordance

with Applicable Laws. In the event of a Foreclosure and provided the Holder or the purchaser is in compliance with this Redevelopment Agreement, the Agency shall not seek to enforce against the Holder or purchaser of such parcel any of the remedies available to the Agency 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 Redevelopment Project in the manner provided in this Redevelopment Agreement, but subject to reasonable extensions of the Completion Default Date, and shall submit evidence reasonably satisfactory to the Agency that it has the qualifications and financial responsibility necessary to perform such obligations. Any such Holder, or other entity assuming such obligations of the Redeveloper, properly completing the Redevelopment Project or applicable portion thereof shall be entitled, upon written request made to the Agency, 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 portion 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 Redevelopment Project or portion thereof in accordance herewith.

SECTION 10.04. Agency's Option to Pay Mortgage Debt or Purchase Land. In any case where, subsequent to an Event of Default by the Redeveloper under this Redevelopment Agreement and/or Foreclosure, wherein a Holder has obtained title to the Project Area, or a portion thereof, the Holder:

(a) has, but does not exercise, the option to construct or Complete the Redevelopment Project or portion thereof covered by its mortgage, or to which it has obtained title, and such failure continues for a period of ninety (90) calendar days after the (i) Holder has been notified or informed of the Event of Default, or (ii) has taken title to the respective property in foreclosure or deed in lieu of foreclosure and has been given permission by the Agency to continue construction (if necessary), whichever occurs later; or

(b) undertakes construction or completion of the Redevelopment Project or any portion thereof but does not Complete such work within the later of (i) the date required by the Redevelopment Project Schedule or (ii) one hundred eighty (180) calendar days after written demand by the Agency to do so, or within such additional period of time to which the Agency shall agree ((a) and (b) each constituting a "Holder Failure"); then the Agency shall have the option of paying to the Holder the amount of the mortgage debt or the amount of debt outstanding on any bonds (including defeasance and including all outstanding interest, costs and fees as may be due under the debt instruments, including the items in (i)-(v) below, if applicable, and obtaining an assignment of the mortgage and the debt secured thereby, or, in the event ownership of the Redevelopment Project, or portion thereof, has vested in such Holder by way of foreclosure or action in lieu thereof, the Agency shall be entitled, at its option, to a conveyance to it of the Redevelopment Project upon payment to such Holder of an amount equal to the sum of: (i) the mortgage debt at the time of foreclosure or action in lieu thereof (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings); (ii) all expenses with respect to the foreclosure, including

reasonable attorney's fees and expenses; (iii) the net expense, if any (exclusive of general overhead), incurred by such Holder in and as a direct result of the subsequent management of the mortgaged property; (iv) the costs incurred by such Holder in constructing, preserving or protecting any portion of the Redevelopment Project; and (v) an amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage debt and such debt had continued in existence. Every mortgage instrument made after the Effective Date but prior to Completion of the Redevelopment Project with respect to any Phase of development of the Redevelopment Project by the Redeveloper shall provide for the foregoing. In addition to the foregoing, and notwithstanding any provision in the Agreement that may be construed to the contrary, the Agency shall reimburse such Holder (or cause such Holder to be reimbursed) for the fair market value of all of those portions of the Redevelopment Project that have not secured a Certificate of Completion, but which have been improved to the extent that they have been substantially Completed. The Agency shall also reimburse Holder for fair market value associated with enhanced value to the remaining portion of the Project Area as a result of the construction of infrastructure improvements that enhance the value of the remaining portion of the Project Area. Notwithstanding the foregoing, the Agency shall not be required to make any such reimbursement to the Holder until after it has designated another redeveloper for the applicable portion of the Project Area and executed a redevelopment agreement with such redeveloper.

To the extent that any Holder requests modifications to the Agreement the Agency shall not unreasonably withhold, delay or condition any such modifications to the Agreement reasonably requested by any Holder.

[END OF ARTICLE X]

ARTICLE XI
EVENTS OF DEFAULT AND REMEDIES

SECTION 11.01. Events of Default. Any one or more of the following shall constitute an Event of Default hereunder (with none of the following to be construed as a limitation on any other), unless such Event of Default results from the occurrence of any Uncontrollable Circumstance:

(a) Failure of the Redeveloper or the Agency to materially observe and perform any material covenant, condition or agreement under this Redevelopment Agreement, and continuance of such failure for a period of sixty (60) 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, that if the failure is one which cannot be remedied within the sixty (60) 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 reasonably practicable, but in no event later than two hundred seventy (270) days after such written notice, or such longer period as may be agreed, which agreement shall not be unreasonably withheld, conditioned or delayed by the Agency if, in the Agency's sole discretion, such longer period is necessary to effectuate the cure.

(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; or (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; provided, however, that such failures provided in (i) through (ix) hereof shall not be an Event of Default if, at the expiration of the 90-day cure period, the Redeveloper is actively and diligently proceeding to take steps reasonably necessary to perfect a cure of such Event of Default.

