

RESOLUTION

FIRST RESPONDERS APPRECIATION MONTH

WHEREAS, the Mayor and Council of the Borough of Belmar hereby designate May as First Responders Month for the Borough of Belmar; and

WHEREAS, first responders include both professional and volunteer 9-1-1 operators and dispatchers, law enforcement officers, firefighters, lifeguards, emergency medical services personnel, search and rescue teams, pilots and divers, emergency management professionals, nurses, paramedics, doctors, medical evacuation pilots, road maintenance personnel, and military personnel, and other roles in the public safety sector; and

WHEREAS, first responders are a vital part of our communities whose skills often make the difference between life and death while dedicating their life to public service, education and extensive training, courage, selfless concern for the welfare and protection of others, their property and the environment; and

WHEREAS, these courageous men and women are our primary and best defense against all emergencies that threaten our communities, they are quick to respond, at a moment's notice, to dangerous and distressing situations that threaten our communities and come to the aid of the citizens while often risking their own safety and lives to selflessly run into danger to protect others and they volunteer in our schools and community organizations; and

WHEREAS, first responders respond to emergencies without hesitation when the call of duty arises and tirelessly give of their time and energy in humanitarian efforts, making themselves available every hour of the day, every day of the year; and

WHEREAS, the services, dedication and commitment of first responders deserve to be recognized and honored.

NOW THEREFORE, the Mayor and Council of the Borough of Belmar hereby proclaim May 2024 as First Responders Month in the Borough of Belmar and encourage all residents to celebrate the service and sacrifice of the first responders who make our communities the best in which to live, work and raise a family.

Presented: April 30, 2024

Mayor Gerald A. Buccafusco
Council President Mark Levis
Councilwoman Jodi Kinney
Councilwoman Maria Rondinaro
Councilwoman Caitlin Donovan

RESOLUTION NO. 2024-91

RESOLUTION APPROVING PAYMENT OF BILLS LIST APRIL 30, 2024

BE IT RESOLVED by the Mayor and Council of the Borough of Belmar, County of Monmouth, State of New Jersey as follows:

1. All bills or claims as reviewed and approved by the Purchasing Agent and Chief Financial Officer and as set forth in this Resolution are hereby approved for payment.
2. That authorized signatories are hereby authorized to sign checks issued for the payment of bills and claims which are hereby approved.
3. A copy of the full payment of bills list is on file with the Purchasing Agent and the Chief Financial Officer and is also available on the Borough’s website.

01	General Account	\$1,604,091.11
01	EMS Account	\$2,700.88
03	Grant Account	\$76.00
05	General Capital Account	\$5,290.01
11	Water/Sewer Account	\$27,806.41
15	Water/Sewer Capital Account	\$-0-
21	Beach Utility Account	\$17,396.65
23	Parking Utility Fund	\$38.75
35	Public Assist II Account	\$-0-
41	Dog License Account	\$1,450.00
51	Trust Assessment Account	\$-0-
55	Trust Fund Account	\$972.50
55	Developers Escrow (Sachem Pond)	\$-0-
55	Developers Escrow (Russo)	\$-0-
55	Developers Escrow (Repetti)	\$-0-
55	Developers Escrow (Revano)	\$1,162.28
55	Developers Escrow (CharlestonBeach)	\$1,1963.00
55	Developers Escrow (MarkBuilt)	\$-0-
55	Developers Escrow (Eastport)	\$3,172.50
57	Law Enforcement Trust Fund Act.	\$-0-
61	Tourism Account	\$
62	Seafood Festival Account	\$-0-
	Total:	\$1,666,120.09

offered the above resolution and moved its adoption. Seconded by and adopted by the following vote on roll call:

Council Members:	AYES	NAYS	ABSTAIN	ABSENT
Mayor Buccafusco				
Councilwoman Rondinaro				
Councilwoman Kinney				
Councilwoman Donovan				
Councilman Levis				

I, APRIL CLAUDIO, CLERK OF THE BOROUGH OF BELMAR, Monmouth County, and the State of New Jersey do hereby Certify that the foregoing Resolution is a true copy of the Original Resolution duly passed and adopted by a majority of the full membership of the Governing Body at its meeting of April 30, 2024.

APRIL CLAUDIO, RMC/CMC
MUNICIPAL CLERK

RESOLUTION NO. 2024-92

RESOLUTION DESIGNATING THE DATES FOR CLOSING THE BEACHFRONT EXCEPT FOR PAYMENT OF CERTAIN FEES TO THE GENERAL PUBLIC AND RESIDENTS OF THE BOROUGH OF BELMAR FOR 2024

WHEREAS, Section 18-2.2 of the Revised General Ordinances of the Borough of Belmar provides that the Borough Council shall designate by resolution, the dates for closing of the beachfront to the general public and residents of the Borough of Belmar except upon payment of certain fees; and the protected bathing beaches from which persons must bathe and swim; and

WHEREAS, Section 18-2.7w of the Revised General Ordinances of the Borough of Belmar provides that the Borough Council shall designate, by resolution, the specific areas where surf mats and surfboards may be used.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The Beach and Beachfront of the Borough of Belmar from the northern boundary line adjacent to the Shark River Inlet to the southern boundary line adjacent to the Borough of Spring Lake are hereby declared closed for the 2024 summer session, except upon payment of beach badge fees as follows:
 - a. Friday, Saturday and Sunday beginning May 24, 2024 (including Memorial Day, May 27, 2024) and every day beginning June 17, 2024 through September 2, 2024.
 - b. In accordance with section 18-2.4 of the ordinances of the Borough of Belmar, each and every person ages 14 and older, entering upon and using the beachfront of the Borough, during the hours of 9am to 5pm on weekdays and 9am to 6pm on weekends and holidays, on the dates listed in a. above shall obtain and display a beach badge.
2. The official Bathing Beaches hereby set aside for the season of 2024 are:
 - a. 2nd, 3rd, 4th, 5th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 16th, 17th, 18th and 20th Avenues and any additional beaches at the discretion of the lifeguards.
3. Inflatable surf mats and boogie boards, as described in Section 18-2.7w of the Revised General Ordinances of the Borough of Belmar, shall be used at the following designated beaches, only when posted for such use and within the area posted.
 - a. An area immediately north of the 8th Avenue Official Bathing Beach, and
 - b. South of the 13th Avenue jetty and north of the 16th Avenue and 17th Avenue jetty.
 - c. South of 19th Avenue jetty-only when posted for such use at the discretion of lifeguards.
4. Surf Boards, as described in Section 18-2.7w of the Revised General Ordinances of the Borough of Belmar, shall be used only south of the jetty located between 16th Avenue and 17th Avenue and north of the 19th Avenue jetty and south of the 19th Ave. jetty only when posted for such use at the discretion of the lifeguards. The lifeguards will take into consideration the number of surfers, when the number is less than three, the head lifeguard will exercise their discretion to allow swimmers to use the above-designated area for swimming. The lifeguards in exercising their discretion will take into consideration, wind direction, wave heights, and other conditions effecting surfing.
5. Jetties - No person shall be permitted on the jetties unless they are wearing non-slip footwear. Jetties may not be used for any activity except fishing.
6. "L" Street Beach will be open to swimming only when posted and staffed by a lifeguard.

7. Personal Kayaks and Standup Paddleboards may be used south of the 20th Ave. Bathing Area at the discretion of the lifeguards.

offered the above resolution and moved its adoption. Seconded by and adopted by the following vote on roll call:

Council Members:	AYES	NAYS	ABSTAIN	ABSENT
Mayor Buccafusco				
Councilwoman Rondinaro				
Councilman Levis				
Councilwoman Donovan				
Councilwoman Kinney				

I, APRIL CLAUDIO, CLERK OF THE BOROUGH OF BELMAR, Monmouth County, and the State of New Jersey do hereby Certify that the foregoing Resolution is a true copy of the Original Resolution duly passed and adopted by a majority of the full membership of the Governing Body at its meeting of April 30, 2024.

APRIL CLAUDIO, RMC/CMC
MUNICIPAL CLERK

RESOLUTION NO 2024-93

RESOLUTION APPROVING MEMBERSHIP APPLICATIONS FOR HOOK & LADDER FIRE DEPARTMENT

WHEREAS, Hook and Ladder Fire Department has advised the Borough Council that the following have submitted applications to join the Hook and Ladder Fire Department as probationary members:

NICHOLAS CONNELLY
SEAN CONNELLY

WHEREAS, each application will be reviewed by the Belmar Police Department;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Belmar that the above application be hereby approved pending final approval from the Police Department.

offered the above resolution and moved its adoption. Seconded by and adopted by the following vote on roll call:

Council Members:	AYES	NAYS	ABSTAIN	ABSENT
Mayor Buccafusco				
Councilman Levis				
Councilwoman Rondinaro				
Councilwoman Kinney				
Councilwoman Donovan				

I, APRIL CLAUDIO, CLERK OF THE BOROUGH OF BELMAR, Monmouth County, and the State of New Jersey do hereby Certify that the foregoing Resolution is a true copy of the Original Resolution duly passed and adopted by a majority of the full membership of the Governing Body at its meeting of April 30, 2024.

APRIL CLAUDIO, RMC/CMC
MUNICIPAL CLERK

RESOLUTION NO 2024-94

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED, by the Mayor and Borough Council that the following refunds are hereby authorized upon certification by the Chief Financial Officer to the following:

Aleksandra Zolotnisky
Junior Guard Registration
Credit Card Payment \$360

Veronica Burnett
1040 Bennetts Mills Road
Jackson NJ 08527
Gazebo Rental \$200

Steve & Randie Brazel
101 11th Avenue
Belmar, NJ 07719
Water/Sewer Overpayment \$5,250

PLANNING & ZONING BOARD ESCROW REFUNDS:

BELMAR MALL INVESTORS*	63 WEST MAIN STREET	FREEHOLD	NJ	07728	\$548.25
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*Previously approved by Resolution 2024-88 adopted April 9, 2024. Amount to be transferred to application PB23-05 of same property in lieu of refund.

MATTHEW DATES - MIDNIGHT CANDLE CO.	811 MAIN STREET	BELMAR	NJ	07719	\$200.00
BUSY B LAUNDERETTE	PO BOX 58	ALLENWOOD	NJ	08720	\$500.00
TENTH AVENUE ASSOCIATES URBAN RENEWAL	800 MAIN STREET SUITE 103	BELMAR	NJ	07719	\$4,352.50
701 ASSOCIATES	701 SEVENTH AVENUE	BELMAR	NJ	07719	\$887.07
BELMAR 501 LLC	89 WILSHIRE DRIVE	TINTON FALLS	NJ	07724	\$3,584.66
JOHN LUBONTY	200 TENTH AVENUE	BELMAR	NJ	07719	\$57.50
UB HOLDING LLC	2104 SHADOW BROOK DRIVE	WALL	NJ	07719	\$68.00
RICHARD BRAND	408 SIXTH AVENUE	BELMAR	NJ	07719	\$494.00
LOLITA YACONA	700 A STREET	BELMAR	NJ	07719	\$238.00
MARY BETH HALL	1217 MAPLEWOOD ROAD	BELMAR	NJ	07719	\$510.00
DARIUSZ TARGONSKI	807 MAIN STREET	BELMAR	NJ	07719	\$1,716.50
DANIEL & KERRY MCCARTHY	224 BURNSIDE PLACE	RIDEGEWOOD	NJ	07450	\$454.00
KARL & THERESA MEIER	42 WOOD ROAD	MORRISTOWN	NJ	07960	\$454.00
JENNIFER WAGNER	206 DEERLEA LANE	BOONTON	NJ	07005	\$438.00
B STREET PROPERTIES LLC	822 13TH AVENUE	BELMAR	NJ	07719	\$390.00
BRYAN LINDUNG	705 D STREET	BELMAR	NJ	07719	\$318.00
THOMAS NICE	401 EIGHTH AVENUE	BELMAR	NJ	07719	\$366.00
CHRISTOPHER & DIANA COCCHI	165 BROADWAY	BAYONNE	NJ	07002	\$417.00

offered the above resolution and moved its adoption. Seconded by and adopted by the following vote on roll call:

Council Members:	AYES	NAYS	ABSTAIN	ABSENT
Mayor Buccafusco				
Councilwoman Rondinaro				
Councilwoman Kinney				
Councilwoman Donovan				
Councilman Levis				

I, APRIL CLAUDIO, CLERK OF THE BOROUGH OF BELMAR, Monmouth County, and the State of New Jersey do hereby Certify that the foregoing Resolution is a true copy of the Original Resolution duly passed and adopted by a majority of the full membership of the Governing Body

at its meeting of April 30, 2024.

