

TOWNSHIP COMMITTEE WORKSHOP MEETING – April 29, 2024 – 6:00 P.M.

Mayor York calls the workshop meeting to order at 6:00 p.m. and asks the Clerk to call the roll:

Township Committee	Present/ Absent	Professionals	Present/ Absent
Keith Cafferty	_____	Gina LaPlaca, Business Administrator	_____
Robert Lane, Jr.	_____	Gabriella Siboni, Township Clerk	_____
Kevin McMillan	_____	Gene Anthony, Township Attorney	_____
Derel Stroud	_____		
Tassie D. York	_____		

Mayor York announces that the notice requirements of R.S. 10:4-18 have been satisfied by the publication of the required advertisement in The Coaster and the Asbury Park Press on January 5, 2024, posting the notice on the Board in the Municipal Complex, and filing a copy of said notice with the Municipal Clerk. In addition, the meeting agenda is posted on the Township web site (www.neptunetownship.org).

ITEMS FOR DISCUSSION IN OPEN SESSION

1. Board of Education President Chanta Jackson and Superintendent Dr. Crader
2. 4-Day Work Week
3. Committee Calendars

Res #24- 205 Authorize An Executive Session As Authorized By The Open Public Meetings Act.

Offered by: _____ Seconded by: _____
Vote: Cafferty _____ Lane _____ McMillan _____ Stroud _____ York _____

TOWNSHIP COMMITTEE MEETING – April 29, 2024 – 7:00 P.M.

Mayor York calls the meeting to order and asks the Clerk to call the roll:

Township Committee	Present/ Absent	Professionals	Present/ Absent
Keith Cafferty	_____	Gina LaPlaca, Business Administrator	_____
Robert Lane, Jr.	_____	Gabriella Siboni, Township Clerk	_____
Kevin McMillan	_____	Gene Anthony, Township Attorney	_____
Derel Stroud	_____		
Tassie D. York	_____		

MOMENT OF SILENCE AND FLAG SALUTE

The Clerk states, "Fire exits are located in the rear of the room and to my right. In the event of a fire, you will be notified by fire alarm and/or public address system, then proceed to the nearest smoke-free exit."

Mayor York announces that the notice requirements of R.S. 10:4-18 have been satisfied by the publication of the required advertisement in The Coaster and the Asbury Park Press on January 5, 2024, posting the notice on the Board in the Municipal Complex, and filing a copy of said notice with the Municipal Clerk. In addition, the meeting agenda is posted on the Township web site (www.neptunetownship.org).

APPROVAL OF MINUTES

Motion offered by _____, seconded by _____, to approve the minutes of meetings of April 8, 2024.

COMMENTS FROM THE DAIS

Comments from the Dais regarding business on this agenda or any reports on recent events in their respective departments.

REPORT OF THE BUSINESS ADMINISTRATOR

The Business Administrator will report on capital projects and matters of general interest.

PUBLIC HEARING AND CONSIDERATION OF THE 2024 MUNICIPAL BUDGET

Michael Bascom, C.F.O., will make a presentation on the 2024 municipal budget followed by Public Comments regarding the 2024 Municipal Budget which was introduced on March 25, 2024. The public will be permitted one opportunity to comment with a limit of five minutes.

Res # 206 A Resolution Of The Township Committee Of The Township Of Neptune Authorizing The 2024 Budget To Be Read By Title Only At Public Hearing

Offered by: _____ Seconded by: _____
Vote: Cafferty _____ Lane _____ McMillan _____ Stroud _____ York _____

Res # 207 Adopt 2024 Township Of Neptune Municipal Budget

Offered by: _____ Seconded by: _____
Vote: Cafferty _____ Lane _____ McMillan _____ Stroud _____ York _____

PUBLIC COMMENTS ON RESOLUTIONS

The Clerk will announce additional information regarding Separated Resolutions if necessary.

Public comments regarding resolutions presented on this agenda only. The public will be permitted one visit to the microphone with a limit of five minutes.

ORDINANCES - For each ordinance with a public hearing, the public is permitted one visit to the microphone with a limit of five minutes.

PUBLIC HEARING AND FINAL ADOPTION ORDINANCES

Ordinance 24-14 An Ordinance Of The Township Of Neptune Adopting Regulations For Storage Of Salt Or Solid De-Icing Materials

Explanatory Statement: This ordinance establishes requirements for the storage of salt and other solid de-icing materials on properties not owned or operated by the municipality (privately-owned), including residences, in Neptune Township to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply.

Offered by: _____ Seconded by: _____
Vote: Cafferty _____ Lane _____ McMillan _____ Stroud _____ York _____

Ordinance 24-15 An Ordinance To Amend Chapter Vii Of The Code Of The Township Of Neptune By Amending Section 7.3, Entitled “Temporary Parking Prohibition For Snowplowing And Removal”

Explanatory Statement: This ordinance amends the parking prohibition on Ocean Ave. and Broadway during Snow Emergencies.

Offered by: _____ Seconded by: _____
Vote: Cafferty _____ Lane _____ McMillan _____ Stroud _____ York _____

ORDINANCES FOR FIRST READING

Ordinance 24-17 Authorize The Acquisition Of (1) Title To A Portion Of The Real Property Currently Designated As Block 3903, Lots 12 And 13 On The Tax Map Of The Township Of Neptune, Conditioned Upon Its Improvement As A Public Park And (2) An Easement For Public Access To A Walkway Providing Ingress And Egress To/From The Public Park Subject To A Redevelopment Agreement With 3501 Rt 66, LLC And Pursuant To The Local Redevelopment And Housing Law, N.J.S.A. 40a:12a-1, Et Seq.

CONSENT AGENDA

- Res#24- 208** Authorize The Execution Of A Redevelopment Agreement For The Redevelopment Of The Real Property Designated As Block 3903, Lots 12 And 13 On The Tax Map Of The Township Of Neptune With 3501 Rt 66, LLC And Terminate The Conditional Designation Of 3501 Vhf, LLC, Pursuant To The Local Redevelopment And Housing Law, N.J.S.A. 40a:12a-1, Et Seq.
- Res#24- 209** Authorize Acceptance Of Seized Vehicle Authorized By A Court Order By The Monmouth County Prosecutor’s Office
- Res#24- 210** Resolution Authorizing Execution Of The Side Bar Agreement With AFSCME Local #1844
- Res#24- 211** Resolution Authorizing Execution Of The Side Bar Agreement With AFSCME Local #2792
- Res#24- 212** Resolution Authorizing Execution Of The Side Bar Agreement With Neptune Township Department/Division Head Association And Employees With Individual Employment Contracts
- Res#24- 213** A Resolution Of The Township Committee Of The Township Of Neptune Authorizing Certain Personnel Actions- Police Department
- Res#24- 214** Authorizing The Agreement For Repair Of Sanitary Sewer Main On Sunnyfield Terrace To Lucas Brothers, Inc. In An Amount Not To Exceed \$18,353.37
- Res#24- 215** Resolution Of The Township Committee Of The Township Of Neptune Awarding Four Star Developers Contract “Tax Office Renovations” In An Amount Not To Exceed \$368,600.00
- Res#24- 216** Resolution Of The Township Committee Of The Township Of Neptune Awarding Current Elevator Technology Contract “Elevator Modernization” In An Amount Not To Exceed \$304,600.00
- Res#24- 217** Authorize The Execution Of An Interlocal Service Agreement With The Tinton Falls For The Road Improvements To Essex Road
- Res#24- 218** Authorizing The Township Committee Of The Township Of Neptune To Execute Change Order #1 For \$46,824.60 With Earle Asphalt Company. For “2022 Roadway Improvement Program” For A New Contract Total Of \$1,279,737.73

- Res#24- 219** Resolution Of The Township Committee Of The Township Of Neptune Awarding Outfront Media Llc “Lease Agreement For Billboard” For An Annual Lease Of \$3,000 And No Less Than 18% Of Net Advertising Revenue If Higher Than The Base Rent For A Term Of Ten Years
- Res#24- 220** Resolution Authorizing The Professional Services Agreement With Cme Associates For Affordable Housing Administrative Agent
- Res#24- 221** Authorizing Payment of Bills

CONSENT AGENDA

Offered by: _____ Seconded by: _____
Vote: Cafferty _____ Lane _____ McMillan _____ Stroud _____ York _____

SEPARATED RESOLUTIONS

- Res#24- 222** A Resolution Of The Township Committee Of The Township Of Neptune Authorizing Certain Personnel Actions- Public Works

Offered by: _____ Seconded by: _____
Vote: Cafferty _____ Lane _____ McMillan _____ Stroud _____ York _____

PRIVILEGE OF THE FLOOR/PUBLIC COMMENTS

Members of the public may address any concern relating to the Township. The public will be permitted one visit to the microphone with a limit of five minutes.

ADJOURNMENT

Offered by: _____ Seconded by: _____

Time adjourned: _____

TOWNSHIP OF NEPTUNE
ORDINANCE 24-14
AN ORDINANCE OF THE TOWNSHIP OF NEPTUNE ADOPTING REGULATIONS FOR
STORAGE OF SALT OR SOLID DE-ICING MATERIALS

BE IT ORDAINED, by the Township Committee of the Township of Neptune that the Code of the Township of Neptune is hereby amended as follows:

SECTION I. Purpose:

The purpose of this ordinance is to prevent stored salt and other solid de-icing materials from being exposed to stormwater.

This ordinance establishes requirements for the storage of salt and other solid de-icing materials on properties not owned or operated by the municipality (privately-owned), including residences, in Neptune Township to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply.

SECTION II. Definitions:

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When consistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

“De-icing materials” means any granular or solid material such as melting salt or any other granular solid that assists in the melting of snow.

“Impervious surface” means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

“Storm drain inlet” means the point of entry into the storm sewer system.

“Permanent structure” means a permanent building or permanent structure that is anchored to a permanent foundation with an impermeable floor, and that is completely roofed and walled (new structures require a door or other means of sealing the access way from wind driven rainfall).

A fabric frame structure is a permanent structure if it meets the following specifications:

Concrete blocks, jersey barriers or other similar material shall be placed around the interior of the structure to protect the side walls during loading and unloading of de-icing materials;

The design shall prevent stormwater run-on and run through, and the fabric cannot leak;

The structure shall be erected on an impermeable slab;

The structure cannot be open sided; and

The structure shall have a roll up door or other means of sealing the access way from wind driven rainfall.

“Person” means any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

“Resident” means a person who resides on a residential property where de-icing material is stored.

SECTION III. Deicing Material Storage Requirements:

Temporary outdoor storage of de-icing materials in accordance with the requirements below is allowed between October 15th and April 15th:

Loose materials shall be placed on a flat, impervious surface in a manner that prevents stormwater run-through;

Loose materials shall be placed at least 50 feet from surface water bodies, storm drain inlets, ditches and/or other stormwater conveyance channels;

Loose materials shall be maintained in a cone-shaped storage pile. If loading or unloading activities alter the cone-shape during daily activities, tracked materials shall be swept back into the storage pile, and the storage pile shall be reshaped into a cone after use;

Loose materials shall be covered as follows:

The cover shall be waterproof, impermeable, and flexible;

The cover shall extend to the base of the pile(s);

The cover shall be free from holes or tears;

The cover shall be secured and weighed down around the perimeter to prevent removal by wind; and

Weight shall be placed on the cover(s) in such a way that minimizes the potential of exposure as materials shift and runoff flows down to the base of the pile.

Sandbags lashed together with rope or cable and placed uniformly over the flexible cover, or poly-cord nets provide a suitable method. Items that can potentially hold water (e.g., old tires) shall not be used;

Containers must be sealed when not in use; and

The site shall be free of all de-icing materials between April 16th and October 14th.

De-icing materials should be stored in a permanent structure if a suitable storage structure is available. For storage of loose de-icing materials in a permanent structure, such storage may be permanent, and thus not restricted to October 15 -April 15.

The property owner, or owner of the de-icing materials if different, shall designate a person(s) responsible for operations at the site where these materials are stored outdoors, and who shall document that weekly inspections are conducted to ensure that the conditions of this ordinance are met. Inspection records shall be kept on site and made available to the municipality upon request.

Residents who operate businesses from their homes that utilize de-icing materials are required to perform weekly inspections.

SECTION IV. Exemptions:

Residents may store de-icing materials outside in a solid-walled, closed container that prevents precipitation from entering and exiting the container, and which prevents the de-icing materials from leaking or spilling out. Under these circumstances, weekly inspections are not necessary, but repair or replacement of damaged or inadequate containers shall occur within 2 weeks.

If containerized (in bags or buckets) de-icing materials are stored within a permanent structure, they are not subject to the storage and inspection requirements in Section III above. Piles of de-icing materials are not exempt, even if stored in a permanent structure.

This ordinance does not apply to facilities where the stormwater discharges from de-icing material storage activities are regulated under another NJPDES permit.

SECTION V. Enforcement:

This ordinance shall be enforced by the Code Enforcement Department during the course of ordinary enforcement duties.

SECTION VI. Violations and Penalties:

Any person(s) who is found to be in violation of the provisions of this ordinance shall have 72 hours to complete corrective action. Repeat violations and/or failure to complete corrective action shall be subject to the penalties under subsection §1-5 General Penalty of this code book.

SECTION VII. Severability:

Each section, subsection, sentence, clause, and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause, and phrase, and finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause or reason shall not affect any other portion of this Ordinance.

SECTION VIII. Effective Date:

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

Motion/ Second	Roll Call To Adopt On First Reading	Adopted on First Reading
	YAY NAY ABSTAIN ABSENT	Dated:
	Keith Cafferty	
	Robert Lane, Jr	
	Kevin McMillan	
	Derel Stroud	_____
	Tassie D. York	Gabriella Siboni, RMC Township Clerk

Motion/ Second	Roll Call To Adopt On Second and Final Reading	Adopted on Second Reading
	YAY NAY ABSTAIN ABSENT	Dated:
	Keith Cafferty	
	Robert Lane, Jr	
	Kevin McMillan	
	Derel Stroud	_____
	Tassie D. York	Gabriella Siboni, RMC Township Clerk

Gabriella Siboni
Township Clerk

Tassie D. York
Mayor

TOWNSHIP OF NEPTUNE

ORDINANCE NO. 24-15

AN ORDINANCE TO AMEND CHAPTER VII OF THE CODE OF THE TOWNSHIP OF NEPTUNE BY AMENDING SECTION 7.3, ENTITLED "TEMPORARY PARKING PROHIBITION FOR SNOWPLOWING AND REMOVAL"

WHEREAS, it has been determined that a conflict exists with regard to snow removal parking on an emergency basis with regard to Broadway and Ocean Ave.

NOW THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Neptune, County of Monmouth and State of New Jersey, that the Township Committee hereby amends Chapter VII, Section 7-7.3(c) as follows:

7-7.3 Parking Prohibition for Snowplowing and Removal.

(c) Snow Emergency shall remain in full effect until cancelled by the Emergency Management Coordinator or designee. Such cancellation to be communicated to the public through various media outlets.

Name of Street	Side	Time	Location
Broadway	No parking on South side, eastbound		Entire Length
Broadway	No Parking along the center median, westbound		Between Central Ave. and Ocean Ave.
Ocean Ave.	No parking on East Side		Entire Length

BE IT FURTHER ORDAINED that this Ordinance shall take effect upon final adoption of the Ordinance and publication of notice of adoption as required by law; and,

BE IT FURTHER ORDAINED, that all Ordinances or parts of Ordinances that are inconsistent herewith are repealed, but only to the extent of such inconsistency.

Motion/ Second	Roll Call To Adopt On First Reading	Adopted on First Reading
	YAY NAY ABSTAIN ABSENT	Dated:
	Keith Cafferty	
	Robert Lane, Jr	
	Kevin McMillan	
	Derel Stroud	_____
	Tassie D. York	Gabriella Siboni, RMC Township Clerk

Motion/ Second	Roll Call To Adopt On Second and Final Reading	Adopted on Second Reading
	YAY NAY ABSTAIN ABSENT	Dated:
	Keith Cafferty	
	Robert Lane, Jr	
	Kevin McMillan	
	Derel Stroud	_____
	Tassie D. York	Gabriella Siboni, RMC Township Clerk

Gabriella Siboni
Township Clerk

Tassie D. York
Mayor

ORDINANCE 24-17

AUTHORIZE THE ACQUISITION OF (1) TITLE TO A PORTION OF THE REAL PROPERTY CURRENTLY DESIGNATED AS BLOCK 3903, LOTS 12 AND 13 ON THE TAX MAP OF THE TOWNSHIP OF NEPTUNE, CONDITIONED UPON ITS IMPROVEMENT AS A PUBLIC PARK AND (2) AN EASEMENT FOR PUBLIC ACCESS TO A WALKWAY PROVIDING INGRESS AND EGRESS TO/FROM THE PUBLIC PARK SUBJECT TO A REDEVELOPMENT AGREEMENT WITH 3501 RT 66, LLC AND PURSUANT TO THE LOCAL REDEVELOPMENT AND HOUSING LAW, N.J.S.A. 40A:12A-1, ET SEQ.