(c) The Redeveloper shall be in material default of or material violation of its obligations with respect to the design, development and/or construction of the Redevelopment Project (exclusive of the remediation of environmental matters that are the responsibility of the Department of the Navy) in accordance with this Redevelopment Agreement (including, but not limited to, the Redevelopment Project Schedule, as same may be extended), final site plan approval, or shall abandon or substantially suspend construction work for a continuous period of

more than three (3) months (unless such suspension arises out of an Uncontrollable Circumstance), and any such default, violation, abandonment or suspension shall not be cured, ended, or remedied within ninety (90) days after written demand by the Agency to do so; provided however, that any such failure(s) shall not be an Event of Default if the Redeveloper is actively and diligently proceeding to take steps reasonably necessary to perfect a cure of such Event of Default.

(d) The Redeveloper or its successor in interest (except for third parties to which a portion of the Redevelopment 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 when due, or any payments under the Financial Agreement with respect to the Project Area or any part thereof 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 Agency made for such payment, removal, or discharge, within sixty (60) days after written demand by the Agency to do so; provided, however, that any such failure(s) shall not be an Event of Default if the Redeveloper is actively and diligently proceeding to take steps reasonably necessary to perfect a cure of such Event of Default.

(e) There is, in violation of this Redevelopment Agreement, any Prohibited Transfer. In the event that the Redeveloper shall make such a transfer, Redeveloper shall, within thirty (30) days after receipt of written notice of the Prohibited Transfer from the Agency, take all actions necessary to cure said violation and Prohibited Transfer.

Notwithstanding anything in the Agreement that may be construed to the contrary, the Redeveloper shall have the right to contest any debt, lien, or other encumbrance, through arbitration or such other legal action as may be necessary to determine the validity of the debt, lien or encumbrance, and as may be available to the Redeveloper.

In the event of a Permitted Transfer, any Event of Default of the Redeveloper shall not be an Event of Default of the Permitted Transferee and such Event of Default shall have no adverse impact on the right of the Permitted Transferee to complete any portion of the Redevelopment Project transferred to it. In the case of any Event of Default by the Redeveloper, a Permitted Transferee may, but shall not be required to, Complete any portion of the Redevelopment Project necessary for the operation of the portion of the Redevelopment Project transferred, including but not limited to the Completion of any infrastructure improvements.

SECTION 11.02. Remedies Upon Events of Default by the Redeveloper. If an Event of Default by the Redeveloper occurs, then, subject to the provisions of Article X hereof and the rights of Holders, the Agency 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 the seeking of damages (including reasonable attorney's fees and costs), but excluding any consequential or speculative damage claim and all damage claims shall be subject to mitigation. If a Permitted Transferee shall fail to Commence Construction of the portion of the

Redevelopment Project transferred to it within the time frame set forth in the Redevelopment Project Schedule, the Agency's sole remedy shall be to terminate the Permitted Transferee's rights under this Agreement and the Financial Agreement applicable to such transferred portion of the Redevelopment Project.

SECTION 11.03. Remedies Upon Events of Default by the Agency. In the event that an Event of Default by the Agency 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 Agency, as applicable, under this Redevelopment Agreement, including the seeking of damages (including reasonable attorney's fees and costs). Further, but subject to any cure provisions afforded the Agency hereunder, the Redeveloper shall have the right, in its sole and absolute discretion, upon sixty (60) days' notice to the Agency, to terminate this Redevelopment Agreement and the Financial Agreement. In the event of such termination, the Parties shall have no further rights, liabilities or obligations pursuant to this Redevelopment Agreement or the Financial Agreement.

SECTION 11.04. 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 11.05. Remedies Cumulative. No remedy 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 shall not constitute a waiver of the right to pursue other available remedies. In no event, however, shall a party be entitled to recover more than its actual damages.

SECTION 11.06. 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 11.07. Litigation Costs. In the event that a Party to this Redevelopment Agreement successfully pursues an action to enforce any remedy provided in this Article, that Party shall be entitled to payment by the other Party of all reasonable costs and expenses, including attorney's fees, incurred in connection with such action.

SECTION 11.08. Mitigation. The Parties shall act reasonably to mitigate any damages that may be incurred as a result of an Event of Default hereunder.

SECTION 11.09. INTENTIONALLY DELETED.

[END OF ARTICLE XI]

**ARTICLE XII
MISCELLANEOUS**

SECTION 12.01. Notices. Formal notices, demands and communications between the Agency and the Redeveloper required or permitted under the Agreement shall be in writing and given by electronic (e-mail) delivery (with a confirmation of receipt), recognized reputable overnight courier, for example United Parcel Service or by hand delivery, directed as follows:

If to the Agency:

Ewing Township Redevelopment Agency
2 Jake Garzio Drive
Ewing, New Jersey 08628
Attn: Executive Director
Tel. No. 609-883-2900
Fax No. 609-538-0729 (Attn: ETRA)

with copy to:

Kevin P. McManimon, Esq., Special Redevelopment Counsel
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue, 2nd Floor
Roseland, New Jersey 07068
Tel. No. 973-622-4869
Fax No. 973-712-1440
E-mail: kmcmanimon@msbnj.com

In the event that the above-referenced parties no longer serve in the respective capacities listed above, copies of notices, demands and communications shall be sent to the Agency, who shall forward same to the parties then serving in such capacities.