APRIL CLAUDIO, RMC/CMC
MUNICIPAL CLERK

RESOLUTION 2024-95

RESOLUTION OF THE BOROUGH OF BELMAR, IN THE COUNTY OF MONMOUTH, NEW JERSEY, DESIGNATING A REDEVELOPER FOR THE PROPERTY COMMONLY KNOWN AS BLOCK 117, LOT 14 ON THE TAX MAP OF THE BOROUGH AND AUTHORIZING THE EXECUTION OF A REDEVELOPMENT AGREEMENT

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.*, as amended and supplemented (the “**Redevelopment Law**”) provides a process for municipalities to participate in the redevelopment and improvement of areas in need of redevelopment; and

WHEREAS, the Borough Council (the “**Borough Council**”) of the Borough of Belmar, in the County of Monmouth, New Jersey (the “**Borough**”) adopted resolutions which designated properties including the area known as Parcels 1 thru 6, 6B, 7 thru 9, and 11 thru 19 (the “**Original Redevelopment Area**”) as an area in need of redevelopment pursuant to the Redevelopment Law; and

WHEREAS, the Borough Council adopted a resolution which designated the area known as Parcel 20 (the “**Rehabilitation Area**”, and collectively with the Original Redevelopment Area the “**Original Seaport Redevelopment Area**”) as an area in need of rehabilitation pursuant to the Redevelopment Law; and

WHEREAS, on July 20, 2016, Borough Council adopted Resolution No. 2016-129 expanding the Original Seaport Redevelopment Area (the “**Redevelopment Area**”) pursuant to the criteria set forth in the Redevelopment Law; and

WHEREAS, the Borough Council adopted ordinances approving and adopting a redevelopment plan for the Redevelopment Area, as amended, (the “**Redevelopment Plan**”); and

WHEREAS, the Borough Council serves as the redevelopment entity for the Borough pursuant to the provisions of the Redevelopment Law for the purposes of implementing redevelopment plans and carrying out redevelopment projects within the Borough; and

WHEREAS, 810 12th Avenue, LLC, (the “**Redeveloper**”) owns a portion of the Redevelopment Area identified as Block 117, Lot 14 on the Borough’s official tax map and located at 810 12th Avenue, Belmar, New Jersey and described in that certain metes and bounds description attached hereto as **Exhibit A** (the “**Project Area**”); and

WHEREAS, on November 28, 2023, the Mayor and Borough Council adopted a resolution (i) designating the Redeveloper, as the conditional redeveloper of the Project Area for a period of one hundred twenty (120) days pending the negotiation and execution of a redevelopment agreement with the Borough; and (ii) authorizing the execution of an interim costs agreement with Redeveloper to reimburse the Borough for any and all costs incurred by the Borough related to the redevelopment of the Project Area prior to the execution of a redevelopment agreement; and

WHEREAS, Redeveloper seeks to be designated as the "redeveloper" (as defined in the Redevelopment Law) of the Project Area so as to redevelop the Project Area by demolishing the existing structures thereon and constructing one structure containing three (3) residential townhouse units, with on-site parking and any required infrastructure improvements all in accordance with the Redevelopment Plan (the “**Project**”); and

WHEREAS, the Borough has determined that the Redeveloper meets all necessary criteria, including financial capabilities, experience and expertise, and, as a result, has determined to designate the Redeveloper as the redeveloper for the Project Area and to enter into an agreement (the “**Redevelopment Agreement**”), which specifies terms of the redevelopment of the Project Area and the rights and responsibilities of the Borough and the Redeveloper with respect to the Project.

NOW THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Belmar, in the County of Monmouth, New Jersey, as follows:

Section 1. The foregoing recitals are hereby incorporated by reference as if fully set forth herein.

Section 2. The Redeveloper is hereby designated as redeveloper of the Project Area, pursuant to the Redevelopment Law, for purposes of carrying out the Project, in accordance with the Redevelopment Plan and the terms of the Redevelopment Agreement.

Section 3. The Mayor of the Borough is hereby authorized and directed to execute the Redevelopment Agreement, in the form attached hereto as **Exhibit B** with such changes, omissions or amendments as the Mayor deems appropriate in consultation with the Borough's redevelopment counsel and other professionals. The Clerk of the Borough is hereby authorized and directed to attest to the Mayor's signature and affix the seal of the Borough to the Redevelopment Agreement. Upon execution and attestation of same, the Mayor is hereby authorized to deliver the Redevelopment Agreement to the other parties thereto.

Section 4. This resolution shall take effect immediately.

offered the above resolution and moved its adoption. Seconded by and adopted by the following vote on roll call:

Council Members:	AYES	NAYS	ABSTAIN	ABSENT
Mayor Buccafusco				
Councilwoman Rondinaro				
Councilwoman Kinney				
Councilwoman Donovan				
Councilman Levis				

I, APRIL CLAUDIO, CLERK OF THE BOROUGH OF BELMAR, Monmouth County, and
the
State of New Jersey do hereby Certify that the foregoing Resolution is a true copy of the Original Resolution duly passed and adopted by a majority of the full membership of the Governing Body at its meeting of April 30, 2024.

APRIL CLAUDIO,
RMC/CMC
MUNICIPAL
CLERK

EXHIBIT A

Project Area

EXHIBIT B

Form of Redevelopment Agreement

Old Republic National Title Insurance Company

400 Second Avenue South, Minneapolis, Minnesota 55401

Issuing Agent

First Jersey Title Services, Inc.

P.O. Box 2525 (25-00 Broadway) Fair Lawn, NJ 07410

201-791-4200 Fax: 201-791-9050

www.firstjerseytitle.com

File No: 092800

SCHEDULE A
Legal Description

All that certain lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the **Borough of Belmar**, County of **Monmouth**, State of New Jersey.

BEGINNING at a point in the northerly line of Twelfth Avenue at the distance of 383 feet westwardly from the easterly line of land of New Egypt and Farmingdale Railroad Company now in use as their road bed and extending thence

1. North 64°00' West 50 feet to a point, thence
2. North 26°00' East 145 feet to a point, thence
3. South 64°00' East 50 feet to a point, thence
4. South 26°00' West 145 feet to the point and place of **BEGINNING**.

SAID premises are more particularly described in accordance with a survey made by William J. Fiore, P.L.S. dated September 25, 2017 as follows:

BEGINNING at an iron pin found in the Northerly line of Twelfth Avenue (74.4 feet) said iron pin being distant 273.00 feet Westerly from the corner formed by the intersection of the Northerly line of Twelfth Avenue and the Westerly line of Railroad Avenue running; thence

1. Along the Northeasterly line of Twelfth Avenue North 64°00'00" West 50.00 feet to a rebar found; thence
2. North 26°00'00" East 145.00 feet to a point; thence
3. South 64°00'00" East 50.00 feet to a point; thence
4. South 26°00'00" West 145.00 feet to the point or place of **BEGINNING**.

Commonly known as:

810 Twelfth Avenue
Belmar, New Jersey

IN COMPLIANCE with Chapter 157, Laws of 1977, premises herein are **Block 117 Lot 14**, on the tax map of the above municipality.

REDEVELOPMENT AGREEMENT
BY AND BETWEEN
BOROUGH OF BELMAR, NEW JERSEY
AND
810 12TH AVENUE, LLC

THIS REDEVELOPMENT AGREEMENT (the “**Redevelopment Agreement**”), dated as of _____, 2024 (the “**Effective Date**”), by and between:

THE BOROUGH OF BELMAR, a municipal corporation of the State of New Jersey with offices at 601 Main Street, Belmar, New Jersey 07719 (the “**Borough**”), 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.* as amended and supplemented (the “**Redevelopment Law**”),

and

810 12th Avenue, LLC, a limited liability company formed under the laws of the State of New Jersey with offices at 204 13th Avenue, Belmar, New Jersey 07719 (the “**Redeveloper**”, each of the Borough and the Redeveloper hereinafter a “**Party**”, and together, the “**Parties**”).

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

WHEREAS, the Borough is a political subdivision of the State of New Jersey (the “**State**”), located in the County of Monmouth (the “**County**”); and

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

WHEREAS, the Borough Council (the “**Borough Council**”) of the Borough adopted resolutions which designated properties including the area known as Parcels 1 thru 6, 6B, 7 thru 9, and 11 thru 19 (the “**Original Redevelopment Area**”) as an area in need of redevelopment pursuant to the Redevelopment Law; and

WHEREAS, the Borough Council adopted a resolution which designated the area known as Parcel 20 (the “**Rehabilitation Area**”, and collectively with the Original Redevelopment Area the “**Original Seaport Redevelopment Area**”) as an area in need of rehabilitation pursuant to the Redevelopment Law; and

WHEREAS, on July 20, 2016, Borough Council adopted Resolution No. 2016-129 expanding the Original Seaport Redevelopment Area (the “**Redevelopment Area**”) pursuant to the criteria set forth in the Redevelopment Law; and

WHEREAS, the Borough Council adopted ordinances approving and adopting a redevelopment plan for the Redevelopment Area entitled “Seaport Redevelopment Program Borough of Belmar, New Jersey, Redevelopment Plan”, as amended, (the “**Redevelopment Plan**”); and

WHEREAS, the Redeveloper owns a property within the Redevelopment Area identified as Block 117, Lot 14 on the Borough’s official tax map and located at 810 12th Avenue, Belmar,

New Jersey and described in that certain metes and bounds description attached hereto as **Exhibit A** (the “**Project Site**”); and

WHEREAS, the Redeveloper proposes to redevelop the Project Site by demolishing the existing structures thereon and constructing one structure containing three (3) residential townhouse units, with on-site parking and any required infrastructure improvements; all in accordance with the Redevelopment Plan (the “**Project**”, as more specifically depicted in **Exhibit B**); and

WHEREAS, the Redeveloper is a limited liability company with resources and a team of experts in planning, redevelopment, law, engineering, environmental issues, architecture, design, finance, and real estate development necessary to effectuate the redevelopment of the Project Site in accordance with this Redevelopment Agreement, Redevelopment Plan and all other Applicable Laws, ordinances and regulations; and

WHEREAS, in order to effectuate the Redevelopment Plan, the Project and the redevelopment of the Project Site, the Borough has determined to enter into this Redevelopment Agreement with the Redeveloper, which Redevelopment Agreement designates Redeveloper as the “redeveloper” of the Project Site in accordance with the Redevelopment Law, and which specifies the respective rights and responsibilities of the Parties with respect to the Project; and

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

**ARTICLE I
DEFINITIONS AND INTERPRETATIONS**

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

“**Affiliate**” means with respect to any Person, any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with such Person. 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 such Person, whether through the ownership of voting securities or by contract or otherwise.

“**Applicable Laws**” 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, the Project Site, the Project, or any portion thereof, the performance by the Parties of their respective obligations or the exercise by the Parties of their respective rights under this Redevelopment Agreement, including without limitation, the Redevelopment Plan, the Redevelopment Law, the Municipal Land Use Law, the Local Land and Buildings Law, *N.J.S.A. 40A:12-1 et seq.*, Environmental Laws, the Borough’s development fee ordinance, relevant construction codes including construction codes governing access for people with disabilities, and all other applicable federal, state or local zoning, land use, health and safety laws, ordinances, rules and regulations, and federal and state labor standards or regulations, if any, including but not limited to the Prevailing Wage Law.

“**Borough**” means the Borough of Belmar, a municipal corporation of the State of New Jersey.

“**Borough Costs**” is defined in Section 3.03.

“**Borough Council**” means the governing body of the Borough.

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

“**Borough Indemnified Parties**” means the Borough and its officers, elected officials, Affiliates, agents, employees, contractors, boards, departments, officials and consultants and their respective successors and assigns.

“**Business Day**” means any day of the week except Saturdays, Sundays and federal holidays.

“**Certificate of Completion**” means one or more certificates issued by the Borough upon Completion of the Project, or any Unit within the Project, pursuant to Section 4.07 hereof in the

form attached as **Exhibit E**, it being expressly acknowledged by the Borough that the issuance of a Certificate of Occupancy for any Unit within the Project shall be conclusive determination that such Unit has been completed in accordance with the terms of this Redevelopment Agreement and Applicable Laws and that such Unit is released from all obligations, liabilities and covenants hereunder, as if a separate Certificate of Completion had been issued for such Unit.

“**Certificate of Occupancy**” means a temporary or permanent certificate of occupancy as defined in the applicable section of the municipal code of the Borough and the applicable provisions of the Uniform Construction Code, issued with respect to the Project, or any Unit within the Project.

“**Commence[ment of] Construction**” means the undertaking of any actual physical construction of any portion of the Project, including but not limited to site preparation, environmental remediation, construction of new structures or construction or upgrading of infrastructure.

“**Comple[t]e, [ed] or [ion]**” means with respect to the Project, or any portion thereof, including any Unit, that (a) all work related to the Project, or a portion thereof, including any Unit, has been completed, acquired and/or installed in accordance with this Redevelopment Agreement, the Redevelopment Plan and any amendments thereto, and in compliance with Applicable Laws so that the Project, or any portion thereof that has been completed, including any Unit, may be used and operated under the applicable provisions of this Redevelopment Agreement (b) all Governmental Approvals required for the Project are in full force and effect, and (c) such “Completion” has been evidenced by a written notice provided by the Redeveloper (with respect to the Project, or any portion thereof, including any Unit) in the form of **Exhibit 1** to the form of Certificate of Completion attached hereto as **Exhibit E**.

“**Completion Date**” means the date that the final Certificate of Completion for the Project is issued.

“**Concept Plan**” means the concept plan and architectural design requirements for the development of the Project, attached hereto as **Exhibit B**, as may be revised with the Borough’s consent.

“**Contamination**” means the presence of Hazardous Substances in, on, under, over, or emanating from any property in violation of applicable Environmental Laws.

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

“**County**” is defined in the Recitals.

“**Declaration**” is defined in Section 8.06 hereof and the form of which is attached hereto as **Exhibit D**.

“**Default Notice**” means such notice to a defaulting Party as defined in Section 11.02.

“Effective Date” is defined in the Preamble.