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

WHEREAS, Resolution #24-208 adopted by the Township Committee of the Township of Neptune authorized the execution of a Redevelopment Agreement with 3501 RT 66, LLC ("RT 66" or "Redeveloper") in order to facilitate the redevelopment of the real property currently designated as Block 3903, Lots 12 and 13 which is subject to the Block 3903 Redevelopment Plan; and

WHEREAS, the Redevelopment Agreement calls for the implementation of a mixed-use redevelopment project (the "Project") comprising, *inter alia*, the subdivision of the Project Site into three (3) lots, as depicted on the Overall Subdivision Plan, prepared by Langan Engineering and Environmental Services, Inc, dated January 19, 2024, which consists of Parcel A that would contain no less than a 15,000 square foot retail building ("Retail Project"), and Parcel B that would contain no more than a 251,022 square foot storage, distribution and logistics facility with office space ("Distribution Center Project"); and

WHEREAS, the Project also calls for a Community Benefit Contribution, which includes the creation of (i) certain public open space on a subdivided portion of the Project Site ("Park Parcel") such as an approximately 1.8 acre public park on the Park Parcel, improved with a playground, including a swing set, a net climbing section and a slide, 4 tables in a picnic area, bike racks, 4 pieces of exercise equipment, shade trees or structures, plantings and fencing, with wheelchair access to the sidewalk and parking lot ("Public Park") as depicted generally on the Open Space Enlargement – Plan Rendering annexed to the Redevelopment Agreement as F1 and (ii) a six-foot (6') wide walkway providing ingress and egress to/from the Public Park, with landscaping, lighting, and seating (the "Walkway") annexed to the Redevelopment Agreement as F2, all at no cost to the Township and in accordance with, *inter alia*, the Redevelopment Plan and the terms and conditions of the Redevelopment Agreement; and

WHEREAS, pursuant to the Redevelopment Agreement, RT 66 shall construct the Public Park and convey the Park Parcel in fee simple for one dollar (\$1.00), to the Township via Deed in substantially the form attached hereto as Attachment A, which Deed shall be executed and held in escrow and delivered to the Township for acceptance upon the satisfaction of the conditions precedent set forth in the Redevelopment Agreement, as set forth below; and

WHEREAS, the Public Park shall be used in perpetuity solely for public recreation and open space, for the use and enjoyment of the surrounding community and the public at large; and

WHEREAS, pursuant to the Redevelopment Agreement, the Walkway will continue to be owned and maintained by RT 66, at no cost to the Township, and the public shall have access to the Walkway pursuant to a Public Access Easement Agreement in substantially the form attached hereto as Attachment B; and

WHEREAS, the Public Access Easement Agreement and the Deed shall not be effective or deemed effective and shall not be released from escrow for purposes of delivery and recordation until such time as (i) the Due Diligence Period (as defined in Section 16.2 of the Redevelopment Agreement) has expired without the Township having exercised its right prior to or immediately upon such expiration to terminate the Public Park Land Transfer Agreement provisions of the Redevelopment Agreement, or the Township has determined to terminate the portions of the Redevelopment Agreement which require and provide for the conveyance of the Park Parcel and Public Access Easement Agreement and (ii) the construction of the Public Park is completed and inspected and approved by the Township Engineer; and

WHEREAS, a Certificate of Occupancy shall not be issued for the Retail Facility or any leasehold within the Retail Facility, unless the Public Park and Walkway have been completed, inspected and approved in writing by the Township Engineer as being compliant with terms of this Agreement and all Applicable Laws; and

WHEREAS, the Parties agree that the Public Park and Walkway are intrinsically related and as such, the Township shall not be obligated to (i) accept the public access easement for the Walkway set forth in the Public Access Easement Agreement unless the Township also accepts the Deed for the Public Park, all subject to the terms and conditions hereunder, or (ii) accept the Deed for the Public Park unless the Township also accepts the public access easement for the Walkway set forth in the Public Access Easement Agreement, all subject to the terms and conditions hereunder; and

WHEREAS, as further set forth in the Redevelopment Agreement, once the Deed and Public Access Easement Agreement are executed, they shall be held in escrow pursuant to the terms of the Escrow Agreement, a copy of which is attached to the Redevelopment Agreement, which document the Mayor was previously authorized to execute subject to certain conditions, as set forth in Resolution # _____; and

WHEREAS, the Deed and Public Access Easement Agreement shall not be accepted by the Township until the final legal descriptions are reviewed and approved in writing by the Township Engineer for consistency with the approved Subdivision, as provided for in the Escrow Agreement; and

WHEREAS, the Local Lands and Buildings Law, N.J.S.A. 40A:12-1 *et seq.* authorizes a municipality to acquire property for the conduct of public business and any other municipal public purpose by purchase, gift, devise, lease, exchange, condemnation; and

WHEREAS, the Township finds that the acquisition of the Public Park and the Walkway will benefit the Township and the residents of Neptune.

NOW, THEREFORE, it is hereby resolved by the Township Committee of Neptune as follows:

1. The Mayor or her designee is hereby authorized and directed to execute a Public Access Easement Agreement (“PAEA”) between the Township of Neptune and 3501 RT 66, LLC (“RT 66”) in substantially the form attached hereto as Attachment B, the execution of which and the authority to do so is expressly conditioned upon the Township’s execution of the Redevelopment Agreement. The PAEA is to be held in escrow pending the satisfaction of the Conditions Precedent as set forth herein, in the Redevelopment Agreement, and in the Escrow Agreement.
2. It hereby authorizes the acceptance of a Deed from 3501 RT 66, LLC for the Park Parcel in substantially the form attached hereto as Attachment A, to be held in escrow, pending the satisfaction of the Conditions Precedent, as set forth herein, in the Redevelopment Agreement, and in the Escrow Agreement.

3. The Business Administrator and Staff of the Township of Neptune are hereby authorized and directed to take all actions as shall be deemed necessary or desirable to implement this Ordinance.
4. This Ordinance shall be effective upon publication as provided by law.

Attachment A (to Ordinance)
Form of Deed for the Public Park

Attachment B (to Ordinance)
Form of Public Access Easement Agreement for the Walkway

TOWNSHIP OF NEPTUNE

RESOLUTION 24-206

A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF NEPTUNE AUTHORIZING THE DISCUSSION OF MATTERS IN A CLOSED SESSION PURSUANT TO THE STATUTORY EXCLUSIONS OF N.J.S.A. 10:4-12

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975, permits the exclusion of the public from a meeting in certain circumstances; and,

WHEREAS, this public body is of the opinion that such circumstances presently exist; and,

WHEREAS, the matters to be discussed relate to a statutorily excluded topic pursuant N.J.S.A 10:4-12(b) 1-9, specifically:

- X Attorney- client privilege;
- X Employment and personnel;
Imposition of civil penalty;
Investigation;
- X Leasing or acquisition of property;
Pending or anticipated litigation;
Privacy;
Public Safety;
Educational matter;
Contract Negotiation

Description of matter:

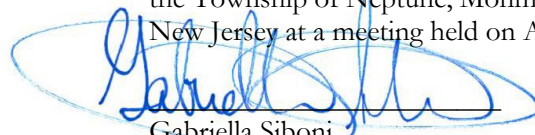
1. Employment and Personnel
 - a. New Hires, New Appointments, disciplinary action
2. Property Acquisition
 - a. Block 5303 Lot 3
3. Attorney Client Privilege
 - a. Redevelopment Agreement 3501 Route 66 LLC

WHEREAS, this may be disclosed to the public at a time when the necessity for confidentiality no longer exists, or within six months or less from the date hereof; and,

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Neptune as follows:

1. That the Township Committee shall retire into executive session where the public shall be excluded and where said matters shall be discussed.
2. That the Township Committee shall reconvene in public session upon conclusions of the discussions.
3. That the minutes of this executive session shall be closed from public inspection and shall so remain until the reason for confidentiality ceases to exist, or upon formal action by the Township Committee at an official meeting.

I, Gabriella Siboni, Clerk of the Township of Neptune hereby certify that the foregoing is a true copy of a resolution duly adopted by the Township Committee of the Township of Neptune, Monmouth County, State of New Jersey at a meeting held on April 29, 2024.


Gabriella Siboni
Township Clerk

RESOLUTION #24- 208

AUTHORIZE THE EXECUTION OF A REDEVELOPMENT AGREEMENT FOR THE REDEVELOPMENT OF THE REAL PROPERTY DESIGNATED AS BLOCK 3903, LOTS 12 AND 13 ON THE TAX MAP OF THE TOWNSHIP OF NEPTUNE WITH 3501 RT 66, LLC AND TERMINATE THE CONDITIONAL DESIGNATION OF 3501 VHF, LLC, PURSUANT TO THE LOCAL REDEVELOPMENT AND HOUSING LAW, N.J.S.A. 40A:12A-1, ET SEQ.

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

WHEREAS, the Township of Neptune (the "Township") desires that the land located in an area which has been determined to be an area in need of redevelopment in accordance with the Act (the "Redevelopment Area"), currently designated on the Tax Map of the Township of Neptune as Block 3903, Lots 12 and 13, as same is set forth on the Boundary and Topographic Survey dated October 27, 2020, revised through August 4, 2021, and prepared by Langan Engineering and Environmental Services, Inc., a copy of which is attached to the Redevelopment Agreement, as that term is defined herein, (the "Project Site"), be redeveloped in accordance with the Block 3903 Redevelopment Plan (the "Redevelopment Plan"); and

WHEREAS, Resolution #22-382, adopted by the Township Committee on August 22, 2022, authorized execution of a Conditional Designation and Interim Cost Agreement (the "Conditional Designation Agreement") by and among the Township, 3501 RT 66, LLC ("RT 66") and VHF 3501 LLC ("VHF"); and

WHEREAS, RT 66 or an affiliate thereof owns the Project Site which comprises approximately 47.37 acres; and

WHEREAS, as set forth in the Conditional Designation Agreement, which conditionally designated RT 66 and VHF as the Co-Redevelopers of the Project Site conditioned on the successful negotiation of a Redevelopment Agreement with the Township, VHF had entered into an agreement with RT 66 to purchase a portion of the Project Site; and

WHEREAS, capitalized terms not otherwise defined herein shall have the meaning set forth in the Redevelopment Agreement, the form of which is attached hereto; and

WHEREAS, on or about February 10, 2022, RT 66 had submitted a Pre-Submission Form to the Township's Redevelopment Committee seeking to be designated as the Redeveloper of the Project Site; and

WHEREAS, on or about March 28, 2022, in cooperation with RT 66, VHF also submitted a Pre-Submission Form to the Township's Redevelopment Committee seeking to be designated as the Redeveloper for a portion of the Project Site; and

WHEREAS, the Pre-Submission Forms set forth the proposal for the redevelopment of the Overall Project Site (the "Proposal") and are available at the Town Hall for review, outlining the intention to redevelop the Project Site; and

WHEREAS, the Proposal calls for the implementation of a mixed use redevelopment project comprising, *inter alia*, the subdivision of the Project Site into three (3) lots: Parcel A would contain no less than a 15,000 square foot retail building (“Retail Project”), Parcel B would contain no more than a 251,022 square foot storage, distribution and logistic facility with office space (“Distribution Center Project”), and a third parcel comprising approximately 1.8 acres would contain a public park, a playground and a picnic area (“Public Park”) which would be remediated and improved at no cost to the Township and conveyed to the Township for \$1.00 subject to a deed restriction limiting the use of the property to open space, all in accordance with, *inter alia*, all Applicable Laws, the Redevelopment Plan and the terms and conditions of the Redevelopment Agreement (the “Project”); and

WHEREAS, the implementation of the Project would also result in the completion of certain additional public amenities, including but not limited to, a six-foot (6’) wide walkway providing ingress and egress to/from the Public Park, with landscaping, lighting, and seating (the “Walkway”), at no cost to the Township, as well as the generation of both temporary and permanent jobs for the development and construction and the operation of the Overall Project; and

WHEREAS, the Township’s Redevelopment Committee vetted the details comprising the Project and met with RT 66 and VHF on several occasions to further discuss the Proposal and the implementation of the Redevelopment Plan, generally; and

WHEREAS, additionally, the Township’s Chief Financial Officer obtained and reviewed certain financial information from RT 66 and VHF and preliminarily determined that both entities possess the financial strength and capability to finance and/or obtain such financing as may be necessary to fully implement the Project in accordance with, *inter alia*, the Redevelopment Plan; and

WHEREAS, as authorized by Resolution No. 22-382, the Township designated RT 66 and VHF as Co-Redevelopers of the Project Site conditioned upon the successful negotiation of a Redevelopment Agreement setting forth all the terms and conditions of the implementation of a redevelopment project upon the Project Site; and

WHEREAS, in September of 2022, also as authorized by Resolution No. 22-382, the Township, RT 66 and VHF entered into the Conditional Designation Agreement which, *inter alia*, required Co-Redevelopers to reimburse all of the costs and fees incurred and to be incurred by the Township in connection with the review of the Proposal and the preparation and negotiation of the terms of a Redevelopment Agreement, among other such expenses; and

WHEREAS, during the course of negotiations, after several requests, VHF failed to provide either a Financial Guaranty which would guaranty the construction of the Distribution Center Project, or a Stabilization Bond, and was advised via letter dated March 8, 2024 from the Township’s Special Redevelopment Counsel that in light of the fact that the Township and VHF were unable to successfully negotiate a Redevelopment Agreement, the Township would be considering the termination of the designation of VHF as a conditional redeveloper, a copy of which letter is attached hereto as Attachment A; and

WHEREAS, the Township and RT 66 have engaged in extensive negotiations and the Township has determined that in furtherance of the Township’s goals and objectives to implement the redevelopment contemplated in the Redevelopment Plan, it is in the Township’s best interests to enter into the Redevelopment Agreement, in substantially the form attached hereto as Attachment B, with RT 66 being designated as the exclusive Redeveloper of the Project Site; and

WHEREAS, RT 66 shall be the sole Redeveloper of the Overall Project Site and shall be responsible for the development and construction of the Retail Project, Distribution Center Project, Public Park and Walkway, and all related improvements and infrastructure and further, RT 66 has agreed to provide a Financial Guaranty to the Township for the entirety of the Overall Project; and

WHEREAS, RT 66 acknowledges and agrees that all uses to which the Project Site may be devoted are controlled by the Redevelopment Plan, the Redevelopment Agreement, and Governmental Approvals, as those terms are defined in the attached form of Redevelopment Agreement, and that under no circumstances shall the Redeveloper undertake any development or construction unless same is in accordance with the Redevelopment Plan, the Redevelopment Agreement and any Governmental Approvals; and

WHEREAS, the Township and the Redeveloper (collectively, the “Parties”) desire to enter into the Redevelopment Agreement in substantially the form attached hereto, for the purpose of setting forth in greater detail their respective undertakings, rights and obligations in connection with the development and construction of the Project; and

WHEREAS, the Parties also desire to enter into the agreements and documents related to the Project in substantially the forms attached to the Redevelopment Agreement which comprise an Escrow Agreement, the Redeveloper’s Declaration of Covenants, Conditions and Restrictions which shall run with the land in perpetuity, a Public Access Easement Agreement providing public access to the Walkway which shall be owned and maintained by RT 66, and the Deed conveying title to the Public Park to the Township (collectively, the “Related Documents”). The execution of the Public Access Easement Agreement and the Deed shall be subject to the adoption of an Ordinance authorizing the acquisition of same.