If to the Redeveloper:

KRE Acquisition Corp.
515 Marin Blvd.
Jersey City, New Jersey 07302
Attn: Jeff Persky
Phone:
E-mail:

With a copy to:

David B. Kahan, Esq.
David B. Kahan, P.C.
515 Marin Boulevard
P.O. Box 6719
Jersey City, New Jersey 07306

Phone: 201-733-8100
Email: dbk@thekregroup.com

and

Joseph A. Paparo, Esq.
Porzio, Bromberg & Newman
100 Southgate Parkway
Morristown, New Jersey 07962-1997
Phone: 973-889-4042
Email: JAPaparo@pbnlaw.com

Any notice delivered by electronic (e-mail) delivery in accordance with this Section shall be deemed to have been duly given upon receipt of confirmed e-mail delivery (if sent on Monday through Friday during business hours, or the next business day if sent after business hours) if a copy of said notice is also sent by recognized reputable overnight courier or hand delivery as provided in this Section 12.01. Any notice delivered by hand shall be deemed to have been duly given upon actual receipt or refusal to receive. Any notice sent by reputable overnight courier shall be deemed received on the next business day following deposit with such courier. Either party, by notice given as above, may change the address to which future notices or copies of notices may be sent.

SECTION 12.02. Conflict of Interest. No member, official or employee of the Agency 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 12.03. 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 Agency, any money or other consideration for or in connection with this Redevelopment Agreement.

SECTION 12.04. Non-Liability of Officials and Employees of the Agency. No member, official or employee of the Agency shall be personally liable to the Redeveloper, or any successor in interest, solely as a result of any default or breach by the Agency, 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 12.05. Non-Liability of Officials and Employees of Redeveloper. No member, officer, shareholder, director, partner or employee of the Redeveloper shall be personally liable to the Agency, 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 Agency, or their successors, on any obligation under the terms of this Redevelopment Agreement unless such liability is separately assumed under a separate document.

SECTION 12.06. Uncontrollable Circumstance. Performance of any obligation or covenant hereunder by either Party shall not be deemed to be in default where delays or failures to perform are the result of the occurrence of an Uncontrollable Circumstance.

An extension of time for any such Uncontrollable Circumstance shall be for the period of the Uncontrollable Circumstance, which period shall commence to run from the time of the commencement of the Uncontrollable Circumstance. Notice by the Party claiming such extension shall be sent to the other party within sixty (60) calendar days of the commencement of the Uncontrollable Circumstance.

SECTION 12.07. No Brokerage Commissions. The Agency 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 acting on behalf of either the Agency or the Redeveloper, and the Agency 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 12.08. 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 12.09. 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 12.10. 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 12.11. 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 12.12. 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 Parties.

SECTION 12.13. Execution of Counterparts. This Redevelopment Agreement may be executed in one or more counterparts 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 12.14. 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. The above notwithstanding, this Redevelopment Agreement is to be read in accord with the Financial Agreement.

SECTION 12.15. 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 Agency and the Redeveloper, as applicable, and all amendments hereto must be in writing and signed by the appropriate authorities of the Agency and the Redeveloper.

SECTION 12.16. 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 12.17. Governing Law. This Redevelopment Agreement shall be governed by and construed in accordance with the Applicable Laws of the State of New Jersey.

SECTION 12.18. Dispute Resolution. All disputes arising under, relating to, or touching upon this Redevelopment Agreement, involving the interpretation thereof, or the performance or breach by party thereto, including, but not limited to, original disputes and disputes asserted as cross claims, counterclaims, third party claims or claims for indemnity or subrogation, shall be resolved in the Superior Court of the State of New Jersey, Mercer County Vicinage, or the United States District Court for the District of New Jersey, whichever has subject matter jurisdiction over the dispute.

**[END OF ARTICLE XII.
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:

KRE ACQUISITION CORP.

By: _____
Name:
Title:

By: _____

ATTEST:

**EWING TOWNSHIP REDEVELOPMENT
AGENCY**

By: _____

By: _____

EXHIBIT A

Approved Plan

DRAFT

EXHIBIT B
Form of Project Covenant

EXHIBIT C

Redevelopment Project Schedule

Task	Deadline
Redeveloper to apply to Planning Board for preliminary and final site plan approval for the Redevelopment Project	Within 90 days after (i) the execution of this Agreement by the Parties; and (ii) the execution of an agreement between the Redeveloper and the Township of to convey title to the Adjacent Parcel
Obtain demolition permit	Within 6 months after receipt of final, unappealable approvals for the Redevelopment Project, or within such extended time as the DEP and/or EDA may require
Commence construction of Redevelopment Project	Within 3 months after completion of demolition but not later than 9 months after issuance of demolition permit
Complete construction of Redevelopment Project	Within 18 months after Commencement of Construction

EXHIBIT D

Redeveloper Ownership Structure