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

“Environmental Laws” mean any applicable federal, state, local, municipal or other statutes, laws, ordinances, rules, regulations or other legally enforceable requirement, whether presently existing or hereinafter enacted, promulgated or otherwise created for the protection of the environment or human health from Hazardous Substances, as the same may be amended or supplemented from time to time, including, without limitation, (a) the New Jersey Spill Compensation and Control Act, as amended, *N.J.S.A. 58:10-23.11, et seq.* (the “Spill Act”); (b) the New Jersey Industrial Site Recovery Act, as amended, *N.J.S.A. 13:1K-6, et seq.* (“ISRA”); (c) the New Jersey Underground Storage of Hazardous Substances Act, as amended, *N.J.S.A. 58:10A-21, et seq.*; (d) the New Jersey Site Remediation Reform Act, *N.J.S.A. 58:10C-1, et seq.*; (e) the Comprehensive Environmental Response, Compensation & Liability Act, as amended, 42 *U.S.C. Section 9601, et seq.* (“CERCLA”); (f) the Resource Conservation and Recovery Act, as amended, 42 *U.S.C. Section 6901, et seq.* (“RCRA”); (g) the Hazardous Material Transportation Act, as amended, 49 *U.S.C. Section 180, et seq.*; (h) the Occupational Safety and Health Act, as amended, 29 *U.S.C. Section 651, et seq.*; (i) the New Jersey Solid Waste Management Act, as amended, *N.J.S.A. 13:1E-1, et seq.* (“SWMA”); (j) the Brownfield and Contaminated Site Remediation Act, *N.J.S.A. 58:10B-1, et seq.*; (k) the Administrative Requirements for the Remediation of Contaminated Sites, *N.J.A.C. 7:26C, et seq.*; (l) the NJDEP Remediation Standards, *N.J.A.C. 7:26D, et seq.*; or (m) the Technical Requirements for Site Remediation, *N.J.A.C. 7:26E, et seq.*

“Escrow Account” is defined in Section 3.03.

“Escrow Deposit” is defined in Section 3.03

“Estoppel Certificate” is defined in Section 4.19.

“Event of Default” is defined in Section 11.01.

“Final Site Plan” is defined in Section 7.01.

“Final Site Plan Approval” is defined in Section 7.01.

“Force Majeure Event” means causes that are beyond the reasonable control and not substantially due to the fault or negligence of the Party seeking to excuse delay or failure of performance of an obligation hereunder by reason thereof, including, but not limited to, third-party litigation that enjoins implementation of the Project; declarations of public emergency; acts of nature (as to weather-related events, limited to severe and unusual events or natural occurrences such as hurricanes, tornadoes, earthquakes, and floods); acts of the public enemy; acts of terrorism; acts of war (whether or not declared); fire; epidemics; quarantine restrictions; blackouts, power failures, or energy shortages; and governmental embargoes; strikes or similar

labor action by equipment or material suppliers or transporters, or unavailability of necessary building materials (*provided* that Redeveloper has no commercially reasonable alternatives to avoid the impact thereof on the progress of the Project).

“Foreclosure” is defined in Section 3.08(b).

“Governmental Approvals” mean any approvals, authorizations, permits, licenses and certificates needed from governmental authorities having jurisdiction thereof, whether federal, State, county or local, to the extent necessary to implement the Project in accordance with the Redevelopment Plan and this Redevelopment Agreement.

“Governmental Authority” means the federal government, the State, any state or other political subdivision thereof, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and any other governmental entity with authority or jurisdiction over any part of the permitting, Remediation, construction or operation of the Project or the Project Site, or pursuant to Environmental Laws including without limitation, the Planning Board and the NJDEP.

“Hazardous Substance” means any substance, material or waste (whether liquid, gaseous or solid) and any pollutant, irritant or contaminant that is: (i) infectious, toxic, hazardous, explosive, corrosive, flammable or radioactive; or (ii) regulated under, or defined, listed or referred to or included in any Environmental Laws; including without limitation, CCPW, extractable petroleum hydrocarbons (“EPHs”), petroleum products and petroleum based derivatives, polychlorinated biphenyls (“PCBs”), asbestos and asbestos containing materials, urea formaldehyde, and contaminated historic fill material (as defined in *N.J.A.C. 7:26E-1.8*). Where an Environmental Law defines any of these terms more broadly than another, the broader definition shall apply.

“Holder(s)” is defined in Section 3.06.

“Impositions” All taxes, payments in lieu of taxes, assessments (including, without limitation, all assessments for public improvements or benefits), water, sewer or other rents, rates and charges, license fees, permit fees, inspection fees and other authorization fees and charges, in each case, whether general or special, which are levied upon any portion of the Project Site or on any of the Project Improvements constructed thereon.

“Infrastructure Improvements” shall mean the preparation and installation on, in, under and to the Project Site of any on-site or off-site infrastructure required by the Planning Board as a condition of land use approvals.

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

“Interim Costs Agreement” is defined in Section 3.03(c).

“**ISRA**” means the Industrial Site Recovery Act, as amended (*N.J.S.A. 13:1K-6 et seq.*).

“**Mortgage**” means any security interest, evidenced by a written instrument, encumbering the Project Site, or any portion thereof, that secures the performance of obligations or the payment of debt, including, without limitation, any grant of, pledge of, or security interest in, any collateral, or any grant, directly or indirectly, of any deed of trust, mortgage or similar instrument or any other security whatsoever.

“**Mortgagee**” shall mean the holder of any Mortgage and any Affiliate(s) of such holder, including entities affiliated with such holder that own or exercise control over real property.

“**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.

“**Party**” or “**Parties**” is defined in the Preamble.

“**Permitted Transfers**” is defined in Section 9.03.

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

“**Planning Board**” means the Planning Board of the Borough of Belmar.

“**Progress Meetings**” is defined in Section 6.01.

“**Progress Report**” is defined in Section 6.02.

“**Project**” is defined in the Recitals.

“**Project Costs**” means the costs of designing, permitting and constructing the Project.

“**Project Improvements**” mean those buildings, structures, parking, amenities, ancillary facilities or utilities necessitated or reasonably required by the implementation of the Project, including those reasonably required by the Planning Board, which are located inside or outside of the Project Site, including but not limited to all facilities, amenities, on and off-street parking, streetscape improvements, landscaping, fencing, enhancements or improvements required to be made in accordance with the Redevelopment Plan or the terms of Final Site Plan approval to: roadways, to permit or control the flow of traffic; electric power transmission lines; sewer transmission conduits or pipes; water lines or pipes; storm sewers; telephone transmission lines; television cable lines and other utilities.

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

“**Project Site**” is defined in the Recitals.

“**Project Team**” is defined in Section 8.03(b).

“**Redeveloper**” is defined in the Preamble.

“**Redeveloper Covenants**” is defined in Section 8.05.

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

“**Redevelopment Agreement**” or “**Agreement**” means this agreement.

“**Redevelopment Area**” is defined in the Recitals.

“**Redevelopment Law**” is defined in the Preamble.

“**Redevelopment Plan**” is defined in the Recitals.

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

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

“**State**” is defined in the Recitals.

“**Term**” means that period of time from the Effective Date of this Redevelopment Agreement until the earlier of (i) the Borough’s issuance of a Certificate of Completion for the Project or (ii) this Redevelopment Agreement is terminated in accordance with the terms of this Agreement or pursuant to Applicable Law.

“**Third Party**” means a Person or entity, including but not limited to a governmental entity, other than (a) the Borough; (b) any agent, employee, agency, board, elected official or representative of the Borough; (c) Redeveloper; (d) any member, shareholder, partner, officer, representative, employee or agent of Redeveloper; or (e) any entity owned or controlled by, under common control with, or that owns or controls, Redeveloper or any member, shareholder or partner of Redeveloper.

“**Transfer**” is defined in Section 9.02.

“**Uniform Construction Code**” means the Uniform Construction Code, *N.J.A.C. 5:23-1.1 et seq.*, as same may be amended from time to time.

“**Unit**” means any residential housing unit within the Project.

“**United States Bankruptcy Code**” means the United States Bankruptcy Code, 11

U.S.C. 101 et seq., and the accompanying regulations.

“**Utilities**” means municipal water, sanitary sewer and storm water facilities and natural gas, electricity, and voice and data transmission facilities.

SECTION 1.02. Interpretation and Construction. In this Redevelopment Agreement, unless the context otherwise requires:

(a) The terms "hereby", "hereof", "hereto", "herein", "hereunder" and any similar terms, as used in this Redevelopment Agreement, refer to this Redevelopment Agreement, and the term "hereafter" means after, and the term "heretofore" means before the date of delivery of this Redevelopment Agreement.

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

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

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

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

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

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

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

[END OF ARTICLE I]

ARTICLE II
THE REDEVELOPMENT PROJECT

SECTION 2.01. Purpose. The purpose of this Redevelopment Agreement is to set forth the respective rights, obligations, conditions and agreements of the Borough and Redeveloper in connection with the development of the Project Site by the Redeveloper.

SECTION 2.02. Designation of Redeveloper. The Borough hereby designates Redeveloper as the exclusive redeveloper of the Project Site in accordance with the Redevelopment Law. The Redeveloper shall have the exclusive right to redevelop and implement the Project on the Project Site in accordance with the terms and conditions of this Redevelopment Agreement.

SECTION 2.03. The Project. The Project shall be designed and constructed in accordance and conformance with the Concept Plan, the Redevelopment Plan, this Redevelopment Agreement, all Governmental Approvals and Applicable Law.

SECTION 2.04. Infrastructure Improvements.

(a) Redeveloper acknowledges that Infrastructure Improvements will be required in connection with the Project and agrees that it is its sole responsibility to undertake the construction thereof, subject to the terms hereof. Redeveloper will design and construct the Infrastructure Improvements in a good and workmanlike manner and materially in accordance with all Applicable Laws. Redeveloper acknowledges the presence of certain existing utility structures, including but not limited to, electric power transmission lines, sewer transmission conduits or pipes, water lines or pipes, storm sewers, telephone transmission lines, television cable lines and other utilities, and agrees to undertake the appropriate measures to negotiate with, acquire, relocate or otherwise address the existence of these utilities and easements therefor, in order to complete the Project as provided by this Redevelopment Agreement. Redeveloper shall also be responsible for providing, at Redeveloper's sole cost and expense, all sidewalks, curbs, streetscape improvements, ornamental street lights, street trees, brick paver sidewalks, brick paver crosswalks, bicycle racks, trash receptacles and benches, street lighting, and on- and off-site traffic controls and road improvements, for the Project or required as a result of the impacts of the Project, all to the extent required pursuant to the Final Site Plan Approval. Final Site Plan Approval may be conditioned upon other on-site and off-site improvements specific to the Project, consistent with the authority of the Planning Board and consistent with the Municipal Land Use Law. Redeveloper agrees to provide performance and maintenance bonds as required by the Planning Board, consistent with the authority of the Planning Board under the Municipal Land Use Law. The Borough makes no representation that the necessary infrastructure to support the Project exists at the Project Site; any infrastructure needed for the Project is to be constructed at Redeveloper's sole cost and expense.

(b) All Infrastructure Improvements shall be completed: (i) prior to the issuance of the first Certificate of Occupancy for the Project; or (ii) at such later time as may be approved by the Borough Engineer, in their reasonable discretion.

SECTION 2.05. Energy Efficient Components. The Redeveloper shall use commercially reasonable efforts to incorporate energy efficient design components and building materials throughout the Project in accordance with the U.S. Green Building Council guidelines.

SECTION 2.06. Charging Stations. There shall be electric car charging stations on the Project Site in accordance with Applicable Law.

ARTICLE III
PROJECT FINANCING AND MORTGAGE FINANCING

SECTION 3.01. The Redeveloper's Financial Commitment. Redeveloper represents that it will use commercially reasonable efforts to obtain and commit the requisite equity and debt financing in order to finance the Project.

SECTION 3.02. Project Costs. All costs of implementing this Redevelopment Agreement and completing the Project, including Borough Costs as specified in Section 3.03 hereof, are the sole responsibility of the Redeveloper, not the Borough.

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

(a) Redeveloper shall establish with the Borough a non-interest bearing escrow account (the "**Escrow Account**") having an initial balance of Fifteen Thousand Dollars (\$15,000.00) (the "**Escrow Deposit**") to reimburse the Borough for (i) all reasonable outside professional and consultant fees, out of pocket costs or expenses incurred by the Borough 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 Project, 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 Project; and (iii) any other out of pocket fee, cost or expense reasonably incurred by the Borough, after the date of this Redevelopment Agreement, to satisfy its obligations under this Redevelopment Agreement or in furtherance of the 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 "**Borough 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 Ten Thousand Dollars (\$10,000.00). Funds in the Escrow Account will be applied to the payment or reimbursement of the Borough 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. As of the Completion Date, as evidenced by the issuance of the final 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 final Certificate of Completion or the termination of this Redevelopment Agreement and the terms of this Section 3.03 shall survive the issuance of the final Certificate of Completion or termination of this Redevelopment Agreement for such sixty (60) day period. 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 one hundred eighty (180) days after the termination of this Redevelopment Agreement and the terms of this Section 3.03 shall survive the termination of this Redevelopment Agreement for such one hundred eighty day period. Notwithstanding

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

(c) The Parties make reference to the escrow payment of Fifteen Thousand Dollars (\$15,000.00) made pursuant to the Interim Costs Agreement executed by the Parties on July 13, 2023 (the “**Interim Costs Agreement**”) which established an escrow account to pay certain costs of the Borough prior to the date of this Redevelopment Agreement and a \$2,000 escrow payment submitted to the Borough for the review of the concept plan by the Borough professionals. To the extent there is any balance in either 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 Borough Costs paid out of the Escrow Account by written Notice to the Borough. 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 Borough 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 Borough 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. Governmental Approval Fees. The Redeveloper will pay all fees for permits required by any Governmental Authority for the construction and development of the Project. The Redeveloper shall pay all other permit fees, which include any permit fees payable by the Borough or the Redeveloper to all required Governmental Authorities other than the Borough, or for which the Borough is required to reimburse other Governmental Authorities or is required to pay other third party contractors retained by or on behalf of the Borough to perform services that the Borough would otherwise be required to perform itself.