NOW, THEREFORE, it is hereby resolved by the Township Committee of Neptune as follows:

1. The Mayor or her designee is hereby authorized and directed to execute a Redevelopment Agreement between the Township of Neptune and 3501 RT 66, LLC (“RT 66”) in substantially the form attached hereto as Attachment B, conditioned upon RT 66’s payment of all Township Costs, including but not limited to, all legal and other professional fees incurred by the Township that may be due and owing, and the adoption of an Ordinance authorizing the Township’s acquisition of the Public Access Easement to the Walkway and title to the Public Park, subject to certain conditions as set forth in said Ordinance, which is simultaneously presented herewith.
2. The Mayor or her designee is hereby authorized and directed to execute the Related Documents, in substantially the form attached to the Redevelopment Agreement, and subject to the adoption of such requisite authorizing legislation by the Township Committee.
3. The Conditional Designation of VHF 3501 LLC (“VHF”), as co-redeveloper of a portion of the Project Site and as set forth in the Conditional Designation Agreement described herein, is hereby terminated.
4. The Township Clerk is authorized and directed to send a certified copy of this Resolution by certified mail, return receipt requested and by national overnight delivery service to VHF 3501 LLC, c/o Aini & Associates PLLC, 2615 Coney Island Avenue, Brooklyn, NY 11223, attention Jack A. Aini, Esq.
5. The Business Administrator and Staff of the Township of Neptune are hereby authorized and directed to take all actions as shall be deemed necessary or desirable to implement this Resolution.

6. This Resolution shall be effective immediately.

I hereby certify that the foregoing Resolution was adopted by the Township Committee of the Township of Neptune at a Regular Meeting held on April , 2024.

Gabriella Siboni, Municipal Clerk

Attachment A (to Resolution)
Letter to Jack Aini, Esq.

Attachment B (to Resolution)
Form of Redevelopment Agreement

JOSEPH J. MARAZITI, JR.
DIANE ALEXANDER¹
BRAD CARNEY
ANDREW M. BREWER
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March 8, 2024

Via Certified Mail, Regular Mail and Electronic Mail

Jack A. Aini, Esq.

Aini & Associates PLLC
2615 Coney Island Avenue
Brooklyn, NY 11223
jackaini@ainilaw.com

RE: Conditional Designation of VHF 3501 LLC as Redeveloper
Township of Neptune, Block 3903, Lots 12 and 13 (“Project Site”)

Dear Mr. Aini:

This firm represents the Township of Neptune (the “Township”) as Special Redevelopment Counsel. As you know, a Conditional Designation and Interim Cost Agreement was entered into by and among your client, VHF 3501 LLC (“VHF”), 3501 RT 66 LLC (“RT 66”) and the Township (the “Designation”) pursuant to the Local Redevelopment and Housing Law, for the redevelopment of the Property known as Block 3903, Lots 12 and 13, as authorized by Resolution #22-382 which was adopted by the Township Committee on August 22, 2022. Pursuant to the terms of the Designation, VHF and RT 66 were to successfully negotiate a Redevelopment Agreement with the Township, setting forth all the terms and conditions regarding the implementation of the redevelopment project on the Project Site.

Although the documents have not been finalized, RT66 and the Township have been actively participating in the negotiation of the Redevelopment and Land Transfer Agreement (the “Agreement”) for the Project, including all of the ancillary documents and exhibits necessary to implement the various components of the Project, with VHF being responsible for the development of the “Warehouse Parcel” (or “Distribution Center Parcel”) after the subdivision of the overall Project Site and the conveyance of said parcel to VHF by RT66.

March 8, 2024
Page 2

To date, VHF has failed to provide either a Stabilization Bond or Financial Guaranty, as discussed since August of 2023 and as anticipated by Paragraph 4.xxiv of the Designation (as well as Section 40.1.B.8 of the draft Agreement), which is to be attached to the Agreement. After review of the situation by the Township, please be advised that serious consideration is being given to terminating the Designation of VHF.

This letter shall serve as notice to advise VHF that if a written response to this letter, confirming VHF's willingness to actively participate in the finalization of the Agreement and provide the requested documentation, is not received within five (5) days of receipt of this notice, a Resolution may be considered by the Township Committee to terminate the Designation.

Thank you for your attention to this matter.

Very truly yours,

DocuSigned by:

A4D680528C4344F...
Joanne Vos

JV:alh

cc: *Via email only*

Bernard Haney, Director of Assessing and Land Use

Patrick J. McAuley, Esq.

Stephen A. Urban, Esq.

REDEVELOPMENT AND LAND TRANSFER AGREEMENT

BY AND AMONG

THE TOWNSHIP OF NEPTUNE

AND

3501 RT 66 LLC

Date: _____, 2024

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EXHIBIT J	RT 66 Project Team
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This **REDEVELOPMENT AND LAND TRANSFER AGREEMENT** (“**Agreement**” or “**Redevelopment Agreement**”) is dated as of the _____ day of _____, 2024 (“**Effective Date**”) between the **TOWNSHIP OF NEPTUNE** (“**Township**”), acting pursuant to the provisions of the Local Redevelopment and Housing Law, with municipal offices at 25 Neptune Boulevard, Neptune, New Jersey, 07753, and **3501 RT 66 LLC**, a limited liability company authorized to do business in the State of New Jersey and having an address of 4488 W. Boy Scout Boulevard, Suite 250, Tampa Florida, 33607 (“**RT 66**” or “**Redeveloper**”) and each of their permitted successors and assigns (the Township and the Redeveloper are collectively referred to herein as the “**Parties**”).

WITNESSETH

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

WHEREAS (#2), the Township desires that the land located in an area which has been determined to be an area in need of redevelopment in accordance with the Act, currently designated on the Tax Map of the Township of Neptune as Block 3903, Lots 12 and 13 and more commonly known as 3501 Route 66, Neptune, New Jersey, as same is shown on the Boundary and Topographic Survey dated October 27, 2020, revised through August 4, 2021, a copy of which is attached hereto as **Exhibit A** (referred to herein as the “**Redevelopment Area**” or the “**Overall Project Site**” or “**Project Site**”), be redeveloped in accordance with the Block 3903 Redevelopment Plan adopted by Ordinance No. 21-54 of the Township Committee on December 20, 2021 (the “**Redevelopment Plan**”); and

WHEREAS (#3), the Overall Project Site, which comprises approximately 47.37 acres, is owned by RT 66; and

WHEREAS (#4), on or about February 10, 2022, RT 66 submitted to the Township a Pre-Submission Form, a copy of which is attached hereto as **Exhibit B (“RT 66 Pre-Submission Form”)**, seeking to be designated as the Redeveloper of the entirety of the Redevelopment Area and setting forth its intention to redevelop the Redevelopment Area to include both retail and warehousing uses; and

WHEREAS (#5), the RT 66 Pre-Submission Form also set forth the intention of RT 66 to subdivide the Overall Project Site into two (2) parcels, referred to herein as **“Section A”** or the **“Retail Parcel”** (the land located along Rte. 66 in the “front” of the Overall Project Site, which will ultimately be redeveloped into a retail use) and **“Section B”** or the **“Distribution Center Parcel”** (the land located in the “rear” of the Overall Project Site, which will ultimately be redeveloped into a distribution and logistics center use); and

WHEREAS (#6), RT 66 had executed a Real Estate Purchase and Sale Agreement dated January 12, 2022 (the **“Sale Agreement”**) for the sale of the Distribution Center Parcel to VHF 3501 LLC, a limited liability company authorized to do business in the State of New Jersey, with offices at 15 West 34th Street, 2nd Floor, New York, New York 10001 (**VHF**”), in order for it to be redeveloped as a distribution and logistics facility; and

WHEREAS (#7), accordingly, VHF also submitted to the Township a Pre-Submission Form, seeking to be designated as the Co-Redeveloper of the Section B Parcel; and

WHEREAS (#8), the Township’s Chief Financial Officer obtained and reviewed certain financial information from RT 66 and VHF and preliminarily determined that both RT 66 and

VHF possessed the necessary experience and qualifications to take the steps necessary to implement the redevelopment of the Overall Project Site; and

WHEREAS (#9), accordingly, and as authorized by Resolution No. 22-382 adopted by the Township Committee on August 22, 2022, the Township, RT 66 and VHF entered into a Conditional Designation and Interim Cost Agreement (the “**Conditional Designation Agreement**”) which, *inter alia*, designated: (i) RT 66 as the Overall Redeveloper of the Overall Project Site; (ii) RT 66 as the exclusive Redeveloper of the Retail Parcel; and (iii) RT 66 and VHF as the Co-Developers of the Distribution Center Parcel, all conditioned upon the successful negotiation of a Redevelopment Agreement setting forth all the terms and conditions of the implementation of the Overall Project upon the Overall Project Site; and

WHEREAS (#10), the Conditional Designation Agreement also required RT 66 to reimburse all of the costs and fees incurred and to be incurred by the Township in connection with the review and consideration of the proposed redevelopment and the preparation and negotiation of the terms of a Redevelopment Agreement, among other such expenses; and

WHEREAS (#11), after the execution of the Conditional Designation Agreement, the Township, RT 66 and VHF engaged in extensive negotiations pertaining to the redevelopment of the Overall Project Site; and

WHEREAS (#12), during the course of such negotiations, VHF determined not to purchase the Distribution Center Parcel and on May 13, 2024, the Township Committee adopted Resolution ___-___de-designating VHF as a Co Redeveloper, and RT 66 intends to lease or transfer title to the Distribution Center Parcel (hereinafter defined) to a third party which will operate the Distribution Center Parcel Facility (hereinafter defined); and

WHEREAS (#13), RT 66 has agreed that RT 66 alone will redevelop the Section A Parcel into no less than 15,000 sq. ft. of retail, as depicted in the site plan attached hereto as **Exhibit D (“Overall Site Plan”)**, together with all related improvements and infrastructure, in accordance with the Redevelopment Plan and the terms herein (**“Retail Facility”**). RT 66 also will redevelop the Section B Parcel into a storage, distribution and logistics facility comprising no more than 251,022 sq. ft., including office space, as depicted in the Site Plan, together with all related improvements and infrastructure, in accordance with the Redevelopment Plan and the terms herein (**“Distribution Center Facility”**), which is anticipated to generate temporary construction jobs as well as certain permanent jobs; and

WHEREAS (#14), additionally, RT 66 will provide to the Township certain community benefit contributions consisting of a public park and an improved walkway for access to same, all as further set forth in Section 3.1(13) (collectively, the **“Community Benefit Contributions”**); and

WHEREAS (#15), more specifically, RT 66 will subdivide and redevelop a portion of the Overall Project Site into a park for the use and enjoyment of the surrounding community and the public at large comprising no less than 79,000 sq. ft. (approximately 1.8 acres) and containing, *inter alia*, a playground area and an adjacent picnic area (**“Public Park”**) as depicted in the public park concept plans collectively attached hereto as **Exhibits F1 through F7 (inclusive of Street Lighting Plan) (“Public Park/Walkway Concept Plans”)**, which shall be conveyed to the Township for consideration of \$1.00, all as further described herein; and

WHEREAS (#16), in order to provide convenient and safe pedestrian accessibility to the Public Park, RT 66 will also improve the real property with a six-foot (6’) wide Walkway along Green Grove Road with landscaping, lighting, and seating, as depicted on **Exhibits F2**

(“Pedestrian Route Plan Rendering”), F5 (“Berm on Green Grove Road”), F6 (“Pedestrian Route on Green Grove Road”) and F7 (“Street Lighting Plan”) (of the **“Public Park/Walkway Concept Plans”**), all as further described in Section 3.1(13)(b), infra, and **Exhibit K (“Subdivision Plan”)**; and

WHEREAS (#17), the Retail Facility, the Distribution Center Facility, and the Community Benefit Contributions are collectively referred to herein as the **“Overall Project”** or the **“Project,”** unless otherwise indicated; and

WHEREAS (#18), the Township has determined that in furtherance of the Township’s goals and objectives to implement the redevelopment contemplated in the Redevelopment Plan, subject to the provisions herein, it is in the Township’s best interests to enter into this Redevelopment Agreement with RT 66 being designated as the Redeveloper of the Overall Project Site; and

WHEREAS (#19), the Redeveloper acknowledges and agrees that all uses to which the Overall Project Site or any portion thereof may be devoted are controlled by the Redevelopment Plan and this Agreement, and that under no circumstances shall Redeveloper undertake any development or construction unless same is in accordance with the Redevelopment Plan and this Agreement; and

WHEREAS (#20), based upon all of the above and the terms and conditions herein, the Parties desire to enter into this Redevelopment Agreement in order to set forth in greater detail their respective undertakings, rights and obligations in connection with the development and construction of the various components of the Overall Project (the Retail Facility, the Distribution Center Facility, the Public Park and the Walkway (each as hereinafter defined).

NOW, THEREFORE, in consideration of the covenants and conditions herein set forth, the Township and Redeveloper do hereby covenant, promise and agree as follows, both Parties hereto binding itself and its successors and assigns as provided for herein:

ARTICLE I

DEFINITIONS

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

“Act” or **“Redevelopment Law”** shall have the meaning set forth in the Recitals.

“Acquisition Ordinance” shall have the meaning set forth in **Section 4.12**.

“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,” as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person.

“Agreement” or **“Redevelopment Agreement”** means this Redevelopment Agreement along with any written amendments, modifications, or supplements, and the Exhibits hereto, together with any other agreement(s) that are incorporated herein by reference, as may be applicable.

“Applicable Laws” means any laws, statutes, codes, ordinances, orders, regulations or other such legal requirements of any governmental body, now or hereafter in effect, and, in each

case, as may be amended, including any approvals granted by the Township or the Township's Planning Board or any State or County agency in furtherance thereof.

"Bulk Sale Act" shall have a meaning as set forth in **Section 16.3(j)**.

"CEA" shall have the meaning as set forth in **Section 4.7(1)(b)**.

"Certificate of Completion" means, subject to **Section 4.13** herein, a final, recordable, conclusive determination issued by the Township evidencing the satisfaction and termination of the agreements and covenants in this Agreement and compliance with this Agreement and the Redevelopment Plan with respect to the completion of the respective components of the Overall Project, as follows: (i) based upon its review of a written certification of a duly authorized officer of the Redeveloper stating that, with regard to the respective components of the Overall Project (the Retail Facility, the Distribution Center Facility and the Public Park): (a) the construction and implementation of same has been completed and all labor, services, materials and supplies used in connection thereto have been paid for (or, if disputed, bonded for as may be set forth herein) and (b) the Redeveloper has materially performed all of its duties and obligations under this Agreement; and (ii) a written determination by the Township that the Redeveloper has materially performed all of its duties and obligations under this Agreement, based upon: (a) the Township Engineer Certification, as that term is defined herein, and (b) any other physical inspection of the Overall Project or such pertinent component thereof and/or review of such other documentation or information that the Township may reasonably deem relevant and appropriate; a Certificate of Completion for the pertinent component of the Overall Project shall be formally approved by Resolution of the Township and such Resolution in and of itself may constitute a written determination as defined in this paragraph.

“Certificate of Occupancy” means the certificate provided for at N.J.S.A. 52:27D-133, whether temporary or permanent, indicating that the respective construction has been completed in accordance with the applicable construction permit, the applicable Ordinances of the Township of Neptune, the State of New Jersey Uniform Construction Code, and any other ordinance or regulation implementing the State of New Jersey Uniform Construction Code.

“Certification of No Pending or Threatened Litigation” means the Certification of the Redeveloper attached hereto as **Exhibit H**.

“Claims” shall have the meaning set forth in **Section 12.1** of this Agreement.

“Community Benefit Contributions” shall have the meaning set forth in the Recitals.

“Community Impact Statement” means that detailed statement and report attached hereto as **Exhibit Y**.

“Conditional Designation Agreement” shall have the meaning set forth in the Recitals.

“Conditions Precedent” shall have the meaning set forth in **Article X** of this Agreement.

“Consistency Determination” shall have the meaning set forth in **Section 4.3** of this Agreement.

“Consistency Determination Review” shall have the meaning set forth in **Section 4.3** of this Agreement.

“Consistency Determination Review Period” shall have the meaning set forth in **Section 4.3** of this Agreement.

“Controls” shall have the meaning set forth in **Section 4.7.1b**.

“Classification Exception Area” or **“CEA”** means an area within which one or more constituent standards and designated uses are suspended in accordance with applicable Environmental Laws.

“**Declaration**” shall mean the Redeveloper’s Declaration of Covenants, Conditions, and Restrictions Regarding Redevelopment Agreement attached hereto as **Exhibit I**.

“**Deed**” shall have the meaning set forth in **Section 3.1(13)(a)**.

“**Deed Restriction**” shall have the meaning set forth in **Section 3.1(13)(a)**.

“**Demolition**” shall mean the demolition of any structures or improvements existing on the Project Site as of the date of execution of this Agreement.