SECTION 3.05. Project Financing. The Redeveloper shall obtain and provide the Borough with written evidence of financing, including conventional financing, sufficient equity

capital and other funding sources necessary to fund the Project budget as further required by this Article III.

SECTION 3.06. Mortgage Financing. (a) Neither the Redeveloper nor any successor in interest to the Project, or any part thereof, shall engage in any financing or any other transaction creating any mortgage or other encumbrance or lien upon the Project, whether by express agreement or operation of law, or suffer any encumbrance or lien (other than liens for governmental Impositions) to be made or attach to the Project, in excess of ninety percent (90%) of Project Costs, except as may be approved by the Borough (which approval shall not be unreasonably withheld, conditioned or delayed) for the purpose of obtaining funds in connection with the construction of the Project; provided, however, that upon the issuance of a Certificate of Completion for the Project, or any portion thereof, such prohibition shall no longer apply with respect to the corresponding parcel of land and improvements. The Redeveloper, or its successor in interest, shall notify the Borough in advance of any such financing secured by a mortgage or other lien instrument which it proposes to enter into with respect to the Project, or any part thereof (the mortgagee thereunder, a “**Holder**”) and, in any event, the Redeveloper shall promptly notify the Borough of any encumbrance or lien (other than liens for governmental Impositions) that has been created on or attached to any portion of the Project, whether by voluntary act of the Redeveloper or otherwise, upon obtaining knowledge or notice of same.

(b) If the Holder reasonably requires any change(s) or modification(s) to the terms of this Redevelopment Agreement, the Borough 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 Borough, as provided in this Redevelopment Agreement.

(c) To the extent reasonably requested by the Redeveloper, the Borough shall execute such other agreements and/or documents (to the extent same are in form and content reasonably acceptable to the Borough) 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, liabilities or obligations of the Redeveloper or the Borough under this Redevelopment Agreement.

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

(e) If this Redevelopment Agreement is terminated pursuant to the terms of this Section 3.06 then, except as expressly set forth herein to the contrary and upon full payment of all Borough Costs accruing until the date of such termination, this Redevelopment Agreement (including, without limitation, all the covenants contained herein) shall be of no further force and effect and the Parties hereto shall have no further rights, liabilities and/or obligations hereunder.

SECTION 3.07. Notice of Default to the Redeveloper and Right to Cure. (a)

Whenever the Borough shall deliver any notice or demand to the Redeveloper with respect to any breach or default by the Redeveloper under this Redevelopment Agreement, the Borough shall at the same time deliver to each Holder a copy of such notice or demand; provided that the Redeveloper has delivered to the Borough a written notice of the name and address of such Holder. Each such Holder shall (insofar as the rights of the Borough are concerned) have the right at its option within sixty (60) days after the receipt of such notice (and the expiration of all applicable cure periods), to cure or remedy, or to commence to cure or remedy, any such default which is subject to being cured and to add the cost thereof to the debt and the lien which it holds. The Borough shall not seek to enforce any of its remedies under this Redevelopment Agreement during the period in which any such Holder is proceeding diligently and in good faith to cure a Redeveloper Event of Default. If possession of the Project Site is necessary to cure any default or breach, any Holder will be allowed to complete any proceedings required to obtain possession of the Project Site.

SECTION 3.08. No Guarantee of Construction or Completion by Holder. (a) A

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

(b) If a Holder forecloses its mortgage secured by the Redeveloper's interest in the Project Site (in its name or the name of an Affiliate) by deed in lieu of foreclosure or similar transaction (collectively, a "**Foreclosure**"), the Holder or its Affiliate shall have the option to either (i) assign the Redeveloper's interest in the Project Site, as applicable, to a responsible Person reasonably acceptable to the Borough, which Person shall assume the obligations of the Redeveloper under this Redevelopment Agreement in accordance with Applicable Law, and/or (ii) itself, or its Affiliate, assume the obligations of the Redeveloper under this Redevelopment Agreement in accordance with Applicable Law. In the event of a Foreclosure and provided the Holder or the assignee of the Redeveloper's interest in the Project Site is in compliance with this Redevelopment Agreement, the Borough shall not seek to enforce against the Holder or assignee of the Redeveloper's interest in the Project Site any of the remedies available to the Borough 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 interest affected by such Foreclosure or assignment, in that event must agree to complete the Project in accordance with the terms of this Redevelopment Agreement, but subject to reasonable extensions of the Project Schedule, and shall submit evidence reasonably satisfactory to the Borough 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 Project shall be entitled, upon written request made to the Borough, 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 Site, or any part thereof, to any uses, or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Redevelopment Agreement and the Redevelopment Plan. The Holder or such other entity that assumes the obligations of the Redeveloper shall be entitled to develop the Project Site or Project in accordance herewith.

[END OF ARTICLE III]

**ARTICLE IV
CONSTRUCTION OF PROJECT**

SECTION 4.01. The Project. The Project shall be constructed by the Redeveloper in accordance with this Redevelopment Agreement, the Final Site Plan, Redevelopment Plan, all Governmental Approvals and Applicable Laws unless otherwise agreed to in writing by the Borough in its sole and absolute discretion. Construction practices and hours shall be in accordance with Borough Ordinances, which are available at the Borough Building Department or through the Borough Clerk.

SECTION 4.02. Scope of Undertaking. Except as expressly provided, herein, the services and responsibilities undertaken by the Redeveloper hereunder include all aspects of the design, development, and construction of the Project, including without limitation, all design, engineering, permitting and administrative aspects, the performance of or contracting for and administration and supervision of all physical work required in connection with the Project, arrangement for interim and final inspections and any other actions required to satisfy the requirements of any applicable Governmental Approvals, the administration, operation and management, or contracting for the administration, operation and management of the Project and all aspects of the funding of the Project, including equity funding and construction, interim and permanent financing, all at the sole cost and liability of the Redeveloper.

SECTION 4.03. The Project Schedule. Redeveloper will diligently implement and Complete the Project in accordance with the Project Schedule, subject to the terms of this Redevelopment Agreement and subject only to relief resulting from events of Force Majeure. The Parties agree and acknowledge that adherence to the Project Schedule is of the essence in this Redevelopment Agreement. Notwithstanding the Project Schedule, Redeveloper may attempt to implement each task whenever possible earlier than the dates set forth for such tasks in the Project Schedule.

SECTION 4.04. Commencement of Redevelopment Project. Redeveloper agrees that Commencement of Construction shall occur in accordance with the Project Schedule and shall progress in accordance with the time frames set forth in the Project Schedule. After Commencement of Construction, Redeveloper will thereafter diligently and continuously prosecute construction of the Project to completion in accordance with the Project Schedule.

SECTION 4.05. Modification of Project Schedule. In the event that the Redeveloper is unable, for reasonable cause, to comply with any time frame set forth on the Project Schedule, the Redeveloper shall provide written notice to the Borough at least thirty (30) days prior to such date (or such lesser period of time as the circumstances may require), setting forth in reasonable detail (a) the reason for the failure to satisfy the required tasks necessary to comply with the Project Schedule, (b) the Redeveloper's proposed actions to remedy any delay, and (c) the Redeveloper's proposal for revising the Project Schedule. In such event the Project Schedule shall be modified accordingly, subject to the Borough's consent, which shall not be unreasonably withheld, conditioned or delayed. The Borough's approval of any such extension shall not limit in any manner the rights of the Borough or diminish the obligations of the Redeveloper with respect to the Project under this Redevelopment Agreement.

SECTION 4.06. Suspension of Construction. Redeveloper shall not suspend or discontinue the performance of its obligations under this Redevelopment Agreement (other than in the manner provided for herein) for any reason, including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, commercial frustration of purpose, or any damage to or destruction of the Project, except for the occurrence of an event of Force Majeure, as set forth in Section 11.07.

If Redeveloper shall abandon or substantially suspend construction activities on the Project for a period in excess of one hundred twenty (120) consecutive days for reasons other than an event of Force Majeure, and the suspension or abandonment is not cured, remedied or explained to the satisfaction of the Borough, in its sole discretion, in writing within fifteen (15) calendar days after written demand by the Borough to do so, then such shall constitute an Event of Default by Redeveloper under this Redevelopment Agreement and the Borough shall have the right to seek any remedies pursuant of this Redevelopment Agreement.

SECTION 4.07. Certificates of Occupancy and Certificate of Completion.

(a) Certificate of Occupancy. Upon completion of any individual Unit, Redeveloper may submit any application for Certificate of Occupancy for individual Units and that the issuance of a Certificate of Occupancy for any Unit will not be delayed, suspended, conditioned or otherwise adversely impacted by the incomplete construction of any other Project Improvements or the fact that a Certificate of Completion has not been issued or applied for. As noted herein, the issuance of a Certificate of Occupancy for any completed Unit shall be conclusive determination that such Unit has been completed in accordance with the terms of this Redevelopment Agreement and Applicable Laws and that such Unit is released from all obligations, liabilities and covenants hereunder, as if a separate Certificate of Completion had been issued for such individual Unit..

(b) Certificate of Completion. Upon Completion of the Project, or any Unit within the Project, for purposes of releasing the restrictions referenced in this Redevelopment Agreement, and under the Applicable Law, the Borough shall issue a Certificate of Completion in proper form for recording, which shall acknowledge that Redeveloper has performed all of its duties and obligations under this Redevelopment Agreement as to the Project, or portion thereof, including any Unit, as the case may be, and has Completed construction of the Project, or any Unit thereof, in accordance with the requirements of the Applicable Law, the Redevelopment Plan and this Redevelopment Agreement. The Certificate of Completion shall constitute a recordable conclusive determination of the satisfaction and termination of the restrictions, obligations and covenants contained in this Redevelopment Agreement and in the Redevelopment Plan with respect to Redeveloper's construction of the Project, or any Unit thereof. Upon issuance of a Certificate of Completion the agreements, restrictions, and covenants set forth in Article VIII shall cease and terminate in connection with the individual Unit, except for those covenants and restrictions set forth in Article VIII which shall survive in accordance with the terms of Article VIII for the Project. If the Borough shall fail or refuse to provide the Certificate of Completion within thirty (30) days after written request by

Redeveloper, the Borough shall provide to Redeveloper a written statement setting forth in detail the respects in which it believes that Redeveloper has failed to Complete the Project, or portion thereof, including any Unit, in accordance with the provisions of this Redevelopment Agreement or otherwise has committed an Event of Default under this or any other applicable agreement and what reasonable measures or acts shall be necessary in order for Redeveloper to be entitled to a Certificate of Completion. Upon receipt of the Certificate of Completion, Redeveloper may record it in the Monmouth County Clerk's office.

SECTION 4.08. Nondiscrimination During Construction; Equal Opportunity. The Redeveloper for itself and its successors and assigns agrees that in the construction of the 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, sexual orientation 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, sexual orientation, 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, sexual orientation 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 4.09. First Source Employment. Redeveloper shall make good faith efforts, and shall provide in its contracts with its contractors and subcontractors that they must make good faith efforts, to employ Borough residents and patronize Borough businesses if possible in the implementation and construction of the Project, on economically competitive terms and consistent with the Project budget. Redeveloper shall notify local residents of the pendency of the Project by way of advertisements or articles in local publications, which shall contain contact information in the event any local residents or businesses wish to apply or bid for work connected to the Project.

SECTION 4.10. Preconstruction Meeting. There shall be a preconstruction meeting held at least seven (7) days prior to the Commencement of Construction, which meeting shall include the Borough Construction Official, the Borough Engineer, a representative from the Borough Police Department, a representative from the Borough Fire Department and representatives from the various utility companies.

SECTION 4.11. The Project Site. The Borough acknowledges that for safety reasons, the sidewalks adjacent to the Project Site may need to be closed from time to time during construction of the Project. Notwithstanding the foregoing, Redeveloper will provide appropriate signage and crosswalks to ensure the continued flow of pedestrian traffic. Redeveloper shall supply to the Borough Building Department plans and specifications providing for pedestrian safety at and across the Project Site as applicable. The Redeveloper shall keep the sidewalks abutting the Project Site clean and free of debris, ice and snow during the construction of the Project.

SECTION 4.12. Project Site Parking. The Redeveloper shall make arrangements with the Borough Construction Official and the Borough Police Department for off-street parking for construction vehicles and construction worker's vehicles, if such vehicles cannot be parked on the Project Site itself. The Borough agrees to place from time to time temporary "emergency, no parking" signs on the adjacent street as reasonably requested by Redeveloper to accommodate Redeveloper's construction activities.

SECTION 4.13. Maintenance of Project Site. Following commencement of physical construction of the Project, the Redeveloper will maintain all areas of the Project Site including the buildings, parking areas, landscaping, streetscaping, sidewalks, trash collection and receptacles. The Project Site will be cleaned on a regular basis by Redeveloper; provided, however, that Redeveloper agrees to clean up the Project Site within twenty-four (24) hours of a specific, reasonable request by the Borough that Redeveloper do so or the close of the following Business Day, whichever is later. Ordinary construction equipment, materials and debris are allowed on the Project Site during construction. Should Redeveloper fail to comply with this obligation, the Borough will undertake street cleaning and charge Redeveloper for the costs of same. The Redeveloper shall repair, at Redeveloper's cost, any damage to the streets or sidewalks caused by Redeveloper during the construction of the Project.

SECTION 4.14. Relocation of Utilities. The Redeveloper acknowledges that providers of Utilities may have certain rights with respect to the Project Site 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 therefore, in order to complete construction of the Project, as provided by this Redevelopment Agreement. To the extent reasonably requested by the Redeveloper, the Borough shall cooperate in facilitating the installation and/or relocation of any such affected Utilities.