“**Distribution Center Concept Plan**” shall have the meaning set forth in Section 3.1(4).

“**Distribution Center Facility**” means the constructed storage, distribution and logistics warehouse (which the parties acknowledge is a permitted use pursuant to the Redevelopment Plan) which is anticipated to be constructed by RT 66 but occupied and operated by a third party, as more particularly set forth in **Section 3.1(4)** of this Agreement.

“**Distribution Center Parcel**” or “**Section B Parcel**” means that portion of the Overall Project Site upon which the Distribution Center Facility shall be constructed and implemented, as generally depicted in the **Exhibits D and K** and subject to the Subdivision.

“**Due Diligence**” shall have the meaning set forth in **Section 16.2** of this Agreement.

“**Due Diligence Activities**” shall have the meaning set forth in **Section 16.2** of this Agreement.

“**Due Diligence Period**” shall have the meaning set forth in **Section 16.2** of this Agreement.

“**Effective Date**” means the date set forth in the preamble of this Agreement.

“**Engineering Control**” means any physical mechanism to contain or stabilize environmental contamination or ensure the effectiveness of a remedial action, in accordance with applicable Environmental Laws; an Engineering Control may include, without limitation, a cap,

cover, building/foundation, dike, trench, leachate collection system, fence, or other such physical access control, in accordance with applicable Environmental Laws.

“Environmental Impact Statement” means that detailed statement and report attached hereto as **Exhibit AA**.

“Environmental Laws” means any present or future applicable federal, state or local law, rule, regulation, order, ordinance or other legal requirement related to release of Hazardous Substances to the environment and the related protection of human health and the environment, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601, et seq. (“CERCLA”); Resource Conservation and Recovery Act, 42 U.S.C. §6901, et seq. (“RCRA”); Site Remediation Reform Act, N.J.S.A. 58:10C-1, et seq. (“SRRA”); Brownfield and Contaminated Sites Remediation Act, N.J.S.A. 58:10B-1, et seq. (“BCSRA”); Industrial Site Recovery Act, N.J.S.A. 13:1K-6, et seq. (“ISRA”); New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11, et seq. (the “Spill Act”); Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21, et seq.; Water Pollution Control Act, N.J.S.A. 58:11A-1, et seq.; Solid Waste Management Act, N.J.S.A. 13:1E-1, et seq.; Administrative Requirements for the Remediation of Contaminated Sites (“ARRCS”), N.J.A.C. 7:26C; Remediation Standards Rules, N.J.A.C. 7:26D; and the Technical Requirements for Site Remediation (“Technical Rules”), N.J.A.C. 7:26E, and any other such laws, ordinances, rules, regulations, court orders, judgments and common law which govern (a) the existence, cleanup and/or remedy of any Hazardous Substances on the subject parcels; (b) the protection of the environment from spilled, deposited or otherwise discharged Hazardous Substances; or (c) the control, use, generation, transport, treatment, removal, storage, discharge or recovery of Hazardous Substances.

“Escrow” means the ancillary documents and agreements to be held in escrow, all as same are identified in and pursuant to the Escrow Agreement, the form of which is attached hereto as **Exhibit Q**. For purposes of clarity the “Escrow” is not related to the “Project Funds Escrow,” as same is defined in **Section 11.8** of this Agreement.

“Escrow Agent” shall have the meaning set forth in **Section 3.6** of this Agreement.

“Escrow Agreement” shall have the meaning set forth in **Section 3.6** of this Agreement.

“Escrowed Documents” shall have the meaning set forth in **Section 3.6** of this Agreement and further, the Parties agree that if this Agreement shall be terminated at any time for any reason, the Parties shall cooperate with each other and the Escrow Agent in order to void, vacate, terminate or destroy such executed documents, including any documents which may have been recorded by such time.

“Estoppel Certificate” means a certificate issued by the Township or by RT 66 either stating that this Agreement is in full force and effect and that there is no known default or breach under this Agreement nor any event which, with the passage of time and the provision of notice, would result in a default or breach under this Agreement, or, stating the nature of the default or breach, if any; in the event the Estoppel Certificate discloses a default or breach, it shall also state the manner in which such default or breach may be cured.

“Excepted Claims” shall have the meaning set forth in **Section 12.1** of this Agreement.

“Existing Utilities” shall have the meaning set forth in **Sections 4.4** and **4.5** of this Agreement.

“Final Planning Board Approval” shall have the meaning set forth in **Section 3.1(1)** of this Agreement.

“Financial Assurance” means any fund established pursuant to Environmental Laws that serves as a Remediation Funding Source or a Financial Assurance in connection with the remediation of the Project Site or any portion thereof.

“Financial Guaranty” means the legally binding guaranty agreement by and between the Township and RT 66 in substantially the form attached hereto as **Exhibit T (“Financial Guaranty Agreement”)**, assuring that, in certain circumstances, sources of financing are made available to RT 66 as the Redeveloper as may be necessary, pursuant to the terms herein and therein.

“Financing Commitment Summary” shall have the meaning set forth in **Section 11.2** of this Agreement.

“Financing Plan” shall have the meaning set forth in **Section 10.1B(1)** of this Agreement.

“Force Majeure” shall apply to all time limitations and other obligations and means any acts of God, fire, volcano, earthquake, hurricane, blizzard, infectious disease, technological disaster, catastrophe, large scale infestation of any type, tremors, flood, explosion, release of nuclear radiation, release of biotoxic or of biochemical agent(s), the elements, war, blockade, riots, mob violence or civil disturbance, any act(s) of terrorism or terroristic threat, a cyber-attack or unauthorized and/or illegal interference with computer communication systems that disables or substantially interferes with critical functions or access to data, an inability to procure goods or services, or a general shortage of labor, equipment, facilities, energy, materials or supplies in the open market, failure of transportation, strikes, walkouts, actions of labor unions, governmentally imposed moratoriums, un-availability of financing or termination of Redeveloper’s financing (which is not caused through the fault of or breach by Redeveloper) due to a bank failure or lending crisis, court orders, laws, rules, regulations or other orders of governmental or public agencies, bodies or authorities, legal inability to comply resulting from a change of: municipal law(s)

regulating land use and construction; or any other cause not within the reasonable control of the Redeveloper, but only: (i) to the extent that such events directly cause an inability to perform a material provision of this Agreement; and (ii) to the extent that such events are out of the reasonable control of the Party claiming relief; and (iii) for the length of the delay caused by the Force Majeure.

“Foreclosure” means that event in which a Holder forecloses its mortgage secured by the Overall Project Site, or any portion thereof, or takes title to the Overall Project Site, or any portion thereof, by deed-in-lieu of foreclosure or such similar transaction.

“Governmental Application(s)” means any and all submissions, supporting documents, reports or other proofs transmitted to any federal, state, county or local governmental office, agency, authority, department, officer or agent for the purpose of obtaining authorization or approval of any aspect of the Project.

“Governmental Approval(s)” means all necessary reviews, consents, opinions, permits or other approvals of any kind legally required by any federal, state, county or local Governmental Body or quasi-governmental entity having jurisdiction over any aspect of the implementation or construction of the Project or any portion thereof, including, but not limited to, preliminary and final site plan and subdivision approval and construction permits.

“Governmental Body” means any federal, state, county, legislative or executive office or local agency, department, commission, authority, court, or tribunal and any successor thereto, exercising executive, legislative, judicial, advisory or administrative functions of or pertaining to government, including, without limitation, the Township, the County of Monmouth, the State of New Jersey or the United States of America.

“Groundwater RAO” means an RAO for groundwater, as further set forth in **Section 4.7(2)** of this Agreement.

“Hazardous Substance” means any substance, chemical or waste that is listed as hazardous or toxic or a pollutant or contaminant by any Environmental Law, as that term is defined herein, and any substances that have been identified by USEPA and/or NJDEP as Contaminants of Emerging Concern, such as, and including, Per- and Polyfluoroalkyl substances (PFAS), perfluorononanoic acid (PFNA), perfluorooctanoic acid (PFOA), and perfluorooctanesulfonic acid (PFOS).

“Holder” means the mortgagee or its Affiliate, as that term is defined herein, to the Project Site or any portion of the Overall Project.

“Holder’s Options” shall have the meaning set forth in **Section 14.4(1)** of this Agreement.

“Infrastructure Improvements” shall have the meaning set forth in **Section 3.1(5)** of this Agreement.

“Institutional Control” means a mechanism used to provide notice of residual contamination at or near a contaminated site in order to ensure the effectiveness of the remedial action over time, in accordance with applicable Environmental Laws; Institutional Controls may include, without limitation, structure, land, and natural resource use restrictions, well restriction areas, ground water classification exception areas (CEA), deed notices, and declarations of environmental restrictions.

“Job Fair” shall have the meaning set forth in **Section 3.4** of this Agreement, as it pertains to the operation of the Distribution Center Facility.

“Licensed Site Remediation Professional” or **“LSRP”** means a Licensed Site Remediation Professional retained by the Redeveloper in accordance with applicable Environmental Laws.

“Long Term Compliance Obligations” shall have the meaning set forth in **Section 4.7(3)** of this Agreement.

“Noise Study” shall mean the study attached hereto as **Exhibit BB**.

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

“Outside Completion Date” means the date upon which the entirety of the Overall Project is completed, which, subject to **Section 4.1** hereof, shall occur on or before the applicable date set forth in the Project Schedule.

“Overall Site Plan” shall have the meaning set forth in the Recitals and as set forth in **Exhibit D**.

“Overall Project” or **“Overall Redevelopment Project”** or **“Project”** means the Retail Facility, the Distribution Center Facility, the Public Park and the Walkway, collectively.

“Overall Project Site” or **“Redevelopment Area”** or **“Project Site”** shall have the meaning set forth in the Recitals.

“Pedestrian Route Plan” shall have the meaning set forth in **Section 3.1(4)c** of this Agreement.

“Permitted Transfers” shall have the meaning set forth in **Section 7.2** of this Agreement.

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

“Planning Board” means the Planning Board of the Township of Neptune and any successors thereto.

“Planning Board Application” means any application submitted for any preliminary site plan, final site plan and subdivision plan approval, as the case may be, including any applications for amendments of any Planning Board Approval.

“Planning Board Approval” means any approval for any preliminary site plan, final site plan and subdivision plan, including any amended approval, as the case may be.

“Progress Report” means a written report which sets forth a detailed description of activities completed up to the date of submission of the Progress Report, the activities anticipated to be undertaken prior to the submission of the next Progress Report, the status of all Governmental Approvals and an explanation of each activity, if any, which is showing delay or likely delay, a description of 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.

“Project Funds Escrow” shall have the meaning set forth in **Section 11.8** of this Agreement.

“Project Funds” shall have the meaning set forth in **Section 11.8** of this Agreement.

“Project Schedule” means the detailed schedule for the construction of each component of the Overall Project.

“Project Site” or **“Overall Project Site”** or **“Redevelopment Area”** shall have the meaning set forth in the Recitals. **“Public Access Easement Agreement”** shall have the meaning set forth in **Section 3.1.13(b)** of this Agreement.

“Public Park” shall have the meaning set forth in the Recitals.

“Public Park Conveyance” shall have the meaning set forth in **Section 16.1** of this Agreement.

“Public Park Parcel” means that portion of the Overall Project Site which shall be subdivided as generally depicted on **Exhibits F1 to F4, inclusive, D and K**, improved as a Public Park, and conveyed to the Township for the consideration of \$1.00, as further set forth herein and pursuant to the Public Park Land Transfer Agreement.

“Public Park Land Transfer Agreement” means the provisions in **Article XVI** of this Agreement regarding the conveyance of the Public Park Parcel to the Township.

“Public Park/Walkway Concept Plans” shall have the meaning set forth in the Recitals and collectively in Exhibits F1-F7.

“RAO” means a “Response Action Outcome” as such term is defined in applicable Environmental Laws and the regulations promulgated thereunder; any Area of Concern (AOC) upon or caused by the Overall Project Site or any portion thereof shall be remediated by the Redeveloper and evidence of any such remediation in the form of an RAO shall be produced to the Township.

“Real Property” shall have the meaning set forth in **Section 16.1**.

“Reciprocal Easements” shall have the meaning set forth in **Section 4.5(4)** of this Agreement.

“Redeveloper” or **“RT 66”** shall have the meaning set forth in the Recitals.

“Redeveloper Covenants” means those promises, covenants and restrictions to which Redeveloper agrees to be legally bound pursuant to this Agreement, as more specifically set forth in **Section 9.1** of this Agreement.

“Redeveloper’s Declaration” shall have the meaning set forth in **Section 9.2** of this Agreement.

“Redeveloper’s Remediation” shall have the meaning set forth in **Section 4.7(1)** of this Agreement.

“Redevelopment Area” shall have the meaning set forth in the Recitals.

“Redevelopment Law” or **“Act”** shall have the meaning set forth in the Recitals.

“Redevelopment Plan” shall have the meaning set forth in the Recitals, and shall include the Redevelopment Plan as same may be amended in the future, subject to the terms herein.

“Redevelopment Plan Amendment” shall have the meaning set forth in **Section 10.1(A)(3)**.

“Redevelopment Project Claims” shall have the meaning set forth in **Section 12.1(a)** of this Agreement.

“Remedial Action Workplan” means the written, detailed description of the remedial action and the remedial technology to be utilized in the environmental remediation of the Overall Project Site or such portion thereof, as the case may be, if required pursuant to applicable Environmental Laws.

“Retail Facility” means the constructed retail building(s) on the Retail Parcel, as more particularly set forth in the Recitals.

“Retail Parcel” or **“Section A Parcel”** means that portion of the Overall Project Site upon which the Retail Facility shall be constructed and implemented, as generally depicted in the Survey and subject to the Subdivision.

“RT 66” or **“Redeveloper”** shall have the meaning set forth in the Recitals.

“RT 66 Pre-Submission Form” shall have the meaning set forth in the Recitals.

“RT 66 Project Team” means the individuals, including but not limited to, those who will be directly responsible for the design, construction and implementation of the components (the Retail Facility, the Distribution Center Facility and the Public Park components) of the Overall Project on behalf of R 66, a list of whom is attached hereto as **Exhibit J**.

“RT 66 Widening Project” shall have the meaning set forth in **Section 3.1.4(d)**.

“Safety Features” shall have the meaning set forth in **Section 3.1(13)(a)** of this Agreement and shall be construed to include the fencing and grading of the Public Park Parcel, as depicted on **Exhibits F1, F3 and F4**.

“Sale Agreement” shall have the meaning set forth in the Recitals.

“Section A Parcel” or **“Retail Parcel”** means that portion of the Overall Project Site upon which the Retail Facility shall be constructed and implemented, as generally depicted in the Survey and subject to the Subdivision.

“Section B Parcel” or **“Distribution Center Parcel”** means that portion of the Overall Project Site upon which the Distribution Center Facility shall be constructed and implemented, as generally depicted in the Survey and subject to the Subdivision.

“Shared Infrastructure Easement Declaration” means a recordable document approved and executed and imposing certain easements upon the Overall Project Site, as described in **Section 3.1(5)**, the form of which is attached hereto as **Exhibit P**.

“Shared Infrastructure Improvements” means those improvements to be constructed upon the Overall Project Site as described in **Section 3.1(5)**, which are anticipated to be utilized by both the Retail Facility and the Distribution Center Facility, such as but not limited to driveways, stormwater management features/systems and utilities.

“Sidewalk Contribution” shall have the meaning set forth in **Section 3.1(4)(d)** of this Agreement and as set forth in **Exhibit DD**.

“Stormwater Management Report” shall have the meaning set forth in **Section 3.1(6)** of this Agreement.

“Stormwater Operation & Maintenance Manual” shall have the meaning set forth in **Section 3.1(6)** of this Agreement.

“Subdivision” means the approval issued by the Planning Board for the Overall Project Site to be subdivided into the Retail Parcel, Distribution Center Parcel and Public Park Parcel.

“Subdivision Plan” means the plan for subdividing the Overall Project Site as generally depicted in **Exhibit K** (reflecting Proposed Lot 12.01 as the Distribution Center Parcel; Proposed Lot 13.01 as the Retail Parcel; and Proposed Lot 13.02 as the Public Park Parcel).