SECTION 4.15. Standards of Construction. Without limitation, all work on the Project shall be performed in a good and workmanlike manner, with the materials called for under the Governmental Approvals being of such quality as is required by such approvals.

SECTION 4.16. Compliance With Applicable Law. The Project and all materials, fixtures and equipment used or installed in connection therewith shall be in full compliance with all Applicable Laws, subject to any waivers, variances, deviations, exceptions or similar approval granted in accordance with Applicable Law.

SECTION 4.17. Delivery of Consultants' Reports. Redeveloper agrees to promptly deliver to the Borough one electronic copy of every survey, report, analysis, test result and other written report or document prepared for Redeveloper by any Third Party consultant with respect to any property in the Project Site, including, but not limited to, wetlands investigations, environmental assessments, soil tests, surveys, title commitments, engineering analyses, utility capacity analyses and the like, all reports and other documents to be delivered without representation or warranty.

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

SECTION 4.19. Estoppel Certificates. Within fourteen (14) days following written request therefore by a Party hereto, or of any Holder, purchaser, tenant or other party having an interest in the Project Site, the other Party shall issue a signed certificate ("**Estoppel Certificate**") stating that (i) this Redevelopment Agreement is in full force and effect, (ii) there is no default or breach under this Redevelopment Agreement (nor any event which, with the passage of time and the giving of notice would result in a default or breach under this Redevelopment Agreement), or stating the nature of the default or breach or event, if any, and (iii) any other matter reasonably requested. In the event the Estoppel Certificate discloses such a default, breach or event, it shall also state the manner in which such default, breach and/or event may be cured.

SECTION 4.20. Home Owner's Association. The Redeveloper may create a Home Owner's Association in connection with the Project which shall be responsible for all exterior maintenance, including but not limited to, snow removal from all sidewalks and common areas, all lawn and landscape maintenance, gutter cleaning and leaf removal. A declaration of restrictions and covenants to create said Home Owner's Association, subject to the Borough's review and approval, which shall not be unreasonably withheld, conditioned or delayed, may be recorded with the Monmouth County Clerk's office by the Redeveloper. The provisions of Section 4.20 shall survive the termination of this Redevelopment Agreement.

[END OF ARTICLE IV]

ARTICLE V
ENVIRONMENTAL MATTERS

SECTION 5.01. (a) The Parties acknowledge that there may be present Hazardous Substances on, under or migrating to or from the Project Site that may require Remediation. The Redeveloper agrees and specifically assumes any and all responsibility, liability, and costs for any such Remediation of the Project Site or anything affected off-site, as required by applicable Environmental Laws and Governmental Authorities, except to the extent that the prior owner(s) of the Project Area retain such responsibility or liability. The Redeveloper, as principal responsible party for the Project Site, will prepare and submit all applications and documentation necessary to comply with the requirements of all Environmental Laws. The Redeveloper also agrees that it shall obtain all requisite approvals from the appropriate Governmental Authority (or Licensed Site Remediation Professional) for the Remediation of the Project Site. Redeveloper shall have sixty (60) days from the execution and delivery of this Agreement to investigate the environmental condition of the Project Site. If Redeveloper is dissatisfied with the environmental condition of the Project Area, Redeveloper shall, prior to the expiration of the sixty (60) day period, have the right to terminate this Agreement, which shall be exercised by the delivery of a notice to terminate. Upon receipt of such a notice to terminate, the Agency shall remit to Redeveloper all remaining funds in the Escrow Account.

(b) In conjunction with the Indemnification provisions of Article X hereof, the Redeveloper covenants and agrees, at its expense, to pay and to indemnify, protect, defend and hold the Borough Indemnified Parties harmless from and against all liability, losses, damages (including, without limitation, natural resource damages for which Redeveloper is liable), demands, costs, claims, lawsuits, administrative proceedings, fines, penalties and expenses (including attorneys' fees and court costs) of every kind, character and nature arising from or associated with (i) the performance or any failure or delay of performance by the Redeveloper of its responsibilities and obligations to Remediate the Project Site or anything affected off-site, as required by applicable Environmental Laws and Governmental Authorities; and (ii) the presence of Hazardous Substances, whether known or unknown, on, under or migrating from the Project Site, but excluding damage, liability, costs and expenses to the extent that same result from the negligence or willful misconduct of the Borough or the Borough Indemnified Parties.

The Redeveloper's indemnity, defense, and hold harmless obligations provided under this Section 5.01 shall survive the termination or expiration of this Redevelopment Agreement with respect to occurrences prior to the date of termination or expiration and shall run with the land and be referenced in the Declaration, except with respect to any Holder

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

[END OF ARTICLE V]

ARTICLE VI PROJECT OVERSIGHT

SECTION 6.01. Progress Meetings. The Parties agree to attend and participate in monthly progress meetings (“**Progress Meetings**”) to report on the status of the Project and to review the progress under the Project Schedule. Progress Meetings may be held more frequently at the reasonable request of the Borough. The Borough shall give the Redeveloper seven (7) days advance written notice of any additional meetings. The Progress Meetings shall be held in the Municipal Building, or such other location as agreed to by the Parties. Prior to the meeting, representatives of the Borough may visit the Project Site to inspect the progress of the work on the Project, in accordance with Section 6.03.

Redeveloper shall prepare the agenda for the progress meeting in advance of the meeting (which shall include, *inter alia*, any agenda items reasonably requested by the Borough) and shall provide information to the Borough at the meetings regarding the Project progress including but not limited to, Governmental Approval submissions, financial commitments, construction of the Project, compliance with the Redevelopment Plan and activities concerning marketing and leasing, if applicable. At the Progress Meetings, this information will be evaluated by the Borough to determine compliance with the terms and conditions of this Redevelopment Agreement and the Project Schedule. The Borough shall have the right at all reasonable times to inspect the construction contracts, financing commitments and agreements, books and records pertinent to the construction contracts, insurance policies, and such other agreements of the Redeveloper which are pertinent to the purposes of this Redevelopment Agreement and to the Progress Meetings in order to ensure Completion of the Project in accordance with the Project Schedule, provided, however, Redeveloper shall have the right to withhold from the Borough’s review, any materials that Redeveloper reasonably deems to be confidential and proprietary in nature.

SECTION 6.02. Progress Reports. Commencing on the first day of the second month after the Effective Date, Redeveloper shall submit to the Borough a quarterly written progress report (“**Progress Reports**”) which shall include a detailed timetable for construction and completion of the Project, 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 Project Schedule and an explanation of corrective action taken or proposed.

SECTION 6.03. Access to Property. Upon reasonable advance written notice (except for Borough construction code officials, fire officials, public safety personnel and the like performing their duties in the ordinary course, who shall not be obligated to provide advance written notice) the Borough and its authorized representatives shall have the right to enter the Project Site to inspect the site and any and all work in progress for the purpose of furthering its interest in this Redevelopment Agreement. Such entrance shall be for informational purposes and shall not relieve Redeveloper of its obligation to implement the Project in accordance with this Agreement. In no event shall the Borough’s inspection of the Redevelopment Project be deemed acceptance of the work or be deemed to waive any right the Borough has under this

Agreement. Any such entry shall be subject to reasonable restrictions by Redeveloper typical of an active construction site and any persons present at the Project Site shall comply with all applicable health and safety rules established by the Redeveloper or the general contractor for personnel present on the Project Site. Such measures may include a need to be accompanied by Project personnel when visiting the Project Site. The Borough acknowledges that the Project Site will be an active construction site and that the Redeveloper shall not be liable or responsible to the Borough or 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.

[END OF ARTICLE VI]

**ARTICLE VII
APPLICATIONS FOR GOVERNMENTAL APPROVALS**

SECTION 7.01. Applications for Governmental Approvals. (a) The Redeveloper (at its sole cost and expense) shall apply for and obtain all Governmental Approvals necessary to construct and use the Project including but not limited to all applications and supporting documents (each a “**Final Site Plan**”) as shall be required to obtain approval of the Final Site Plan for the Project (“**Final Site Plan Approval**”) by the Planning Board in accordance with ordinances of the Borough and the Municipal Land Use Law.

(b) The Redeveloper shall provide the Borough with a copy of each application for Governmental Approvals at such time as such applications are submitted.

(c) The Redeveloper shall provide the Borough with a copy of each Governmental Approval received by the Redeveloper with respect to the Project.

(d) No Governmental Approval shall be deemed “final” until (i) the time for all appeals has run without the filing of an appeal or (ii) in the event an appeal is filed, all such appeal(s) have been resolved fully in favor of the Project and/or Redeveloper and the time for filing any further appeal has expired without the filing of any such appeals.

SECTION 7.02. Borough Cooperation. To the extent reasonably requested by the Redeveloper and, to the extent permitted by Applicable Law (and without violating its obligations as a governmental entity or regulatory body having competent jurisdiction over the Project), the Borough shall provide its support and assistance to the Redeveloper in facilitating the review of all plans, issuance of all permits, request for inspections and the conduct of such inspections through the appropriate Borough board, body or department, as applicable.

[END OF ARTICLE VII]

**ARTICLE VIII
REPRESENTATIONS, WARRANTIES AND COVENANTS**

SECTION 8.01. Representations and Warranties by the Redeveloper. The Redeveloper hereby represents and warrants the following to the Borough for the purpose of inducing the Borough 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 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 is the owner of the Project Site.

(c) 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.

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

(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 as of the Effective Date.

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

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

(i) There is no action, proceeding or investigation now pending or threatened, nor any basis therefore, known or believed to exist which (i) questions the validity of this Redevelopment Agreement or any action or act taken or to be taken by them pursuant to this Redevelopment Agreement; or (ii) is likely to result in a material adverse change in its property,

assets, liabilities or condition or which will materially and substantially impair its ability to perform pursuant to the terms of this Redevelopment Agreement.

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

(k) Subject to obtaining construction financing, the Redeveloper is financially and technically capable of undertaking and fulfilling its obligations under this Redevelopment Agreement.

(l) Redeveloper has the necessary expertise, qualifications, staff and resources to undertake and fulfill the obligations hereunder.

(m) The cost and financing of the Project is the responsibility of the Redeveloper, pursuant to the Redevelopment Plan and this Redevelopment Agreement. The Borough shall not be responsible for any cost whatsoever in respect to same.

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

(o) Redeveloper is not delinquent with respect to any taxes, payments in lieu of tax, service charge, or similar obligations owed to the Borough for any property situated in the Borough.

If reasonably requested by the Borough, the Redeveloper shall reaffirm the representations and warranties set forth in this Section 8.01.

SECTION 8.02. Representations and Warranties by the Borough. The Borough 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 designation of the Project Site and the adoption of the Redevelopment Plan were done in conformance with the Redevelopment Law.

(b) The Borough is a municipal corporation, duly organized and existing under the laws of the State and has the legal power, right and authority to enter into this Redevelopment Agreement and the instruments and documents referenced herein to which the Borough is a

party, to consummate the transactions contemplated hereby, and to perform its obligations hereunder.

(c) This Redevelopment Agreement has been duly authorized, executed and delivered by the Borough and is valid and legally binding upon the Borough 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 Borough is a party.

(d) To the best of the Borough's knowledge, there is no action, proceeding or investigation now pending, nor any basis therefore, known or believed to exist which questions the validity of the Redevelopment Plan or this Redevelopment Agreement or any action or act taken or to be taken by the Borough pursuant to the Redevelopment Plan or Redevelopment Agreement.

SECTION 8.03. 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 Borough hereby acknowledges the receipt of such documents:

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

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

SECTION 8.04. Mutual Representations. (a) The Borough and the Redeveloper agree that the Project will be governed by this Redevelopment Agreement, the Redevelopment Plan and all Applicable Law.

(b) In the event that any contractual provisions that are required by Applicable Law have been omitted, the Borough and the Redeveloper agree that this Redevelopment Agreement shall be deemed to incorporate all such clauses by reference and such requirements shall become a part of this Redevelopment Agreement.

SECTION 8.05. Redeveloper Covenants. The following covenants and restrictions are imposed upon the Redeveloper, its successors and assigns subject to the terms hereof, and except as explicitly provided herein, including Section 8.07 below (collectively, "**Redeveloper Covenants**"):

(a) The Redeveloper shall construct the Project in accordance with this Redevelopment Agreement, the Redevelopment Law, the Redevelopment Plan, Governmental Approvals and all other Applicable Laws.

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

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

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

(e) The Redeveloper acknowledges that the Borough has relied on the Project Schedule in entering into its obligations under this Redevelopment Agreement. The Redeveloper shall use commercially reasonable efforts to Complete the Project or cause same to be Completed, on or prior to the date set forth in the Project Schedule at its sole cost and expense; provided, however, that the Parties acknowledge that moneys may be made available towards the Completion of same from other outside sources. In the event that moneys made available pursuant to any outside source are not sufficient to pay the costs necessary to Complete the Project, the Redeveloper shall not be entitled to any funds from the Borough.

(f) Except for Permitted Transfers, and subject to the terms hereof, prior to the issuance of a Certificate of Completion, Redeveloper shall not effect a Transfer without the written consent of the Borough, which shall not be unreasonably withheld, conditioned or delayed.

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

(h) In connection with its use or occupancy of the Project, Redeveloper shall not effect or execute any covenant, agreement, lease, conveyance or other instrument whereby the Project is restricted upon the basis of age, race, color, creed, religion, ancestry, national origin, physical handicap, sexual orientation, gender, affectional preference, marital status or familial status, and Redeveloper, its successors and assigns, shall comply with all Applicable Laws prohibiting discrimination or segregation by reason of age, race, color, creed, religion, ancestry,

national origin, physical handicap, sexual orientation, gender, affectional preference, marital status or familial status.