“Subsequent Redeveloper” means a responsible Person who has: (i) submitted evidence reasonably satisfactory to the Township that it has the qualifications and financial responsibility necessary to perform the Redeveloper’s obligations under this Redevelopment Agreement; (ii) formally been designated by the Township as a Subsequent Redeveloper for the Project or a designated portion(s) thereof; and (iii) expressly assumed the Redeveloper’s rights and obligations under this Redevelopment Agreement for such designated portion(s) or has entered into a similar written agreement with the Township for the performance or completion of the performance of the Project or such designated portion(s) thereof, in accordance with Applicable Law, after formal approval by the Township Committee, subject to reasonable extensions of the Project Schedule to be granted by the Township.

“Subsequent Redevelopment Agreement” shall have the meaning set forth in **Section 14.4 (1)(a)** of this Agreement.

“Sustainability Features” means those features that shall be implemented within the Retail Facility and the Distribution Center Facility, respectively, as same are generally described in **Section 3.1(4)(a)**.

“Tenant” means a third-party retail entity which is not an Affiliate of the Redeveloper which enters into a written lease to occupy any portion of the Retail Facility following its completion.

“Tenant Lease” means a written lease agreement between the Redeveloper and a Tenant that will ultimately occupy any portion of the Retail Facility or Distribution Center Facility following its completion.

“Tenant Lease Notification” shall have the meaning set forth in **Section 9.1(g)** of this Agreement.

“Title Transfer” shall have the meaning set forth in **Section 16.3(b)** of this Agreement.

“Title Company” shall have the meaning set forth in **Section 16.3(c)** of this Agreement.

“Township Costs” means all commercially reasonable out-of-pocket costs and/or expenses incurred by the Township that are required or necessary to implement or defend this Agreement and/or any amendment thereto, including the Redeveloper’s designation and the Redevelopment Plan or any amendment thereto in connection with the Project, which shall include, but are not limited to, the following: fees and costs of any professional, consultant, contractor or vendor retained by the Township, including attorneys, environmental consultants, engineers, technical consultants, planners, and financial consultants, among others.

“Township Engineer Certification” means a written letter or certification by the Township Engineer that, based upon the Township Engineer’s physical inspection and review of the Project, together with any other documentation or information that the Township Engineer

shall reasonably deem relevant and appropriate, all of which Redeveloper shall promptly provide upon request, the Project has been constructed and implemented in accordance with this Agreement and pursuant to the Governmental Approvals.

“Township Indemnified Parties” means the Township of Neptune and its officers, agents, employees, contractors, and consultants.

“Traffic Impact Study” means the study that is attached hereto as **Exhibit L**.

“Transfer” means, except for Permitted Transfers, as that term is defined herein, any transaction by which a Transferee, as that term is defined herein, obtains an interest in the Overall Project Site or any portion thereof, by means or methods including, but not limited to, conveyance, transfer, encumbrance, acquisition or assignment through sale, lease, merger, consolidation, reorganization, assignment, foreclosure or otherwise, including the appointment of a trustee in bankruptcy or assignee for the benefit of creditors.

“Transferee” means any party to whom an interest in the Overall Project Site or any portion thereof, is conveyed, transferred, leased, encumbered, acquired or assigned, by sale, merger, consolidation, reorganization, assignment, foreclosure or otherwise, including a trustee in bankruptcy or assignee for the benefit of creditors, but excluding transferees of a Permitted Transfer.

“Transition Period” shall have the meaning set forth in **Section 14.4(1)** of this Agreement.

“Trucks” shall have the meaning set forth in **Section 4.14(a)** of this Agreement.

“Truck Routing Plan” shall have the meaning set forth in **Section 4.14(a)** of this Agreement and is attached hereto as **Exhibit N**.

“Walkway” shall have the meaning set forth in the Recitals.

ARTICLE II

DESIGNATION OF REDEVELOPER AND GENERAL TERMS

SECTION 2.1 Designation of Redeveloper. The Township hereby designates RT 66 as the Redeveloper of the Overall Project, with RT 66 being responsible for undertaking all of the tasks and activities necessary to accomplish the development of the Retail Facility, the Distribution Center Facility and the Public Park. RT 66 also shall be responsible for site preparation of the Retail Parcel, the Distribution Center Parcel and Public Park Parcel and the construction and maintenance of the Shared Infrastructure Improvements, as described in **Exhibit P**. RT 66 and the Township shall cooperate with each other in order to fully and completely implement the Overall Project as same is described herein.

SECTION 2.2 Planning Board Approval. RT 66 shall diligently pursue the Subdivision in accordance with the Subdivision Plan attached hereto as **Exhibit K**. The Parties acknowledge and agree that the obligation for Redeveloper to undertake and complete the Overall Project is expressly conditioned upon the Planning Board granting its approval of the Planning Board Application filed by Redeveloper seeking site plan and subdivision approvals in furtherance of the Overall Project as described herein. The Parties agree that following Redeveloper having obtained the Final Planning Board Approval, RT 66 shall execute and record the Shared Infrastructure Easement Declaration for purposes of, *inter alia*, constructing and maintaining the Shared Infrastructure Improvements, and a recorded copy of same shall be promptly provided to the Township at no cost to the Township.

SECTION 2.3 Redeveloper's Responsibilities. RT 66 and the Township shall cooperate in good faith with each other in order to fully and completely implement the Overall Project and each component thereof as same is described herein. Redeveloper shall undertake and complete

the obligations set forth herein; provided, however, in the event Redeveloper identifies another party who is qualified, experienced and willing to acquire the Distribution Center Parcel and execute an amendment to this Redevelopment Agreement satisfactory in form and substance to Redeveloper and the Township relating to the development, operation and maintenance of the Distribution Center Facility, the Redeveloper and the Township shall cooperate with each other and with such other party in order to cause this Agreement to be amended to conform it to address such circumstance with the goal being to further the completion of the Overall Project expeditiously; and, provided further however, such amendment shall be conditional upon, *inter alia*, the Township approving such party as the Designated Redeveloper for the development, operation and maintenance of the Distribution Center Facility.

SECTION 2.4 Interim Security Features. Within ten (10) days following the Effective Date, RT 66 shall take commercially reasonable steps as may be necessary to secure the Project Site prior to commencement of Demolition, and upon commencement of Demolition, RT 66 shall install security fencing and gates, as set forth in the Overall Site Plans, subject to the review and written approval of the Township Engineer or the Township Engineer's designee. Said security fencing and gates shall remain on site through the completion of construction.

SECTION 2.5 Term. This Agreement shall become effective upon the Effective Date and shall remain in full force and effect from such date until the Overall Project has been fully completed and implemented, as evidenced by the issuance of a Certificate of Completion, or upon termination of this Agreement in accordance with its terms, subject to the survival of certain provisions as expressly stated herein.

SECTION 2.6 Cooperation. The Parties shall fully cooperate with each other in order to complete and implement the Overall Project, as set forth herein, including with regard to the good

faith negotiation of any additional agreements or amendments of this Agreement, as the case may be, that may be required in order to effectuate the goals and objectives of this Agreement and the Redevelopment Plan.

ARTICLE III
PROJECT DESCRIPTION

SECTION 3.1 Description of the Project. Redeveloper agrees to perform and complete the respective following tasks in connection with the construction and implementation of the Overall Project, consistent with all of the Exhibits attached hereto, in compliance with the terms and conditions of this Agreement, the requirements set forth in the Redevelopment Plan, and all Applicable Laws, with the level of skill and care ordinarily exercised by developers of such similar facilities:

1. **Demolition and Site Preparation.** Completing all Demolition of any existing structures upon any portion of the Overall Project Site and site preparation tasks and activities for all development and/or construction hereunder. Demolition of the existing structures on the Overall Project Site shall be commenced within thirty (30) days after issuance of a demolition permit to be applied for upon the later to occur of (i) the receipt and acceptance by RT 66 of a written financing commitment or (ii) the receipt of a final, non-appealable determination by the Township Planning Board approving the Planning Board Application filed by Redeveloper pursuant to Section 2.2 hereof (the “**Final Planning Board Approval**”); provided that RT 66 shall diligently pursue an acceptable financing commitment and the approval of the Planning Board Application; and

2. **Governmental Approvals.** Diligently obtaining all applicable Governmental Approvals, as that term is defined herein, for each component of the Project, which the Parties acknowledge shall be undertaken by RT 66; and

3. **Environmental.** Remediating or completing the remediation of any contamination originating on the Overall Project Site or any portion thereof to the extent such remediation is required by applicable Environmental Laws, which the Parties acknowledge shall be undertaken by RT 66, except as may be expressly stated otherwise herein; and

4. **Structures.** Developing and constructing an overall complex consisting of: a retail component which shall be no less than 15,000 sq. ft., consistent with the retail concept plans attached hereto as part of **Exhibits D, K, Z1 (“Retail Building Elevations”)** and **Z2 (“Retail Project Rendering”)**, to include various retail uses as same are permitted by the Redevelopment Plan and as further set forth herein, together with all related Infrastructure Improvements/Shared Infrastructure Improvements; and, a Class “A” storage, distribution and logistics facility component comprising one (1) building which shall be no more than 251,022 sq. ft. (approximately 237,022 sq. ft. storage space and 14,000 sq. ft. office space), consistent with the Distribution Center Concept Plan attached hereto as part of **Exhibits D and K**, which shall be operated as a storage, distribution and logistics facility consistent with the Redevelopment Plan, together with all related Infrastructure Improvements/Shared Infrastructure Improvements. The Overall Project shall be consistent with the Redevelopment Plan and this Agreement and the Exhibits attached hereto, including the aforementioned Overall Site Plan, together with the following features:

a) **Sustainable Elements:** Implementation of various sustainable elements such as white or reflective roofing systems, LED lighting, car charging stations, bike racks, and sun shades, all of which shall be in compliance with the Redevelopment Plan and subject to the review and

approval of a detailed description of such elements which shall be subject to the review and written approval of the Township Engineer or the Township Engineer's designee, which shall be obtained as part of the Consistency Determination Review (collectively, "**Sustainability Features**"); and

b) **Parking**: Provision of parking, with the parking for the Distribution Center Facility comprising approximately 144 spaces for automobiles, 25 spaces for truck trailers and 32 loading docks to be located on the Distribution Center Parcel, as generally depicted in **Exhibits D and K**; and the parking for the Retail Facility comprising approximately 100 spaces to be located on the Retail Parcel, as generally depicted in **Exhibits D and K**; and

c) **Pedestrian Route Plan**: Implementation of a pedestrian walkway throughout a portion of the Overall Project Site, as generally depicted on **Exhibits D, F2 ("Pedestrian Route Plan Rendering") and K** within the Overall Site Plan ("**Pedestrian Route Plan**"), and consistent with the Redevelopment Plan and compliant with all Applicable Laws, providing connectivity to and about the Retail Facility, Public Park and Walkway; and

d) **Sidewalk**: The Parties acknowledge and agree that Redeveloper is providing the aforementioned Pedestrian Route Plan and the Walkway, which Walkway is described in more detail in **Section 3.1(13)(b)** hereof, pursuant to and consistent with the Redevelopment Plan. The Parties also acknowledge and agree that currently NJDOT is contemplating future widening of RT 66 in areas that include the frontage of the Overall Project Site (the "**RT 66 Widening Project**"). The Township, in turn, is contemplating installation of a four foot (4') wide sidewalk and related lighting along the Overall Project Site's frontage on Route 66 up to the intersection with Green Grove Road at a future date upon completion of (or in conjunction with) the RT 66 Widening Project by NJDOT. In addition to the Community Benefit Contributions described in **Section 3.1(13)** hereof, Redeveloper agrees to provide to the Township the sum of \$440,000.00 (the

“**Sidewalk Contribution**”), as set forth on **Exhibit DD** annexed hereto, which the Parties acknowledge and agree represents a fair and reasonable estimate of the current costs as of the date of execution of this Agreement that may reasonably be incurred by the Township in connection with the installation of such a sidewalk and any related lighting and landscaping within the NJDOT right of way after completion of (or in conjunction with) the RT 66 Widening Project, including prevailing wages. The aforesaid amount shall be further adjusted for inflation between the Effective Date and the date of delivery of the Sidewalk Contribution. Payment of the Sidewalk Contribution shall be a condition precedent to the issuance of a Certificate of Occupancy for any portion of the Overall Project. The aforementioned inflation adjustment to the Sidewalk Contribution shall be calculated pursuant to the “CPI Inflation Calculator” at: [CPI Inflation Calculator \(bls.gov\)](https://www.bls.gov/calculator). The Sidewalk Contribution shall include such adjustment, but in no event shall the Sidewalk Contribution be less than \$440,000.00. The Township may utilize these funds to install the sidewalk and any related lighting in the future, pending the RT 66 Widening Project, or for any other public purpose, which is beneficial to the Overall Project Site or to the immediate surrounding area; provided however, that in the event the Township does not utilize the funds to install the sidewalk and any related lighting in the future, then the Township shall indemnify the Redeveloper, to the extent permitted by law, against any Claim arising out of the Township’s utilization of the Sidewalk Contribution. If, in connection with such installation of the sidewalk along the Overall Project Site’s Route 66 frontage and any related lighting, it is necessary for portions of such adjacent lighting along the frontage of Route 66 to be installed within the Retail Parcel, Redeveloper shall cooperate with the Township in making such area within the Retail Parcel available for such lighting installation; provided however, the maintenance of such lighting shall be the responsibility of the Township.

5. **Infrastructure Improvements.** Constructing or extending any improvement or utility reasonably necessitated or required by the implementation of, and to serve, the Project or any portion thereof, which is located in whole or in part either on or off the Overall Project Site, including but not limited to milling and paving the roadways, and installing electric powerlines, sewer transmission conduits or pipes, storm sewers, telephone lines, cable lines, and any other such utilities, all of which shall be subject to final utility connection coordination with each relevant utility provider (collectively, the “**Infrastructure Improvements**” serving only either the Retail Facility or the Distribution Center Facility, or, the “**Shared Infrastructure Improvements**”, serving both the Retail Facility (including the Public Park, if and as applicable) and the Distribution Center Facility), which the Parties acknowledge shall be undertaken by RT 66. The Shared Infrastructure Improvements shall be subject to an easement declaration in substantially the form attached hereto as **Exhibit P (“Shared Infrastructure Easement Declaration”)**, the execution and recording of which shall be completed within thirty (30) days following Redeveloper’s having secured the Final Planning Board Approval and a recorded copy of the Shared Infrastructure Easement Declaration shall be promptly provided to the Township, at no cost to the Township; and

6. **Stormwater Management Features.** Installing and maintaining certain stormwater management features consistent with the Overall Site Plans, as same may be approved or otherwise required by the Planning Board, the installation of which the Parties acknowledge shall be undertaken by RT 66 as the Overall Redeveloper in accordance with the Stormwater Management Report dated July 28, 2023, a copy of which is attached hereto as **Exhibit W**, and the maintenance of which shall be undertaken in accordance with the Stormwater Operation & Maintenance Manual dated July 28, 2023, a copy of which is attached hereto as **Exhibit X**,

utilizing, *inter alia*, the stormwater basin ramps, and pursuant to the terms set forth in the Shared Infrastructure Easement Declaration; and further, as it regards soil erosion and sediment control, soil erosion measures shall be undertaken upon the Overall Project Site in accordance and compliance with applicable Legal Requirements, including but not limited to the implementation of sediment barriers and silt fences, stabilized construction access, topsoil stockpiles and temporary and permanent stabilization; and

7. **Landscaping.** Installing the landscaping features as generally depicted in the Landscaping Plan attached hereto as **Exhibits E1** through **E5** inclusive and the Overall Site Plans, which the Parties acknowledge shall be undertaken by RT 66; and

8. **Signage.** Installing certain pylon signs at the locations shown on **Exhibit V** (“**Monument Pylon Signage Locations**” for the Distribution Center for the pylon signs, which the Parties acknowledge shall be undertaken by RT 66. Any additional specific signage to be installed in connection with the Retail Facility, the design of which may not be known to the Redeveloper until after the issuance of Planning Board Approval, shall be subject to the review and written approval of the Township Engineer or the Township Engineer designee; and

9. **Safety Features.** Installing safety fencing and gates in the public park, as set forth in the Overall Site Plans, which the Parties acknowledge shall be undertaken by RT 66, with those portions of any fencing in the public park fronting on any public roadway being decorative in nature, subject to the review and written approval of the Township Engineer or the Township Engineer’s designee; and

10. **Trash Receptacles.** Providing trash receptacles in the locations generally depicted in the Overall Site Plans, which the Parties acknowledge shall be undertaken by RT 66, and with regard to the Retail Parcel, the specific types of which trash receptacles may not be known to the

Redeveloper until after the issuance of Planning Board Approval, shall be subject to the review and written approval of the Township Engineer or the Township Engineer designee; and