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

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

(k) Prior to the issuance of a Certificate of Completion, Redeveloper shall not encumber, hypothecate or otherwise use the Project Site, the Project or any part thereof as collateral for any transaction unrelated to the Project.

(l) Redeveloper will promptly pay any and all taxes, service charges, business improvement district special assessments or similar obligations when owed with respect to the Project Site and any other property owned by Redeveloper situated in the Borough.

SECTION 8.06. Declaration of Redeveloper Covenants and Restrictions. The Redeveloper shall execute and record one or more declaration(s) of project covenant(s) in form of **Exhibit D** attached hereto (the "**Declaration**") imposing on the Redeveloper's interest in the Project and the Project Site, the Redeveloper Covenants set forth in Section 8.05 (as may be limited by the terms of this Redevelopment Agreement, including Section 8.07 hereof), and those other matters indicated in this Redevelopment Agreement to be included in the Declaration.

SECTION 8.07. Effect and Duration of the Redeveloper Covenants. It is intended and agreed, and the Declaration shall so expressly provide, that the agreements and covenants set forth in Section 8.05 hereof and those elsewhere in this Redevelopment Agreement designated for inclusion in the Declaration shall be covenants running with the land until the Project is Completed or any individual Unit is otherwise released upon the issuance of a Certificate of Occupancy and/or a Certificate of Completion, except for the terms of Section 8.05(h) which shall survive the issuance of a Certificate of Completion and shall run with the land while the Project is occupied, and such covenants shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Redevelopment Agreement, be binding, to the fullest extent permitted by Applicable Law and equity, for the benefit and in favor of, and enforceable by, the Borough, its successors and assigns, and any successor in interest to Redeveloper's interest in the Project, or any part thereof, the Redeveloper, its successors and assigns and every successor in interest therein, and any Party in possession or occupancy of the Project, or any part thereof provided, however, that such covenants shall not be binding on any Mortgagee except in accordance with the terms of Article III hereof. Such agreements and covenants, however, shall be binding on the Redeveloper itself, each successor in interest to the Redeveloper and each party in possession or occupancy, respectively, only for such period as the Redeveloper or such successor or party shall be in possession or occupancy of the Project Site, the buildings and structures thereon, or any part thereof.

SECTION 8.08. Enforcement of Redeveloper Covenants by the Borough. In amplification, and not in restriction of the provisions of this Article VIII, it is intended and agreed that the Borough 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 Borough for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether the Borough 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 Borough shall have the right, in the event of any breach of any such agreement or covenant, to terminate this Agreement in accordance with the terms of Section 11.03 hereof. This Section is not intended to confer standing to sue on any party other than the Borough. Upon redevelopment of the Project Site and Completion of the Project (as evidenced by the Borough's issuance of a Certificate of Completion), or the issuance of a Certificate of Occupancy with respect to the last Unit within the Project, the conditions that were found and determined to exist at the time the Project Site 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 Project.

SECTION 8.09. Borough Covenants. The Borough hereby covenants and agrees that:

- (a) The Borough shall undertake and complete, with due diligence, all of its obligations under this Redevelopment Agreement.
- (b) The Borough shall not amend the Redevelopment Plan with respect to the Project Site, without the prior written consent of the Redeveloper, which consent shall not be unreasonably delayed or conditioned.
- (c) The Redeveloper has been designated as the exclusive redeveloper of the Project Site and shall have the exclusive right and obligation to redevelop the Project Site and implement the Project in accordance with the terms and conditions of this Redevelopment Agreement.

[END OF ARTICLE VIII]

ARTICLE IX TRANSFERS

SECTION 9.01. 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 Site and not for speculation in land holding.

SECTION 9.02. Prohibition Against Transfers. The Redeveloper recognizes the importance of the Project to the general welfare of the community and that the identity of the Redeveloper and its qualifications are critical to the Borough in entering the Redevelopment Agreement. The Parties acknowledge and agree that a change in Control of the Redeveloper is for practical purposes a transfer or disposition of the property interest then owned by the Redeveloper, and that, therefore, the qualifications and identity of the Redeveloper and its principals are of particular concern to the Borough.

In light of the foregoing, except for Permitted Transfers, during the Term of this Redevelopment Agreement, the Redeveloper shall not, without the prior written consent of the Borough, which shall not be unreasonably withheld, conditioned or delayed: (a) effect or permit any change, directly or indirectly, in the Control of the Redeveloper prior to the issuance of the final Certificate of Completion for the Project or any portion thereof, (b) assign or attempt to assign this Redevelopment Agreement or any rights herein, (c) sell, lease, assign, sublease or otherwise convey or transfer the Project Site or the Project, or any part thereof, or (d) pledge, or transfer all or substantially all of its assets (individually and collectively, a "**Transfer**").

SECTION 9.03. Permitted Transfers. (a) The Redeveloper, without violating the provisions of Section 9.02 or Section 9.03 hereof, may affect the following Transfers, to which the Borough hereby consents upon receipt of notice thereof, without the necessity of further action by the Borough ("**Permitted Transfers**"):

- (i) security for, and only for, the purpose of obtaining the financing necessary to enable the Redeveloper to perform its obligations under this Redevelopment Agreement with respect to completing the Project and any other purpose authorized by this Redevelopment Agreement;
- (ii) the Declaration;
- (iii) a mortgage or mortgages and other liens and encumbrances (but not including mechanic's liens) for the purposes of financing costs associated with the development, construction and marketing of the Project and not any transaction or project unrelated to the Project; provided, however, that Redeveloper shall give the Borough at least fifteen (15) days prior written notice of such Permitted Transfer, including a description of the nature of such Transfer, and the name(s) and address(es) of the mortgagee;
- (iv) utility and other development easements;
- (v) environmental covenants and restrictions imposed by a regulatory agency as a condition of any permit or approval;

(vi) a lease, rental, agreement or other similar agreement with any end user of the Project or any Unit, including transfers of completed Units, after issuance of a Certificate of Occupancy for same, to a residential home buyer of such completed Unit;

(vii) an assignment or sublease, in whole or in part, of the Redeveloper's interest in the Project Site to an Affiliate, or a Transfer among partners of the Redeveloper and/or trustees for their benefit;

(viii) an assignment of this Redevelopment Agreement to an Affiliate of the Redeveloper;

(ix) a Transfer pursuant to a foreclosure or assignment of Redeveloper's interest in the Project Site and any Transfer by any Holder or any Holder's successor and/or assigns after foreclosure; and

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

SECTION 9.04. Notice of Permitted Transfers. With respect to any Permitted Transfers (except for a Permitted Transfer pursuant to Section 9.03 (iii), (v) or (vi)), the Redeveloper shall provide to the Borough written notice at least thirty (30) days prior to such Transfer, including a description of the nature of such Permitted Transfer, and the name(s) and address(es) of the transferee and any parties, individuals and/or entities comprising such transferee. The Redeveloper shall cause the transferee to execute such documentation as is reasonably requested by the Borough in order to assure that the transferee has assumed all of the Redeveloper's obligations under this Redevelopment Agreement and the Declaration as to the Project (if the Redeveloper's right, title and interest in the Project is being transferred) or any portion thereof (if the Redeveloper's right, title and interest in a portion of the Project is being transferred).

SECTION 9.05. Transfers Void. Any transfer of the Redeveloper's interest in violation of this Redevelopment Agreement shall be a Redeveloper Event of Default and shall be null and void *ab initio*. Such default shall entitle the Borough 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 Borough, or an approval in accordance with the terms hereof, no such sale, transfer, conveyance or assignment or approval thereof by the Borough, shall be deemed to relieve the Redeveloper from any obligations under this Redevelopment Agreement. The Declaration shall contain a restriction against transfers as set forth in this Article and, in addition, shall provide that in the event of any attempted transfer in violation of the restrictions in this Article, the Borough 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 Borough in connection with any such legal action. Upon recording of the final Certificate of Completion, the provisions of the Declaration set forth in this Article as to the Project shall be deemed terminated, and the Declaration shall so state.

[END OF ARTICLE IX]

**ARTICLE X
INDEMNIFICATION; INSURANCE**

SECTION 10.01. Redeveloper Indemnification.

(a) Redeveloper agrees to indemnify and hold harmless and defend the Borough and the Borough Indemnified Parties, and Redeveloper shall pay any and all liability, actual loss, costs, damages, claims, judgments or expenses, of any and all kinds or nature and however arising, imposed by law, including but not limited to, claims for personal injury, death and property damage, which the Borough and/or the Borough Indemnified Parties may sustain, be subject to or be caused to incur relating to, based upon or arising from (i) Redeveloper's activities in connection with the Project, or any portion thereof, (ii) contracts entered into by the Redeveloper which relate to such activities, including but not limited to any and all claims by workmen, employees and agents of the Redeveloper, its contractor and subcontractors and unrelated third parties, (iii) the maintenance and functioning of the Project, or any other activities of Redeveloper within the Project Site, (iv) the current or former environmental condition of the Project Site and including but not limited to any third-party claim with respect to other properties alleging harm emanating from such environmental condition of the Project Site, (v) a material breach of this Redevelopment Agreement by Redeveloper, or (vi) any violation of Applicable Law by Redeveloper, unless any such loss, liability claim or suit arising from the grossly negligent or intentional wrongful acts of the Borough, its employees, agents and contractors.

(b) Redeveloper, at its own cost and expense, shall defend any and all such claims, suits and actions which may be brought or asserted against the Borough, and/or the Borough Indemnified Parties; but this provision shall not be deemed to relieve any insurance company which has issued a policy of insurance as may be provided for in this Redevelopment Agreement from its obligation to defend Redeveloper, the Borough and any other insured named or named as an additional insured in such policy of insurance in connection with claims, suits or actions covered by such policy. Any cost for reasonable fees in situations where it is required that the Borough engage its own attorneys, experts' testimony costs and all actual costs to defend the Borough or any Borough Indemnified Party, agents, servants, or employees shall be reimbursed to it by Redeveloper in connection with such defense and indemnification claim.

(c) In any situation in which the Borough Indemnified Parties are entitled to receive and desire defense and/or indemnification by Redeveloper, the Borough Indemnified Parties shall give prompt notice of such situation to Redeveloper. Failure to give prompt notice to Redeveloper shall not relieve Redeveloper of any liability to indemnify the Borough Indemnified Parties. Upon receipt of such notice, Redeveloper shall resist and defend any action or proceeding on behalf of the Borough Indemnified Parties, including the employment of counsel reasonably acceptable to the Borough Indemnified Parties, the payment of all reasonable expenses and the right to negotiate and consent to settlement. The Borough shall have the right to retain counsel of its choosing the cost of which shall be borne by Redeveloper. All of the other Borough Indemnified Parties shall have the right to employ separate counsel in any such action and to participate in the defense thereof at the Indemnified Parties' own expense. Redeveloper shall not be liable for any settlement of any such action effected without its consent, but if settled with the consent of Redeveloper or if there is a final judgment against Redeveloper or the Borough Indemnified Parties in any such action, Redeveloper shall indemnify and hold harmless the Borough Indemnified Parties from and against any loss or liability by reason of such settlement or judgment. Further, Redeveloper shall have the right to settle any such action

on behalf of itself and all Borough Indemnified Parties, provided that such settlement (i) is solely a monetary payment, (ii) does not involve the entry of a judgment against the Borough or any Borough Indemnified Parties and (iii) does not expose the Borough Indemnified Parties to any liability, contingent or otherwise. Redeveloper shall indemnify and hold harmless the Borough Indemnified Parties from and against any loss or liability by reason of such settlement.

SECTION 10.02 Survival of Indemnity. The provisions of Section 10 shall survive the termination of this Redevelopment Agreement.

SECTION 10.03. Insurance Required.

(a) Prior to the Commencement of Construction of the Project, the Redeveloper shall furnish or shall cause to be furnished, to the Borough, a certificate of insurance evidencing (i) a policy of commercial general liability insurance, insuring the Borough against losses, costs, liabilities, claims, causes of action and damages for bodily injury and property damage on all property in the Project Site or related to the construction thereon, in the amount of at least Two Million Dollars (\$2,000,000.00) combined single limit coverage. Such insurance shall include blanket contractual liability coverage. All such policies shall be endorsed to add the Borough as an additional insured, and to provide that such coverage shall be primary and that any insurance maintained by the Borough shall be excess insurance only. Such coverage shall be endorsed to waive the insurer's rights of subrogation against the Borough if such a waiver is available, and (ii) a policy of Builder's Risk Insurance for the benefit of the Redeveloper (subject to the interests of any Holder), during the term of construction, sufficient to protect against loss or damage resulting from fire and lightning, the standard extended coverage perils, vandalism, and malicious mischief. The limits of liability will be equal to one hundred percent (100%) of the replacement cost (to current building code) of the Project, including items of labor and materials connected therewith, whether in or adjacent to the structure(s) insured, and materials in place or to be used as part of the permanent construction.

(c) The Redeveloper shall also furnish or cause to be furnished to the Borough evidence satisfactory to the Borough that the Redeveloper and any contractor with whom it has contracted for the construction of the Project carries (i) workers' compensation insurance coverage in the amount of the full statutory liability of the Redeveloper, (ii) employer's liability insurance in the amount of Five Hundred Thousand Dollars (\$500,000.00) bodily injury each accident, Five Hundred Thousand Dollars (\$500,000.00) bodily injury each employee and Five Hundred Thousand Dollars (\$500,000.00) bodily injury policy limit, (iii) commercial general liability insurance in the amount One Million Dollars (\$1,000,000.00) each occurrence, Two Million Dollars (\$2,000,000.00) general aggregate, and (iv) such other insurance, in such amounts and against such risks, as is customarily maintained by the Redeveloper with respect to other similar properties owned or leased by it, including automobile insurance.