11. **Bike Racks.** Installing bike racks within the Public Park, which the Parties acknowledge shall be undertaken by RT 66; and

12. **Lighting.** Installing decorative, energy efficient building lighting and pole lighting within and around the Overall Project Site, as generally depicted in the Overall Site Plans, which the Parties acknowledge shall be undertaken by RT 66, provided however, that a detailed Lighting Plan shall be subject to the review and written approval of the Township Engineer or the Township Engineer's designee which shall be obtained as part of the Consistency Determination Review; and

13. **Community Benefit Contributions.** Building the Public Park, together with all Safety Features as same are described in this Section 3.1(13), and the Walkway, as further depicted in the Public Park/Walkway Concept Plans previously identified above, which the Parties acknowledge shall be undertaken by RT 66, and as further set forth below:

a) **Public Park:** RT 66 shall subdivide the Public Park Parcel as shown in the Subdivision Plan attached hereto as **Exhibit K**; remediate the Public Park Parcel, if required by applicable Environmental Laws and in accordance with applicable Environmental Laws; improve the Public Park Parcel as a playground containing various play features and equipment, including a swing set, a net climbing section and a slide with "Pour in Play" or such similar material thereunder (as opposed to wood or rubber chips), a permeable surface walking track around the perimeter with (4) pieces of exercise equipment (i.e. double skier, double leg press, rowing machine, and 4-person twisting station) to be spaced out along a walking track, benches along the walking track, (4) tables with connected benches for picnicking, shade structure(s) or shade trees,

plantings, area fencing and wheelchair access to adjacent sidewalks and parking lot (together with both 4' high fencing around the playground area and 6' high fencing around the entire perimeter of the Public Park (“**Safety Features**”), generally as depicted in the Public Park/Walkway Concept Plans (see conceptual renderings in **Exhibits F1 to F4** attached hereto); and convey the Public Park Parcel to the Township, subject to a Deed Restriction set forth in the deed which shall run with the land in perpetuity and restrict the use of the Public Park Parcel to public recreation/open space (“**Deed Restriction**”), in substantially the form attached hereto as **Exhibit S (“Deed”)**, for consideration of \$1.00 in accordance with the terms set forth in **Article XVI**, subject to the adoption of such requisite authorizing legislation by the Township Committee.

b) Walkway: RT 66 shall construct a walkway consisting of a 6' wide sidewalk within an easement routed as depicted on **Exhibit K** (including Walkway and benches within the easement), from the northern boundary of the Project Site, southerly along Green Grove Road to the Public Park and Retail Parcel, in order to provide the public with safe access to/from the Public Park. RT 66 shall improve the Walkway with landscaping, decorative lighting and seating features/furniture, as depicted in the Public Park/Walkway Concept Plans. RT 66 and the Township acknowledges that, following completion of the Overall Project Redeveloper's successors in title interests to the Distribution Center Parcel and the Retail Parcel ultimately will own a portion of the land within which the Walkway will be located and, upon the Public Park Conveyance, the Township will also own a portion of the land within which the Walkway will be located, because the Walkway also is located within the boundaries of the Public Park Parcel. Therefore, the Parties agree to grant the public access to the Walkway pursuant to an easement agreement in substantially the form attached hereto as **Exhibit R (“Public Access Easement Agreement”)**, the execution of which shall be subject to the adoption of such requisite authorizing

legislation by the Township Committee. The Township shall maintain that portion of the Walkway within the perimeter of the Public Park Parcel, as further set forth in the Public Access Easement Agreement.

14. **Street and Project Site Furniture.** RT 66 shall be responsible for implementing the furniture along Green Grove Road and within the Project Site as same is depicted on **Exhibit F6** and located as noted on **Exhibit F2**.

SECTION 3.2 Traffic. A Traffic Impact Study dated May 30, 2023 (which includes circulation impacts) was undertaken by RT 66 and submitted to the Township, a copy of which is attached hereto as **Exhibit L**. Unless the Parties agree otherwise in writing, all truck traffic entering or exiting the Distribution Center Parcel shall be by “right turn” only from or onto, respectively, Route 66. Additionally, the Parties have agreed upon the “**Truck Routing Plan**” as further discussed in **Section 4.14(a)**.

SECTION 3.3 INTENTIONALLY LEFT BLANK

SECTION 3.4 Job Fairs. The obligations under this Section shall apply to the to the operation of the Distribution Center Facility, in the event that the initial Distribution Center operator will have or anticipates needing to fill at least ten (10) employee positions with persons who are not currently employed elsewhere by said Distribution Center initial operator, then: upon or before the completion of the construction, Redeveloper shall cause such operator to hold at least one (1) open house job fair within the Township boundaries for the purpose of advertising new, permanent employment positions that are expected to be generated thereby (a “**Job Fair**”), as described above. Any such Job Fair shall be held: at least three (3) months prior to the commencement of business operations of the Distribution Center Facility; for at least five (5) hours, between the hours of 3:00 pm and 8:00 pm, and for the first three (3) hours of the Job Fair,

only residents of the Township shall be permitted entry. Thereafter, the Job Fair shall be open to the general public.

SECTION 3.5 First Source Employment. In addition to the above regarding a potential Job Fair to be held by the Distribution Center initial operator, Redeveloper covenants to make good faith efforts to first employ, and to cause its contractors, subcontractors and initial tenants to first employ, residents of the Township in connection with the construction and operation of each component of the Project, subject to Applicable Laws. The Parties hereto acknowledge that the obligations set forth in **Section 3.4** and **Section 3.5** herein are covenants to the Township and do not confer any right or benefit to any third party. Additionally, Redeveloper shall communicate with, and meet with, if requested, the relevant unions in order to provide information regarding the bidding process for constructing the Project.

SECTION 3.6 Escrow Agreement. The Township and Redeveloper agree that an escrow agreement in substantially the form attached hereto as **Exhibit Q (“Escrow Agreement”)** shall be duly executed by them and the identified escrow agent (“**Escrow Agent**”), within thirty (30) days of the Effective Date. The Escrow Agreement shall be utilized to escrow various documents (the “**Escrowed Documents**”) for a period of time, all as further set forth therein.

ARTICLE IV

IMPLEMENTATION OF OVERALL PROJECT

SECTION 4.1 Project Schedule. The Redeveloper shall use commercially reasonable efforts to commence, implement and diligently complete its obligations in connection with the Project by the dates/timeframes set forth in the Project Schedule attached hereto as **Exhibit M**, and generally in accordance with the Narrative Summary of Project set forth on **Exhibit M1**, in compliance with the terms and conditions of this Agreement (the “**Project Schedule**”). The Parties

acknowledge and agree that in any event, the following timeframes shall apply: (i) the Planning Board Application for the Overall Project shall be submitted to the Planning Board within sixty (60) days after the Effective Date; (ii) complete applications for any other requisite Governmental Approvals for the Overall Project shall be submitted to the respective Governmental Agencies within one hundred and twenty (120) days after the Effective Date; (iii) any Demolition of the existing structures or improvements on the Project Site shall be commenced by Redeveloper within thirty (30) days after the issuance of a permit for such demolition, and is expected to be completed within ninety (90) days after commencement, pursuant to the Project Schedule; (iv) construction of the Retail Facility shall be commenced by Redeveloper within thirty (30) days after issuance of a permit for such construction; and (v) construction of the Overall Project shall be completed within a commercially reasonable period of time after the commencement of construction of the Retail Facility, given such time periods that are standard for development projects of similar size, quality and characteristics, but in any event, not later than five (5) years after the Redeveloper has the Final Planning Board Approval (the “**Outside Completion Date**”), subject to extensions for Force Majeure, unless the Township shall consent to specific extensions of the Project Schedule in writing, which may only be granted for good cause, in the reasonable discretion of the Township Engineer or his designee. Grading and site work for both the Retail Parcel and the Distribution Center Parcel shall be undertaken concurrently. Regardless of anything herein or in the exhibits attached hereto to the contrary, the Parties acknowledge that the construction and implementation of the Retail Facility shall generally be given priority; however, construction activities for the Distribution Center Facility and the Retail Facility shall proceed concurrently and shall not be phased.

Additionally, the Parties agree that notwithstanding the timeframes set forth in the Project Schedule, RT 66 shall not be required to commence actual construction activities with regard to the Public Park or the Walkway until the Township's Due Diligence is completed without the termination of the Land Transfer Agreement hereunder, as set forth in **Article XVI**. The Parties shall cooperate with each other in good faith in order to complete the Overall Project by or before the Outside Completion Date. If there is an inconsistency between this Agreement, the Project Schedule and the Narrative Summary of Project, the terms and timeline set forth in this Agreement shall prevail.

SECTION 4.2 Governmental Approvals. The Parties acknowledge that the obligations under this Section shall apply to the Redeveloper with regard to the Overall Project: diligent efforts shall be undertaken to secure, or cause to be secured, any and all Governmental Approvals required for the entirety of the Project. The Redeveloper shall have the right, but not the obligation, to appeal a denial or unfavorable ruling as to any Governmental Approval, or any unsatisfactory condition, or to defend an appeal of any Governmental Approval. As to any Planning Board Approval, in the event that same is overturned on appeal, the Overall Redeveloper shall have the right, but not the obligation, to reapply to the Planning Board with such modifications as are required to obtain a Planning Board Approval, subject to the provisions herein including, *inter alia*, the Consistency Determination Review requirements set forth below.

SECTION 4.3 Consistency Determination Review. The Parties acknowledge that the obligations under this Section shall apply to the Overall Redeveloper with regard to the Overall Project i.e. each component of the Overall Project, including the Retail Facility, the Distribution Center Facility, and the Shared Infrastructure Improvements, as well as the Public Park and the Walkway: applications shall be diligently prepared and submitted to the Planning Board for

Preliminary and Final Site Plan approval and Subdivision approval, as applicable. Along with the application, the Overall Redeveloper shall submit the plans and reports, prepared by a State of New Jersey licensed architect, surveyor and/or engineer, as the case may be, for the development and construction of the Project, with the latest revision dates consistent with the List of Exhibits attached hereto, which have been reviewed by the Township Engineer. Simultaneously with the submission of a Planning Board Application, including any amendment to any Planning Board Approval, a copy of said Planning Board Application shall be submitted to the Township Engineer (and/or such other professional as the Township may direct in writing) for a determination that the submission dates are consistent with the dates herein or that it complies in all material respects to the terms herein and the exhibits attached hereto (“**Consistency Determination**”), which determination shall be made within ten (10) days after the date of said submission (“**Consistency Determination Review Period**”). If the Township Engineer (and/or such other professional as the Township may direct in writing) reasonably determines that the Planning Board Application, or any amendment thereof, as the case may be, are not the same plans previously submitted and reviewed or does not comply with the terms herein and/or the exhibits attached hereto, then the Overall Redeveloper shall be so notified within the Consistency Determination Review Period in reasonable detail of the changes required for the application to conform in all material respects.

SECTION 4.4 Existing Utilities. The Parties acknowledge that the obligations under this Section shall apply to the Redeveloper with regard to the Overall Project. the Redeveloper acknowledges that local public utility providers may have certain rights with respect to the Overall Project Site or portions thereof and may own certain facilities that are currently located thereupon, with access that may be provided by an easement (a Permitted Encumbrance) (“**Existing Utilities**”). The Redeveloper agrees that it is ultimately its responsibility to assess the Existing

Utilities, if any, and ultimately undertake the appropriate measures to negotiate with, acquire, relocate or otherwise address the existence of these utilities and easements therefor, in order that the Project may be completed. Notwithstanding same, the Township shall use its commercially reasonable efforts to cooperate with and assist the Redeveloper in its efforts to achieve positive results with regard to the local public utilities, as may be necessary and as requested by the Redeveloper in writing. Any reasonable costs incurred by the Township in connection with same shall be deemed a Township Cost, as that term is defined herein. The Redeveloper shall consult local public utility providers with respect to all utility work under the jurisdiction of such provider to be undertaken upon the Overall Project Site work and shall take such precautions reasonably necessary to prevent personal injury, property damage and other liabilities related to any utilities above, at, or under the Overall Project Site.

SECTION 4.5 Construction and Implementation of Infrastructure Improvements.

The Parties acknowledge that the obligations under this Section shall apply to the Redeveloper with regard to the Overall Project:

1. Planning Board Application: As a component of the Planning Board Application, drawings, plans and/or renderings that sufficiently depict all reasonably necessary Infrastructure Improvements, including Shared Infrastructure Improvements, to support the Overall Project shall be submitted to the Planning Board. In preparation for the above-described submission, the Redeveloper shall have assessed the Existing Utilities and shall timely obtain “will serve” letters from the relevant utility providers stating that the applicable utility will provide service to the Project or a portion thereof, as the case may be.

2. Existing Utilities: The Redeveloper shall make such repairs, replacements or upgrades, if any, as are deemed reasonably necessary by its professional consultants to supply

utility service to the Project or such portion thereof, in consultation with the relevant local public utility providers and the Township Engineer.

3. Construction of New Infrastructure: The Redeveloper shall design and construct or cause to be constructed the Infrastructure Improvements, including the Shared Infrastructure Improvements, in a good and workmanlike manner and in accordance with all Applicable Laws, as that term is defined herein. Performance and maintenance bonds to secure any public improvements shall be provided, as same may be required by the Municipal Land Use Law. The obligation of the Redeveloper for the cost of the construction, implementation, and maintenance of the Infrastructure Improvements, including any Shared Infrastructure Improvements, and any repairs, replacements or upgrades necessary to any Existing Utilities solely to provide utility service to the Project or such portion thereof shall not be capped, and Redeveloper may not seek contribution for the payment of same from any third-party beneficiaries or alleged beneficiaries of same. Additionally, the Township shall not incur any expense whatsoever for any increase in the size or scope of any Existing Utilities and/or ancillary Infrastructure Improvements, including any Shared Infrastructure Improvements, that are necessary to supply utility service to the Project or such portion thereof, and further, the Township shall not be responsible for maintaining any utility services that serve the Retail Facility or Distribution Center Facility or any portion thereof; provided however, that upon conveyance of the Public Park to the Township, the Redeveloper shall not be responsible for paying utilities for the Public Park, or any share of such utilities which are apportioned to the operation of Public Park, as the case may be.

4. Reciprocal Easements: As it regards Shared Infrastructure Improvements, the Redeveloper shall cooperate with other parties to execute any reciprocal easements as may be necessary and appropriate (collectively, “**Reciprocal Easements**”) to address the construction,

utilization and maintenance of the Shared Infrastructure Improvements and the access necessary therefor, to the extent same is not already addressed in the Shared Infrastructure Easement Declaration. A copy of any such recorded Reciprocal Easement shall be promptly provided to the Township, at no cost to the Township.

5. Shared Infrastructure Easement Declaration: The Parties agree that within thirty (30) days following Redeveloper's having secured Final Planning Board Approval pursuant to Section 2.2 hereof, the Shared Infrastructure Easement Declaration in substantially the form attached hereto as **Exhibit P** shall be recorded: (i) providing RT 66 with the necessary access to construct or complete construction of any Shared Infrastructure Improvements upon the Distribution Center Parcel; and (ii) addressing the maintenance of the Shared Infrastructure Improvements, allocating responsibility for same, and providing access therefor, among other things. The Parties agree that the execution and recording of the Shared Infrastructure Easement Declaration is a material term and condition of this Agreement which benefits the Township. The Redeveloper shall promptly provide a copy of the recorded Shared Infrastructure Easement Declaration to the Township upon its receipt of same, at no cost to the Township.

SECTION 4.6 Prohibition Against Suspension, Discontinuance or Termination.

The Project Schedule shall control the progress and completion of all aspects of the Project, subject, however, to the provisions of **Sections 13.2(a) and (b)**. The Redeveloper shall make a good faith effort to diligently adhere to the dates set forth in the Project Schedule, including the Outside Completion Date, subject only to extensions for delays resulting from Force Majeure, in which case, Redeveloper shall promptly notify the Township in writing as to the occurrence or reasonably anticipated occurrence of the Force Majeure and the anticipated impact of same upon the Project Schedule. Neither Party hereto shall willfully suspend or discontinue its respective

performance of their obligations under this Agreement (other than in the manner provided for herein) for any reason other than an event of Force Majeure. Any suspension or discontinuance of either the Township's or the Redeveloper's performance of its obligations under this Agreement based upon a Force Majeure shall only be valid to the extent and for the period of time that such performance is limited or prevented as a proximate result of such occurrence, and no longer.

SECTION 4.7 Environmental Obligations.

1. **Environmental Assessment and Remediation of the Overall Project Site.** The Parties acknowledge that Redeveloper has provided to the Township a copy of the Phase I and Phase II Reports dated January, 2019 and August 6, 2019, respectively, together with a true and complete copy of a Response Action Outcome (“**RAO**”) issued by the NJDEP in March 2022, in connection with certain prior remedial action undertaken upon the Overall Project Site or a portion thereof by RT 66 or an Affiliate thereof. The Redeveloper also has obtained and provided the following to the Township: Remedial Investigation Report, dated June 2020; [updated] Phase I Report dated September 2023; and Preliminary Assessment Report dated September 2023 with regard to the Overall Project Site. The above-referenced environmental reports and related data/appendices thereto are voluminous and thus, are not attached hereto; however, same are on file at Town Hall. The Parties acknowledge that such environmental reporting, all of which has been prepared by Langan Engineering and Environmental Services, collectively reveals that no further investigation or remediation is required upon the Project Site at this time, given the intended future uses for the real property. However, if in the future any additional investigation or remediation is required by law, same shall be diligently undertaken by the Redeveloper, in accordance and compliance with applicable Environmental Laws and copies of all reports submitted to the NJDEP related thereto shall be promptly provided to the Township

(“Redeveloper’s Remediation”).

a) Environmental Remediation as Condition Precedent to Commencement of Construction. If at any time after the Effective Date and before the commencement of construction it is determined that additional environmental investigation and remediation is required by law for any reason, then construction shall not be commenced upon any portion of the Overall Project Site unless and until Redeveloper’s Remediation activities, if any, that would interfere with, or be prevented by such construction have been completed consistent with the intended use of the Overall Project Site, including with regard to the intended use of that portion of the Overall Project Site which comprises the Public Park Parcel, and the terms of this Agreement, as same is determined by the LSRP or the NJDEP. Any required groundwater remediation and monitoring of any Institutional Controls and/or Engineering Controls, which are implemented in connection with any Redeveloper’s Remediation, may continue after the commencement and/or completion of construction activities, if applicable.

b) Implementation of Institutional and/or Engineering Controls. To the extent permissible by applicable Environmental Laws, Institutional Controls and/or Engineering Control(s) may be implemented in connection with any Redeveloper’s Remediation to be undertaken upon the Overall Project Site or any portion thereof, including capping, the establishment of Classification Exception Area (“CEA”), and the recording of deed notice(s) (collectively, “Controls”), as same may be set forth in a Remedial Action Workplan or as may otherwise be required by the LSRP or the NJDEP.

2. Issuance of Soil and Groundwater RAOs as Conditions Precedent to Certificate of Completion. The issuance of one or more RAOs addressing any and all Areas of Concern (AOCs) that may be located upon the Overall Project Site, as may be applicable, and as

such RAOs may be required by the LSRP or NJDEP in connection with any Redeveloper's Remediation to be undertaken upon the Overall Project Site or any portion thereof, shall be conditions precedent to the issuance of a Certificate of Completion for the Overall Project.

3. **Future Environmental Obligations.** The following future environmental obligations shall apply to Redeveloper:

a) **Generation of Contamination.** Redeveloper shall not cause any release or discharge of any Hazardous Substance(s) at, on, under or upon the Overall Project Site, or elsewhere within the Township, and any such release or discharge shall be promptly investigated and remediated by the Redeveloper if responsible for the release or discharge in accordance with applicable Environmental Laws. In the event of such a discharge, the Redeveloper, if responsible for same in accordance with applicable Environmental Laws, shall promptly notify the Township in writing and a copy of all final or amended Site Investigation Report(s), Remedial Investigation Workplan(s), Remedial Investigation Report(s), Remedial Action Work Plan(s), Remedial Action Reports, and RAOs as may be applicable, with respect to same shall be promptly provided to the Township. For the avoidance of doubt, the Parties acknowledge and agree that the Redeveloper shall be responsible for the investigation, remediation and management (including, but not limited to, excavation, characterization, segregation, storage, permitted reuse or off-site disposal, as applicable) of any Hazardous Substances that the Redeveloper discharges or is otherwise responsible for remediating under applicable Environmental Laws upon any portion of the Overall Project Site, now or in the future, in accordance and compliance with all applicable Environmental Laws, at no cost to the Township.

b) **Long Term Compliance Obligations.** Redeveloper shall be responsible, at no cost to the Township, for complying with any and all conditions of any Remedial Action Permit

that is issued to it, or transferred to it, as the case may be, in connection with any Control that is implemented upon or in connection with portions of the Overall Project Site, to the extent required by and in accordance with Environmental Laws, and only if applicable, including with regard to the following: (a) preparing and filing all required biennial certifications; (b) obtaining and maintaining any Remedial Action Permit required to comply with any RAO, including with regard to the posting of Financial Assurance with the NJDEP; (c) maintaining all Controls established in connection with the remediation of the respective portion of the Overall Project Site for which Redeveloper is responsible; (d) conducting groundwater monitoring as may be required by any Groundwater Remedial Action Permit; and (e) terminating any CEA as may be appropriate upon the completion of any monitored natural attenuation and closing of any groundwater monitoring wells upon or in connection with such respective portion of the Overall Project Site (collectively, the “**Long Term Compliance Obligations**”).

SECTION 4.8 Overall Condition of Overall Project Site. To the extent that Redeveloper owns the Overall Project Site or any portion thereof, Redeveloper shall, at no cost to the Township, be responsible for the good care of the Overall Project Site or such respective portion thereof, and the maintenance of same in a reasonably good, safe condition. However, the Township acknowledges that construction activities, including, but not limited to, excavation, staging, and storing of materials and equipment, will be conducted on the Overall Project Site and nothing herein is intended to limit or interfere with such construction activities upon the Overall Project Site. The maintenance obligations under this **Section 4.8** shall expressly survive the issuance of any Certificate of Completion for the Project.

SECTION 4.9 Construction Mitigation. Although it is anticipated that the Project will provide many positive effects on the community, as set forth in part in the Community Impact

Statement dated September 2023, a copy of which is attached hereto as **Exhibit Y** and which shall be submitted to the Planning Board with the Planning Board Application, it is also recognized that the construction and implementation of the Project may result in some temporary inconvenience.

1. **Mitigation of Negative Impacts.** To the extent that construction activities are being undertaken upon the Overall Project Site or any portion thereof, and in addition to any other noise mitigation measures referenced herein or in the Noise Study attached hereto as **Exhibit BB**, Redeveloper shall make all reasonable efforts to minimize any negative impacts, including with regard to truck traffic, noise, vibration, pests and odors, and any other temporary inconveniences caused by or related to the construction of the Project or such component thereof. In any event, the Redeveloper expressly acknowledges and agrees that any construction activities associated with the Project that it shall undertake shall be conducted in full compliance with Governmental Approvals and all Applicable Laws, including the Ordinances of the Township then existing, which are fully incorporated herein by reference.

2. **Environmental Impacts.** The Township has been provided with the Environmental Impact Statement dated September 15, 2023, a copy of which is attached hereto as **Exhibit AA**, which shall be submitted to the Planning Board with the Planning Board Application. In connection with and during the construction of the Overall Project, Redeveloper agrees to undertake its construction activities in accordance and compliance with all Applicable Laws and Governmental Approvals. Additionally, Redeveloper shall avoid any unlawful disruption of any: (i) Threatened and Endangered Species identified to have a habitat upon the Project Site, (ii) Freshwater Wetlands upon the Project Site, and (iii) Wetlands Buffers upon the Project Site.

3. **Banner.** During the construction of the Project, Redeveloper shall display one or more banners at the boundary of the Overall Project Site depicting the Overall Project, subject to

approval by the Township's Zoning Officer which Redeveloper shall diligently pursue and which approval shall not be unreasonably withheld.

SECTION 4.10 Traffic Management During Construction.

1. **Minimization of Traffic Effects.** To the extent that Redeveloper is in the process of undertaking construction activities upon the Overall Project Site or any portion thereof, Redeveloper shall make all reasonable efforts to minimize any traffic effects caused by the construction of the Project upon the surrounding neighborhoods. At a minimum, this shall consist of maintenance of traffic with at least one (1) means of access at all times for emergency vehicles. Under no circumstances may a street or roadway be completely closed to traffic, without written permission from the Township and the Police Chief, and the Redeveloper, upon receiving such written permission, shall notify the Police Chief of such closing, in writing, with a copy to the Township. All traffic control devices shall conform to the latest edition of the Manual on Uniform Traffic Control Devices. Access to driveways shall be maintained at all times and no driveways shall remain blocked overnight.

2. **Safety.** Redeveloper shall conduct its construction activities upon and about the Overall Project Site in such manner as to provide safety for the public and all employees upon the Overall Project Site as well as the surrounding properties. Fencing, bridges, barricades, railings, and other such protection about open trenches or excavations or otherwise about the Overall Project Site or any portion thereof during construction activities, as well as any necessary traffic directors, detour signs, lights and signals for any obstruction to traffic. Any hazard warning lights shall be transistorized, double face, flash type, unless otherwise required by the Planning Board. The Redeveloper acknowledges and agrees that the Township shall not incur any costs in connection with its satisfaction of the obligations set forth in this section.

3. **Improvements on the Perimeter of Overall Project Site.** To the extent that Redeveloper is in the process of undertaking construction activities upon the Overall Project Site or any portion thereof, Redeveloper shall use reasonable efforts to ensure that any improvements on the perimeter of the Overall Project Site, including roadways that are adjacent to the Overall Project Site, shall not be disturbed or damaged, unless, in the reasonable judgment of the Township's Engineer, such disturbance or damage is unavoidable even when the Redeveloper is performing such construction activities with extraordinary care to mitigate damage to the perimeter of the Overall Project Site or such portion thereof. In instances where such disturbance or damage is unavoidable, the Redeveloper shall be responsible for the prompt restoration of such disturbed or damaged improvements, with the prior consent of the Township, which shall not be unreasonably withheld or delayed. Additionally, to the extent that any other streets or portions of streets within the Township become damaged as a result of the construction or implementation of the Project or such portion thereof, if Redeveloper caused or is otherwise responsible for the damage, Redeveloper shall promptly, upon the completion of the entire Project and prior to the issuance of any Certificate of Occupancy for the Redeveloper's Facility, repave, from curb to curb, that entire portion of said street which is damaged or degenerated (rather than just patching, repairing, or repaving only the limited, specific damaged or degenerated area). Redeveloper expressly agrees to comply with all Applicable Laws and standards in the industry to adequately address these concerns to the reasonable satisfaction of the Township and in compliance with the terms of this Agreement.

SECTION 4.11 Prevailing Wages. To the extent that Redeveloper is in the process of undertaking construction activities upon the Project Site or any portion thereof consistent with the improvements described herein, Redeveloper shall pay all workers or employees employed in

connection with the construction and completion of any “Public Work” portion of the Project, if any, the prevailing rates of wages as provided in N.J.S.A. 34:11-56.25, et seq., only if and as required by Applicable Laws.

SECTION 4.12 Certificates of Occupancy. Redeveloper shall satisfy its obligations hereunder, and also herein, and shall then file and diligently pursue an application with the Township for a Certificate of Occupancy for the relevant component of the Project. However, the Parties expressly agree that under no circumstances will a Certificate of Occupancy be sought or issued for: (i) the Distribution Center Facility, unless the construction of the Retail Facility is completed with the retail structures in at least a “white box” condition (i.e. completed to the extent that it can be occupied, leased to a retailer, and fit out as required by the retailer); or (ii) the Retail Facility or any leasehold within the Retail Facility, unless the Public Park and Walkway have been completed, inspected and approved in writing by the Township Engineer as being compliant with terms of this Agreement and all Applicable Laws. Additionally, the Parties expressly agree that under no circumstances will any Certificate of Occupancy be sought or issued unless: (iii) if the adoption of such requisite authorizing legislation by the Township Committee shall have occurred, the Public Park Conveyance has been completed, subject to the terms and conditions herein; and (iv) if the adoption of such requisite authorizing legislation by the Township Committee shall have occurred, the Public Access Easement Agreement shall have been executed and sent to the County Clerk’s office for recording, subject to the terms and conditions herein.

In furtherance of the conditions set forth above, the Township Committee shall consider the adoption of one or more ordinances authorizing, *inter alia*, the acquisition of the Public Park and the acquisition of the public access easement set forth in the Public Access Easement Agreement and all such tasks and obligations related thereto (the “**Acquisition Ordinance(s)**”)

simultaneously with the Township Committee's consideration of a resolution authorizing the execution of this Agreement and other such documents ancillary hereto. The Parties acknowledge and agree that any such adopted Acquisition Ordinance(s) shall be contingent upon the completion, inspection and approval in writing of the Public Park and Walkway by the Township Engineer as being compliant with terms of this Agreement and all Applicable Laws. In the event that the Township Committee shall not adopt the Acquisition Ordinance for any reason, then the conditions set forth in **Section 4.12 (iii)** and **(iv)** above shall be null and void and only the conditions set forth in **Section 4.12 (i)** and **(ii)** shall apply to the issuance of a Certificate of Occupancy for the Retail Facility or any leasehold within the Retail Facility.

SECTION 4.13 Certificate of Completion. Redeveloper shall diligently pursue the issuance of a Certificate of Completion evidencing the completion of the Overall Project and accepting the terms of a written certification of a duly authorized officer of the Redeveloper stating that: (i) all components of the Project have been constructed or improved, as the case may be, in accordance with the terms and conditions of this Agreement, all Applicable Laws, and Governmental Approvals and further, that all costs and expenses incurred in connection therewith have been paid or adequate security has been posted in connection therewith; (ii) the Certificates of Occupancy for each component of the Project have been obtained; (iii) all public improvements associated with the Project have been conveyed to the Township or otherwise completed, including the Public Park and the Walkway, respectively, and with regard to the Walkway, a Public Access Easement Agreement has been executed and recorded and a copy of same has been provided to the Township; (iv) any required Reciprocal Easements have been executed and recorded and a copy of same have been provided to the Township; and (v) the Overall Project Site has been remediated, if required, in accordance with the terms herein and no other investigation

or remediation is required to be undertaken by the NJDEP or LSRP.

a) Application for Certificate of Completion. Redeveloper shall apply for a Certificate of Completion for the Overall Project in writing and shall provide a copy of necessary documentation evidencing the satisfaction of the Redeveloper's obligations hereunder. Once all information that may be reasonably requested by the Township to support a conclusion that the Overall Project has been fully constructed and implemented in accordance with the terms herein has been provided, a Certificate of Completion shall not be unreasonably withheld or delayed. If the Township, in its reasonable discretion, determines that the Redeveloper is not entitled to the requested Certificate of Completion for any reason, the Township shall provide the Redeveloper with a written statement of the reasons the Township refused to furnish same. If the reason for the refusal is confined to (i) the immediate availability of specific, minor finish or punch list items not interfering with the use of any component of the Project, as the case may be, and/or (ii) completion of certain elements, such as landscaping or paving, that cannot be completed at such time due to seasonal considerations, the Township shall issue its Certificate of Completion upon the posting of a bond (or other reasonably satisfactory security) to the extent that same is not covered by any existing bonds that might have been posted by Redeveloper in connection with the Project, with the Township, in an amount representing the fair value of the items not yet completed, as same is reasonably determined by the Township Engineer, in order to secure the obligation to complete such items after issuance of the Certificate of Completion.

Notwithstanding anything to the contrary herein, the Parties agree that, upon completion of the Overall Project, it shall be Redeveloper's obligation to pursue and obtain the Certificate of Completion for the Overall Project and to that end, the Redeveloper shall make effort to effectively address any items which are unfinished or which otherwise could result in or has

resulted in the denial of an application for the Certificate of Completion.

b) Effect of Certificate of Completion. Subject to the terms and conditions herein, a Certificate of Completion issued hereunder shall constitute recordable, conclusive determinations of the satisfaction and termination of the agreements and covenants in this Agreement and in the Redevelopment Plan with respect to the Redeveloper's obligations to construct and implement the Project within the dates for the commencement and completion of same, except to the extent any such covenants shall expressly survive the termination of this Agreement; and, the conditions that were determined to have existed upon the Overall Project Site at the time it was determined to be in need of redevelopment or rehabilitation shall be deemed to no longer exist and the real property and any improvements thereupon shall not be subject to any right of eminent domain that may have existed as a result of those determinations.