(d) 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 Borough and shall name as the insured Parties (except for worker's compensation insurance) Redeveloper and the Borough, as their respective interests may appear, and shall be satisfactory to the Borough. All insurance policies required hereunder shall be kept in force until a Certificate of Completion with respect to any individual Unit, or portion of the Project is issued.

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

(f) The Redeveloper's obligation to maintain insurance in this Section 10.02 shall terminate upon issuance of the final Certificate of Completion with respect to the Project.

[END OF ARTICLE X]

ARTICLE XI
EVENTS OF DEFAULT, REMEDIES AND TERMINATION

SECTION 11.01 **Events of Default.** Any one or more of the following shall constitute an event of default hereunder (“**Event of Default**”) subject to the occurrence of an event of Force Majeure (with none of the following to be construed as a limitation on any other):

(a) Subject to the terms of this Redevelopment Agreement, the Borough shall have the right to declare Redeveloper in default of this Redevelopment Agreement in the event of the occurrence of any of the following (“**Redeveloper Event of Default**”):

(1) Redeveloper’s failure to substantially perform any of its obligations under the terms of this Redevelopment Agreement, including the failure to cure such default during any applicable cure periods; or

(2) A final and unappealable determination by a court of competent jurisdiction that Redeveloper is insolvent; or

(3) (a) Redeveloper (i) ceases to do business, or otherwise fails to continue conducting business operations, and such failure continues for thirty (30) days after receipt of notice from the Borough of such failure; (ii) is dissolved; (iii) 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; (iv) has made a general assignment for the benefit of creditors; (v) has filed a voluntary petition in bankruptcy for liquidation or reorganization pursuant to the United States Bankruptcy Code, 11 U.S.C. 101 *et seq.*, or any similar law, federal or State, now or hereafter in effect; (vi) has made an admission in writing that it is unable to pay its debts as they come due; (vii) has suspended payment of its debts as they come due; (viii) has taken advantage of any insolvency law; (ix) has filed an answer admitting the material allegations of a petition in any bankruptcy or insolvency proceeding; or (x) has taken any action in furtherance of the foregoing; (b) a custodian shall have been legally appointed with or without consent of Redeveloper; or (c) a petition shall have been filed proposing the adjudication of the Redeveloper as bankrupt pursuant to the United States Bankruptcy Code, 11 U.S.C. 101 *et seq.* or any similar law, federal or State, now or hereafter in effect, and is not the subject of an order by a court of competent jurisdiction dismissing, vacating or setting aside such petition within sixty (60) days from the filing of the petition, or if the Redeveloper shall consent to the filing of such involuntary petition or answer; or

(4) A notice to the Borough by Redeveloper that it has determined not to proceed with the Project, unless Redeveloper has the right not to proceed, under the terms of this Agreement; or

(5) Failure by Redeveloper to make any payments owed to the Borough when due; or

(6) Abandonment of the Project by Redeveloper; or

(7) Failure by Redeveloper to comply with the Project Schedule, as same may be modified in accordance with this Agreement, subject to delays caused by the Borough’s failure to timely perform its obligations under this Redevelopment Agreement and further subject to any delays caused by a Third Party(s) related to the Remediation of the Project Site, including but not

limited to, delays caused by other party(s) obligated pursuant to Environmental Laws for Remediation of all or a part of the Project Site; or

(8) Redeveloper or its successor in interest shall fail to pay, when due, any real estate taxes, payments in lieu of taxes or other assessments on the Project Site; or

(9) Redeveloper shall implement a Transfer in violation of this Redevelopment Agreement; or

(10) Failure by Redeveloper to comply with its obligations, or default by Redeveloper in any of its representations, warranties or covenants under this Redevelopment Agreement; or

(b) Subject to the terms of this Redevelopment Agreement, the Redeveloper shall have the right to declare the Borough in default of this Redevelopment Agreement in the event of the failure by the Borough to substantially perform any covenant, condition or obligation under this Redevelopment Agreement when performance is due, and if no time is specified then within a reasonable time (“**Borough Event of Default**”).

SECTION 11.02. Default Notice. Upon the occurrence of an Event of Default, the non-defaulting Party shall notify the defaulting Party in writing that it has declared that Party in Default (the “**Default Notice**”). Absent such Default Notice, no declaration of Default shall be deemed binding against the defaulting Party. The Default Notice shall state the basis for the determination that a Default has occurred. Upon receipt of the Default Notice, the defaulting Party shall have, in the case of a financial obligation, fifteen (15) days to cure such Default; or in the case of any failure to perform any other obligation set forth in this Agreement, forty-five (45) days to commence to cure said Default. With respect to a failure to perform any obligation other than a financial obligation, provided the defaulting Party shall thereafter diligently and continuously proceed to correct same, the defaulting Party shall have an additional one hundred eighty (180) days to complete the cure. In the event that the defaulting Party does not cure a Default as set forth herein, the non-defaulting Party shall have the right to exercise the remedies set forth below. The Parties may agree in writing, notwithstanding the provisions of this paragraph, to extend the period of time by which the defaulting Party must respond to the Default Notice or the period of time in which the defaulting Party must cure the Default. Any Default by either Party hereto that remains uncured following any notice and applicable cure period shall be an “Event of Default”.

SECTION 11.03. Default Rights and Remedies.

(a) Upon a Borough Event of Default which is continuing and remains uncured beyond any applicable notice and cure dates, 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 or remedies of Redeveloper under this Redevelopment Agreement, or any obligations, agreements, or covenants of the Borough under this Redevelopment Agreement, including an action for specific performance. Further, but subject to any cure provisions afforded the Borough hereunder, the Redeveloper shall have the right, in its sole and absolute discretion, on sixty (60) days’ written notice to the Borough (after applicable Notice and cure period shall have expired), to terminate this Redevelopment Agreement upon which, except as expressly provided for herein, the balance of the Escrow Account shall be disbursed per Section 3.03 herein and this Redevelopment Agreement shall be

void and of no further force and effect and neither Party shall have any further rights, liabilities and/or obligations hereunder.

(b) Upon a Redeveloper Event of Default which is continuing and remains uncured beyond applicable notice and cure dates, the Borough may take whatever action at law or in equity, as may appear necessary or desirable to enforce the performance or observance of any rights or remedies of the Borough, or any obligations, agreements, or covenants of the Redeveloper under this Redevelopment Agreement, including an action for specific performance. Further, but subject to any cure provisions afforded the Redeveloper hereunder, the Borough shall have the right, in its sole and absolute discretion, on sixty (60) days' written notice to the Redeveloper (after applicable Notice and cure period shall have expired), to terminate this Redevelopment Agreement upon which, except as expressly provided for herein, this Agreement shall be void and of no further force and effect and neither Party shall have any further rights, liabilities and/or obligations hereunder. In addition, if Redeveloper fails to pay any Borough Costs in accordance with the requirements of this Redevelopment Agreement, the Borough may file legal action seeking payment of the Borough Costs. In the event that the Borough terminates this Redevelopment Agreement following a Redeveloper Event of Default, Redeveloper's designation as the redeveloper of the Project Site shall immediately terminate, together with Redeveloper's rights as Redeveloper of the Project Site.

SECTION 11.04. Rights and Remedies Cumulative; No Waiver by Delay. The rights and remedies of the Parties whether provided by this Agreement or by law or in equity, shall be cumulative, and except as otherwise specifically provided by this Agreement, the exercise by either Party of any one or more of such rights or remedies shall not preclude the exercise, at the same or at different times, of any other such rights or remedies for the same Default, or for the same failure in respect to any of the terms, covenants, conditions or provisions of this Agreement or any of its remedies for any other default or breach. No delay by either Party in asserting any rights or exercising any remedy shall operate as a waiver of such rights or remedy or otherwise deprive it of, or limit such rights and remedies in any way (it being the intent of this provision that such Party shall not be constrained, so as to avoid the risk of being deprived of or limited in the exercise of the remedy provided in this Section because of concepts of waiver, laches, or otherwise, to exercise such remedy at a time when it may still hope otherwise to resolve the problems created by the default involved); nor shall any waiver by either Party with respect to any specific Default be considered or treated as a waiver of the rights of either Party with respect to any other defaults except to the extent specifically waived in writing.

SECTION 11.05. Effect of Termination of Redeveloper. Upon termination, the designation of Redeveloper as redeveloper shall automatically cease, and neither Party shall have any further rights or obligations under this Redevelopment Agreement, except as expressly provided otherwise herein.

SECTION 11.06. Termination for Failure to Obtain Approvals. Notwithstanding anything herein to the contrary, Redeveloper shall have the right to terminate this Redevelopment Agreement at any time upon thirty (30) days written notice to the Borough in the event any Government Approval is denied or the obtaining of any one or more Governmental

Approvals appears without reasonable likelihood for success, in Redeveloper's good faith and reasonable judgment.

SECTION 11.07. Force Majeure Extension. For the purposes of this Redevelopment Agreement, neither the Borough nor Redeveloper shall be considered in breach or in default with respect to its obligations hereunder because of a delay in performance arising from a Force Majeure Event. It is the purpose and intent of this provision that in the event of the occurrence of any such delay, the time or times for performance of the obligations of the Borough or Redeveloper shall be extended for the period of the delay; provided, however, that such delay is actually caused by or results from the Force Majeure Event. The time for completion of any specified obligation hereunder shall be tolled for a period of time up to but not exceeding the period of delay resulting from the occurrence of a Force Majeure Event. During any Force Majeure Event that affects only a portion of a Project, Redeveloper shall to the maximum extent feasible continue to perform its obligations for the balance of the Project unaffected by the Force Majeure Event. The existence of an event or occurrence of Force Majeure Event shall not prevent the Borough or Redeveloper from declaring a default or the occurrence of an Event of Default by the other party if the event that is the basis of the Event of Default is not a result of the Force Majeure Event.

SECTION 11.08. 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 11.09. Mitigation. The Parties shall act reasonably to mitigate any damages that may be incurred as a result of an Event of Default hereunder; provided, however, that the costs of any mitigation efforts shall be at the sole cost of the defaulting Party.

[END OF ARTICLE XI]

**ARTICLE XII
MISCELLANEOUS**

SECTION 12.01. Notices. Formal notices, demands and communications between the Borough and the Redeveloper shall be deemed given if dispatched to the address set forth below by registered or certified mail, postage prepaid, return receipt requested, or by a commercial overnight delivery service with packaging tracking capability and for which proof of delivery is available. In this case such notice is deemed effective upon delivery. Such written notices, demands and communications may be sent in the same manner to such other addresses as either Party may designate by written notice.

Copies of all notices, demands and communications shall be sent as follows:

If to the Borough:

Kevin Kane, Borough Administrator
601 Main Street
Belmar, New Jersey 07719
Email: kkane@belmar.com

with a copy to:

McManimon, Scotland & Baumann, LLC
75 Livingston Avenue, Second Floor
Roseland, New Jersey 07068
Attn: Frances Ciesla McManimon, Esq.
Email: fmcmanimon@msbnj.com

If to the Redeveloper:

810 12th Avenue, LLC
204 13th Avenue
Belmar, New Jersey 07719

with a copy to:

David P. Lonski, Esq.
Shamy, Shippers & Lonski, P.C.
334 Milltown Road
East Brunswick, New Jersey 08816
Email: dlonski@ssandl.com

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

SECTION 12.04. Lender Changes. If the Redeveloper's lender requires a change in the terms of this Redevelopment Agreement, the Borough shall reasonably cooperate with the Redeveloper in approving such change, so long as such change, if any, does not modify or change the substantial rights or obligations of the Parties as set forth in this Redevelopment Agreement. In addition, the Borough agrees to enter into such agreements as the Redeveloper's lender (or its equity participants) may reasonably require provided that such agreement shall not be inconsistent with the terms of this Redevelopment Agreement (i.e. shall not increase the Borough's responsibilities or decrease its benefits hereunder).

SECTION 12.05. Non-Liability of Officials and Employees of the Borough. No member, official or employee of the Borough shall be personally liable to the Redeveloper, or any successor in interest, in the event of any default or breach by the Borough, 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 12.06. Non-Liability of Officials and Employee of Redeveloper. No member, officer, shareholder, director, partner or employee of the Redeveloper shall be personally liable to the Borough, 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 Borough, or their successors, or on any obligation under the terms of this Redevelopment Agreement.

SECTION 12.07. Time for Performance. If the date for performance of an obligation is on a Saturday, Sunday or federal holiday, the date for performance shall be extended to the next Business Day.

SECTION 12.08. No Brokerage Commissions. The Borough 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 Borough or the Redeveloper, and the Borough 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 12.09. 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 Site 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. To the extent applicable, this section 12.09 shall not apply to purchasers of the Units who shall take title to those residences free and clear of the obligations under this Redevelopment Agreement.

SECTION 12.10. 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 12.11. 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 appropriate authorities of the Borough and the Redeveloper.

SECTION 12.13. Consent. Unless otherwise specifically provided herein, no consent or approval by either Party permitted or required under the terms hereto shall be valid or be of any force whatsoever unless the same shall be in writing, signed by an authorized representative of the Party by or on whose behalf such consent is given.

SECTION 12.14. Execution of Counterparts. This Redevelopment Agreement may be executed in one or more counterparts (which may be copies delivered electronically) 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 12.15. Entire Agreement. 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 written or oral agreements between the Parties with respect to all or any part of the subject matter hereof.

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. No Third-Party Beneficiaries. The provisions of this Redevelopment Agreement are for the exclusive benefit of the Parties hereto and not for the benefit of any third

person, nor shall this Redevelopment Agreement be deemed to have conferred any rights, express or implied, upon any third person.

SECTION 12.18. Governing Law. This Redevelopment Agreement shall be governed by and construed in accordance with the Applicable Laws of the State. Any lawsuit filed by either Party shall be filed in either the Superior Court of New Jersey, Monmouth County Vicinage, or in the United States District Court for the District of New Jersey in accordance with their respective rules of court.

[END OF ARTICLE XII]

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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:

REDEVELOPER:

810 12th Avenue, LLC

By: _____

Name:

Title:

ATTEST:

BOROUGH OF BELMAR

By: _____

Gerald Buccafusco, Mayor

EXHIBIT A
LEGAL DESCRIPTION OF THE PROJECT SITE

**EXHIBIT B
CONCEPT PLAN**

**EXHIBIT C
PROJECT SCHEDULE**

1	The Borough and the Redeveloper Execute and Deliver the Redevelopment Agreement	Effective Date
2	Redeveloper obtains all Governmental Approvals required for Commencement of Construction	Within 10 months after the Effective Date
3	Redeveloper closes on financing	Within 13 months after the Effective Date
4	Commencement of Construction	Within 19 months after the Effective Date
5	Completion of Construction	Within 18 months after the Commencement of Construction

EXHIBIT D
FORM OF DECLARATION OF PROJECT COVENANTS
REDEVELOPMENT PROJECT COVENANT

Record and Return to:

Frances Ciesla McManimon, Esq.
McManimon, Scotland & Baumann, LLC
427 Riverview Plaza
Trenton, New Jersey 08611

THIS REDEVELOPMENT PROJECT COVENANT (the “**Project Covenant**”) is made this [____] day of [_____, _____], by _____, LLC, a limited liability company formed under the laws of the State of New Jersey with offices at _____ and its successors and assigns (the “**Redeveloper**”).

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

WHEREAS, the Borough is a political subdivision of the State of New Jersey (the “**State**”), located in the County of Monmouth (the “**County**”); and

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

WHEREAS, the Borough Council (the “**Borough Council**”) of the Borough adopted resolutions which designated properties including the area known as Parcels 1 thru 6, 6B, 7 thru 9, and 11 thru 19 (the “**Original Redevelopment Area**”) as an area in need of redevelopment pursuant to the Redevelopment Law; and

WHEREAS, the Borough Council adopted a resolution which designated the area known as Parcel 20 (the “**Rehabilitation Area**”, and collectively with the Original Redevelopment Area the “**Original Seaport Redevelopment Area**”) as an area in need of rehabilitation pursuant to the Redevelopment Law; and

WHEREAS, on July 20, 2016, Borough Council adopted Resolution No. 2016-129 expanding the Original Seaport Redevelopment Area (the “**Redevelopment Area**”) pursuant to the criteria set forth in the Redevelopment Law; and

WHEREAS, the Borough Council adopted ordinances approving and adopting a redevelopment plan for the Redevelopment Area, as amended, (the “**Redevelopment Plan**”); and

WHEREAS, the Redeveloper owns a portion of the Redevelopment Area identified as Block 117, Lot 14 on the Borough’s official tax map and located at 810 12th Avenue, Belmar, New Jersey and described in that certain metes and bounds description attached hereto as **Exhibit A** (the “**Project Site**”); and

WHEREAS, the Redeveloper proposes to redevelop the Project Site by making improvements to the existing building thereon including, but not limited to demolishing the existing structures thereon and constructing one structure containing three (3) residential townhouse units, with on-site parking and any required infrastructure improvements; all in accordance with the Redevelopment Plan (the “**Project**”, as more specifically described in **Exhibit B**); and

WHEREAS, the Redeveloper is a limited liability company with resources and a team of experts in planning, redevelopment, law, engineering, environmental issues, architecture, design, finance, and real estate development necessary to effectuate the redevelopment of the Project Site in accordance with this Redevelopment Agreement, Redevelopment Plan and all other applicable laws, ordinances and regulations; and

WHEREAS, in order to implement the development, financing, construction, operation and management of the Project, the Borough Council by duly adopted resolution authorized the execution of a redevelopment agreement with the Redeveloper dated _____, 2024 (the “Redevelopment Agreement”) in accordance with *N.J.S.A. 40A:12A-8(f)* of the Redevelopment Law; and

WHEREAS, *N.J.S.A. 40A:12A-9(a)* of the Redevelopment Law requires that all agreements, leases, deeds and other instruments between a municipality and a redeveloper shall contain a covenant running with the land requiring, among other things, that “. . . the owner shall construct only the uses established in the current redevelopment plan . . .”; and

WHEREAS, the Redevelopment Agreement contains such a covenant by the Redeveloper and its successor or assigns for as long as the Redevelopment Agreement remains in effect, as well as perpetual covenants by the Redeveloper and its successor or assigns not to unlawfully discriminate upon the basis of age, race color creed, religion, ancestry, national origin, sex or familial status in the sale, lease, rental, use or occupancy of the Project Site or any building or structures erected thereon, to comply with Applicable Laws, Governmental Approvals, the Redevelopment Agreement and the Redevelopment Plan and to maintain in good condition any improvements made on the Project Site (as defined above) in accordance with Article III of the Redevelopment Agreement; and

WHEREAS, the Redevelopment Agreement also provides that the Project Site, the Redevelopment Agreement, and the Redeveloper’s interest therein shall not be transferable, subject to certain conditions, prior to the issuance of a Certificate of Completion and further provides certain remedies to the Borough for violations of the covenants and defaults under the Redevelopment Agreement; and

WHEREAS, the Redevelopment Agreement requires that such covenants be memorialized in a Declaration of Covenants and Restrictions and that said Declaration be recorded in the Office of the Monmouth County Clerk.

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

WHEREAS, Section 8.06 of the Redevelopment Agreement requires Redeveloper to execute and record this Declaration to impose certain covenants and restrictions on the Project Site.

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

1. **Terms and Definitions.** Defined terms not otherwise defined herein shall have the meaning assigned to such terms in the Redevelopment Agreement.

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

3. **Redeveloper Covenants.** Redeveloper covenants and agrees that:

(a) The Redeveloper shall construct the Project in accordance with this Redevelopment Agreement, the Redevelopment Law, the Redevelopment Plan, Governmental Approvals and all other Applicable Laws.

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

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

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

(e) The Redeveloper acknowledges that the Borough has relied on the Project Schedule in entering into its obligations under this Redevelopment Agreement. The Redeveloper shall use commercially reasonable efforts to Complete the Project or cause same to be Completed, on or prior to the date set forth in the Project Schedule at its sole cost and expense; provided, however, that the Parties acknowledge that moneys may be made available towards the Completion of same from other outside sources. In the event that moneys made available pursuant to any outside source are not sufficient to pay the costs necessary to Complete the Project, the Redeveloper shall not be entitled to any funds from the Borough.

(f) Except for Permitted Transfers, and subject to the terms hereof, prior to the issuance of a Certificate of Completion, Redeveloper shall not effect a Transfer without the written consent of the Borough, which shall not be unreasonably withheld, conditioned or delayed.

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

(h) In connection with its use or occupancy of the Project, Redeveloper shall not effect or execute any covenant, agreement, lease, conveyance or other instrument whereby the Project is restricted upon the basis of age, race, color, creed, religion, ancestry, national origin, physical handicap, sexual orientation, gender, affectional preference, marital status or familial status, and Redeveloper, its successors and assigns, shall comply with all Applicable Laws prohibiting discrimination or segregation by reason of age, race, color, creed, religion, ancestry, national origin, physical handicap, sexual orientation, gender, affectional preference, marital status or familial status.

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

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

(k) Prior to the issuance of a Certificate of Completion, Redeveloper shall not encumber, hypothecate or otherwise use the Project Site, the Project or any part thereof as collateral for any transaction unrelated to the Project.

(1) Redeveloper will promptly pay any and all taxes, service charges, business improvement district special assessments or similar obligations when owed with respect to the Project Site and any other property owned by Redeveloper situated in the Borough.

Section 4. It is intended and agreed that the covenants and restrictions set forth in Section 3 shall be covenants running with the land. All covenants in Section 3, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in the Redevelopment Agreement, shall be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by the Borough and its successors and assigns, and any successor in interest to the Project Site, or any part thereof, against Redeveloper, its successors and assigns and every successor in interest therein, and any party in possession or occupancy of the Project Site or any part thereof. Notwithstanding the foregoing, the agreements and covenants set forth in Section 3 shall cease and terminate upon the issuance of a Certificate of Completion, provided however, that the covenants in 3(h) shall remain in effect without limitation as to time.

Section 5. It is intended and agreed that the Borough and its successors and assigns shall be deemed beneficiaries of the covenants and restrictions set forth in the Redevelopment Agreement and this Declaration, 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 covenants and restrictions have been provided. Such covenants and restrictions shall run in favor the Borough for the entire period during which such covenants and restrictions shall be in force and effect, without regard to whether the Borough has at any time been, remains, or is an owner of any land or interest therein. During the period in which such covenants and restrictions shall be in force and effect, the Borough shall have the right, in the event of any material breach of any such covenant or restriction, 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 covenant or restrictions, to which it or any other beneficiaries of such agreement or covenant may be entitled.

Section 6. Upon redevelopment of the Project Site and completion of the Project, the covenants contained herein shall terminate and this Declaration shall be discharged of record and shall be deemed discharged upon the Redeveloper's receipt of a Certificate of Completion and termination of the Redevelopment Agreement pursuant to Section 8.07 thereof for the Project (or any portion of the Project for which a Certificate of Completion has been issued in accordance with Section 3(B) above), provided however, that the covenants in Section 3(h) shall remain in effect without limitation as to time.

[Signature page follows.]

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

810 12th Avenue, LLC

By: _____

Name:

Title:

Exhibit 1
LEGAL DESCRIPTION

EXHIBIT E
FORM OF CERTIFICATE OF COMPLETION

Record and Return to:

CERTIFICATE OF COMPLETION

Pursuant to Section 4.17 of the Redevelopment Agreement by and between the Borough of Belmar (the “**Borough**”) and _____, LLC (the “**Redeveloper**”), dated as of _____, 2024, (the “**Redevelopment Agreement**”), the undersigned, as of the date hereof, certifies that (all undefined capitalized terms used herein shall have the same meaning ascribed to them in the Redevelopment Agreement):

- (i) the [Project/Unit] in its entirety has been completed as of [_____], in accordance with the Redevelopment Agreement and in compliance with Applicable Laws so that the [Project/Unit] in its entirety may, in all material respects, be used and operated under the applicable provisions of the Redevelopment Agreement;
- (ii) all permits, licenses and approvals that are required in order for the Redeveloper to Complete the [Project/Unit] or such other work or action to which such term is applied are, to the extent so required, in full force and effect;
- (iii) such Completion has been further evidenced by a written certificate of the Redeveloper and a certificate of the Redeveloper’s engineer evidencing completion of the [Project/Unit], which certificates are attached hereto as **Exhibit 1**;
- (iv) the [Project/Unit] is being operated in accordance with the terms and provisions of the Redevelopment Agreement, the Redevelopment Plan and Applicable Laws; and
- (v) a copy of any Certificate of Occupancy issued with respect to any portion or portions of the [Project/Unit] for which a Certificate of Occupancy is required is attached hereto as **Exhibit 2**.

The conditions determined to exist at the time the Redevelopment Area was determined to be an area in need of redevelopment no longer exist with respect to the Project Site. The Project Site shall no longer be subject to the covenants running with the land covered by this Certificate of Completion for the benefit of the Borough provided however, that the covenants in Sections 8.05(h) and 8.05(m) shall remain in effect without limitation as to time.

The Declaration recorded in the office of the Monmouth County clerk on [_____] in deed book [____], page [____] is hereby discharged of record and is void and of no further force and effect provided however, that the covenants in Sections 8.05(h) shall remain in effect without limitation as to time.

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

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

WITNESS OR ATTEST:

BOROUGH OF BELMAR

By: _____

By: _____

Acknowledgment

STATE OF NEW JERSEY :

:SS

COUNTY OF MONMOUTH:

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

Exhibit 1
REDEVELOPER’S CERTIFICATE

Pursuant to Section 4.17 of the Redevelopment Agreement by and between the Borough of Belmar (the “**Borough**”) and _____, LLC (the “**Redeveloper**”), dated as of _____, 2024, (the “**Redevelopment Agreement**”), the Redeveloper certifies as follows to the best of its knowledge information and belief (capitalized terms used herein and not otherwise defined shall have the same meanings ascribed to them in the Redevelopment Agreement):

(i) the [Project/Unit] in its entirety has been completed as of [_____], in accordance with the Borough of Belmar building and construction code, the Redevelopment Agreement, the Redevelopment Plan and in compliance with Applicable Laws so that the [Project/Unit] in its entirety may, in all material respects, be used and operated under the applicable provisions of the Redevelopment Agreement;

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

(iii) Redeveloper has performed or has caused to be performed all of its duties and obligations under the Redevelopment Agreement with respect to the [Project/Unit];

(iv) attached hereto is a certificate of [_____], Redeveloper’s engineer, evidencing completion and certification of the [Project/Unit]; and

(v) the [Project/Unit] is being operated in accordance with the terms and provisions of the Redevelopment Agreement, the Redevelopment Plan and Applicable Laws.

_____, LLC

By: _____

Name:

Title:

Exhibit 2
CERTIFICATE OF OCCUPANCY

EXHIBIT F
REDEVELOPER OWNERSHIP STRUCTURE

810 12th Avenue, LLC, a New Jersey Limited Liability Company, is owned by:

Caesar Revano – 100%
204 13th Avenue
Belmar, NJ 07719