SECTION 4.14 Community and Environmental Impacts. The Redeveloper shall mitigate, to a commercially reasonable extent, material, negative impacts related to the operation of the Overall Project. With specific regard to the operation of the Distribution Center Facility, and in addition to those Redeveloper Covenants set forth in **Section 9.1** of this Agreement, the Redeveloper covenants, for itself and for its successors and assigns, as follows:

a) Truck Routing: Redeveloper shall make good faith effort to cause the Distribution Center initial operator to make owners or operators of trucks which are in the process of making a delivery to or are departing from the Distribution Center Facility after making such delivery whose owners/operators are employed by the owner or operator of the Distribution Center Facility or are under contract therewith) (“**Trucks**”) aware that they are required to comply with the Truck Routing Plan dated **October 18, 2023**, a copy of which is attached hereto as **Exhibit N**, which includes, among other things, a truck turning template Redeveloper shall provide or make

available the Truck Routing Plan to each trucking company/entity with which it conducts business or with which it contracts. As shown in the Truck Routing Plan, no Trucks making a delivery to or departing from the Distribution Center Facility after making such delivery shall be permitted on Green Grove Road or Jumping Brook Road and Truck ingress/egress for the Distribution Center Parcel shall only be from/to Route 66. Prior to applying for a Certificate of Occupancy for the Distribution Center Facility, the Redeveloper shall post and maintain prominent signage on the Distribution Center Parcel indicating that Trucks are prohibited from ingressing from or egressing to Green Grove Road. Additionally, prior to applying for a Certificate of Occupancy for the Retail Facility, the Redeveloper shall post and maintain prominent signage on the Retail Parcel indicating that trucks are prohibited from ingressing from or egressing to Green Grove Road in connection with making such delivery unless they meet the Township ordinance limitations applicable to trucks travelling on Green Grove Road. The proposed signage shall reference the applicable Township Ordinance for truck traffic. Such retail delivery trucks shall only utilize the curb cuts on RT 66 for ingressing to or egressing from the Retail Parcel.

b) Loading and Unloading: Trucks which are being loaded/unloaded at the Distribution Center Parcel shall be parked in spaces that are clearly designated for same. Trucks shall not be permitted to be utilized as “storage” other than for reasonable periods of time; Trucks shall be loaded and/or unloaded, as the case may be, in the most efficient manner as is commercially reasonable.

c) No Idling: Trucks shall not be permitted to have their engines idling upon the Distribution Center Parcel for any unreasonable length of time or in violation of any Applicable Laws.

d) Noise Mitigation: Redeveloper commissioned the Noise Study dated **December**

22, 2023, a copy of which is attached hereto as **Exhibit BB**. Redeveloper hereby acknowledges that it has reviewed the Noise Study and will, prior to the commencement of any Distribution Center Facility operations, implement and maintain any reasonable mitigation techniques recommended therein in order to reduce to a commercially reasonable degree any excessive noise that might otherwise be generated by the Trucks loading/unloading process. Redeveloper agrees that a Certificate of Occupancy for the Distribution Center Facility shall not be applied for unless and until such noise mitigation techniques are fully implemented.

ARTICLE V

PROJECT OVERSIGHT

SECTION 5.1 Progress Meetings. If requested by the Township or Township Engineer, the Parties shall attend and participate in progress meetings with representatives of the other Parties to report on the status of the Project, which may be quarterly and which may be by conference call or virtual meeting, as reasonably agreed by the Parties. If appropriate, the Redeveloper and/or the Township may present report(s) during such progress meetings and said topics may include status reports for any of the material steps of the redevelopment process, including but not limited to the leasing of the leasehold spaces within the Retail Facility.

SECTION 5.2 Progress Reports. From the Effective Date and continuing until such time as a Certificate of Completion has been issued, the Redeveloper shall submit a quarterly Progress Report to the Township detailing at least the status of the obligations hereunder. The Redeveloper agrees to promptly submit additional Progress Reports and information regarding the progress of the Project as may be reasonably requested by the Township.

SECTION 5.3 Access to Overall Project Site. The Township and its authorized representatives, including but not limited to any Township Engineer or other such professional

designated by the Township, shall have the right to enter the Overall Project Site or any portion thereof upon reasonable prior notice given to the Redeveloper to inspect the Overall Project Site or any portion thereof and any and all work in progress for the purpose of furthering its interest in this Agreement. The Township shall utilize reasonable efforts to minimize any interference with the redevelopment activities on the Overall Project Site. Such entrance shall be for informational purposes and shall not relieve the Redeveloper of its obligations to implement the Project in accordance with this Agreement. In no event, at any time, shall the Township's inspection of the Project or Overall Project Site or any portion thereof be deemed acceptance of the work in progress or any completed work or be deemed to waive any right that the Township has under this Agreement.

ARTICLE VI

GENERAL REPRESENTATIONS AND WARRANTIES

SECTION 6.1 Representations and Warranties by Redeveloper. Redeveloper hereby represents and warrants the following to the Township, for the purpose of inducing the Township to enter into this Agreement and to consummate the transactions contemplated hereby, all of which shall be true as of the Effective Date of this Agreement:

1. **Authorized to Conduct Business in the State of New Jersey.** The Redeveloper is a limited liability company authorized and qualified to do business in the State of New Jersey and is in good standing under the laws of the State of New Jersey and has all requisite power and authority to carry on its business as now and whenever conducted.

2. **Authority to Enter into Agreement.** The Redeveloper has the legal power, right and authority to enter into this Agreement and the instruments and documents referenced herein to which Redeveloper is a party, to consummate the transactions contemplated hereby, to take any

steps or actions contemplated hereby, and to perform its obligations hereunder, pending its acquisition of the Overall Project Site or such portion thereof for which it shall be responsible pursuant to the terms herewith.

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

4. **No Pending or Threatened Litigation.** As set forth in the Certifications of No Pending or Threatened Litigation attached hereto as **Exhibit H**, to the best of Redeveloper's knowledge, there is no pending or threatened litigation, suit, proceeding, or investigation that would prevent the Redeveloper from performing its duties and obligations hereunder, or have a material adverse effect on the financial condition of the Redeveloper. The Redeveloper shall promptly notify the Township in writing of any and all litigation that may prevent the Redeveloper from performing its duties and obligations hereunder.

5. **Materials and Documentation Submitted to the Township.** To the best of the Redeveloper's knowledge, all materials and documentation submitted by or on behalf of the Redeveloper and its agents to the Township and its agents were, at the time of such submission, and, unless modified, replaced or superseded by documents or written communications subsequently submitted by or on behalf of Redeveloper and its agents to the Township, as of the Effective Date of this Agreement, materially accurate.

6. **Sworn Statement.** The Redeveloper shall promptly, at all such times as the Township may reasonably request, furnish the Township with a complete statement sworn and subscribed to by the President or Managing Member, as may be applicable, of the Redeveloper

identifying all persons holding ownership interests, equitable interests or beneficial interests in the Redeveloper to the extent that such interest exceeds ten (10%) percent and the extent of their respective holdings, pursuant to N.J.S.A. 40:55D - 48.1.

SECTION 6.2 Representations and Warranties by the Township. The Township hereby represents and warrants the following to the Redeveloper to consummate the transactions contemplated hereby, all of which shall be true as of the Effective Date of this Agreement:

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

2. **Binding Upon the Township.** This Agreement is duly executed by the Township and is valid and legally binding upon the Township and enforceable in accordance with its terms on the basis of Applicable Laws presently in effect.

3. **No Pending or Threatened Litigation.** Except as disclosed in writing, there is no pending, or to the best of the Township's knowledge, threatened litigation, suit, proceeding, or investigation that would prevent the Township from performing its duties and obligations hereunder. The Township shall notify the Redeveloper of any and all litigation that may prevent the Township from performing its duties and obligations hereunder.

4. **Adoption of Resolution.** The Resolution designating the Redeveloper to serve as Redeveloper of the Overall Project Site was duly adopted by the Township in accordance with the Redevelopment Law and any other Applicable Law, subject to any such ruling as may be issued by a court of competent jurisdiction.

5. **No Other Redevelopment Agreements.** No other Redevelopment Agreements

are in effect with respect to the Overall Project Site or any portion thereof.

ARTICLE VII

TRANSFERS

SECTION 7.1 Prohibition Against Transfers. The Redeveloper recognizes the importance of the Overall Project to the general welfare of the community and that the identity of Redeveloper and its qualifications and financial wherewithal are critical to the Township in entering into this Agreement. Except as otherwise stated herein, the Parties acknowledge and agree that a material change in ownership or Control of Redeveloper from that which is noted in **Exhibit B** hereto, or any other act or transaction involving or resulting in a significant change with respect to the identity of the parties in Control of Redeveloper is, for practical purposes, a transfer or disposition of the Project or portion thereof then owned by the Redeveloper, including the right to redevelop the Overall Project Site or a portion thereof, as the case may be.

Except for Permitted Transfers, as that term is defined herein, prior to the issuance of the Certificate of Completion, Redeveloper shall not, without the prior written consent of the Township, for which Redeveloper shall request in writing pursuant to the terms hereinbelow: (i) effect or permit any change, directly or indirectly, in the majority ownership or Control of the Redeveloper (except in the case of death of an individual(s) having or affecting such ownership or Control); (ii) assign or attempt to assign this Agreement or any rights herein or in the Project or the Overall Project Site or any portion thereof; or (iii) close any total or partial sale, lease, transfer or conveyance of the whole or any part of its interest in the Project or the Overall Project Site or any portion thereof (each, a “**Transfer**”). Notwithstanding anything to the contrary contained herein, should Redeveloper request the Township in writing to consent (which consent shall not be required after issuance of the Certificate of Completion) to a proposed Transfer by Redeveloper

of any interest in the Project Site or any portion thereof to a party with the financial wherewithal, experience and qualifications equivalent to the Redeveloper, the Township shall not unreasonably deny, withhold or delay such consent.

SECTION 7.2 Permitted Transfers. The following Transfers, in addition to other such Transfers identified in this Section, are exceptions to the prohibitions of this **Article VII** and the Township's consent is deemed given hereby (each, the "**Permitted Transfers**"), provided that, if, as and when applicable, all insurance provided hereunder, shall either remain in full force and effect or will be provided by the proposed transferee, as a condition of any Transfer: (a) a mortgage or related security (including conditional assignments to Mortgagees or Holders required as a condition to the closing of any financing so secured) granted by Redeveloper to a Holder provided that the occurrence of an Event of Default as to the Redeveloper grantor of the mortgage or other security under such mortgage or other security also constitutes an event of default under the loan documentation for such financing; (b) mortgages, leases, and other liens and encumbrances for the purpose of financing the costs associated with, or incurred in connection with the acquisition, development and construction of the Project or any portion thereof, including transfers of interests in Redeveloper to equity investors, provided that in the case of such transfers to equity investors, the principals of Redeveloper maintain management control over Redeveloper; (c) environmental covenants and restrictions imposed by NJDEP or required by an LSRP, provided that such environmental covenants and restrictions do not unreasonably impede or prohibit the designated uses of the Overall Project Site or any portion thereof; (d) utility and other development easements, including the Shared Infrastructure Easement Declaration and any Reciprocal Easements; (e) an assignment of this Agreement to an urban renewal entity created by Redeveloper hereunder and in which the Redeveloper has at least fifty-one percent (51%) ownership interest and in which the

Redeveloper has Control; (f) a lease or ground lease to a tenant occupying a portion of the Project for a use permitted by the Redevelopment Plan; (g) the Distribution Center Parcel conveyance to another Redeveloper designated by the Township as the Designated Redeveloper for Distribution Center Facility pursuant to Section 2.3 of this Agreement; (h) the grant of the utility and other development easements; (i) the Public Park Conveyance; (j) the recording of the Public Access Easement Agreement; and (i) permanent financing upon substantial completion of construction of the respective portion of the Project.

SECTION 7.3 Notice of Permitted Transfers. With respect to any Permitted Transfers, a transferring Redeveloper hereunder shall provide notice to the Township within fifteen (15) days of such Permitted Transfer, including a description of the nature of such Permitted Transfer, and the name(s) and address(es) of the proposed Transferee parties, individuals and/or entities involved. Notwithstanding the foregoing, the Township's consent herein to any Permitted Transfer by a Redeveloper pursuant to this Section shall be and is conditioned upon such Permitted Transfer not resulting in a material delay of the Project Schedule (subject to any delay arising from Force Majeure).

SECTION 7.4 Township Consideration of a Proposed Transfer. Notwithstanding the above, any Transfer, except Permitted Transfers, proposed by Redeveloper pursuant to **Section 7.1** shall be expressly conditioned upon a determination by the Township that (a) the Transferee is experienced and capable, (b) the Transferee has the financial wherewithal to assume the Redeveloper's remaining obligations hereunder, and (c) such Transfer would not result in a material delay of the Project Schedule (subject to any delay arising from Force Majeure). Additionally, all costs incurred by the Township, including all third-party expenses incurred by the Township in connection with such request for the Township's consent to the proposed Transfer,

to review and, if applicable, oversee and undertake the proposed Transfer, shall constitute Township Costs and the transferring Redeveloper shall be responsible for reimbursing same in full at the time of the Township's consideration of the Transfer. The Parties acknowledge and agree that any Resolution of the Township Committee authorizing or consenting to a proposed Transfer may be conditioned upon additionally reasonable requirements given the nature of the Transfer.

SECTION 7.5 Transfers Void. Any Transfer of Redeveloper's interest hereunder in violation of this **Article VII** shall be an Event of Default of the Redeveloper and shall be null and void *ab initio* for purposes of this Agreement. Such Event of Default shall entitle the Township to seek all remedies available under the terms hereof, and those available pursuant to law or equity, including termination of this Agreement or such portion thereof relating to the Transfer, as the case may be. In the absence of Permitted Transfers or specific written consent to a proposed Transfer by the Township pursuant to **Section 7.4** hereof, no such Transfer shall be deemed to relieve the Redeveloper from any obligations under this Agreement. In the event of any attempted Transfer in violation of the restrictions in this Article, the Township shall be entitled to pursue, *ex parte*, an injunction restraining such Transfer, and the award of legal fees and related expenses of the Township in connection with any such legal action.

ARTICLE VIII

RECEIPT OF COLLATERAL DOCUMENTS

SECTION 8.1 Delivery of Collateral Documents. Redeveloper and the Township agree that the rights, obligation and liabilities of the Parties under this Agreement are conditioned upon the delivery of the executed collateral documents referred to in this **Article VIII**, and as may be additionally set forth herein.

1. **Certificates of Redevelopers**. The following Certificates, for Redeveloper: (i) a

Certificate of the President or Managing Member of the Redeveloper, as may be applicable, to the effect that, to the best of their knowledge, each of the representations of the Redeveloper which are set forth herein are true and correct as of the Effective Date of this Agreement; (ii) a certified copy of the Certificate of Formation; and (iii) Certification of Good Standing for each legal entity comprising Redeveloper.

2. **Redevelopers' Project Teams**. A list of the names, addresses and phone numbers of all individuals who comprise the Redeveloper's Project Team is set forth on **Exhibit J**. Redeveloper shall promptly provide written notice to the Township of any changes or additions in the individuals who will comprise the Redeveloper's Project Team.

ARTICLE IX

REDEVELOPER AND TOWNSHIP COVENANTS; DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

SECTION 9.1 Redeveloper Covenants. In addition to any other covenants made by the Redeveloper herein, the Redeveloper also covenants and agrees as follows:

1. **Covenants Expiring on Issuance of the Certificate of Completion for the Overall Project**: The following Redeveloper Covenants shall automatically expire upon the Township's issuance of a Certificate of Completion for the Overall Project, and if requested, the Township will cooperate with Redeveloper to amend the Redeveloper's Declaration accordingly:
 - a) **Completion of Project in Accordance with Agreement and Applicable Laws**. The Redeveloper shall use commercially reasonable efforts to complete that portion or portions of the Project and any other obligations for which it is responsible pursuant to the terms set forth herein, in accordance with the provisions of this Agreement and all Applicable Laws, including, but not limited to, the Redevelopment Law and Environmental Laws, and all applicable Governmental Approvals, as those terms are defined herein. Such obligation shall include, but not

be limited to, the Redeveloper using commercially reasonable efforts to ensure that: all consultants, professionals, employees, agents, and contractors engaged by the Redeveloper or any subcontractor of any of the Redeveloper's contractors possess the skill and judgment necessary to construct and implement that portion or portions of the Project for which it is responsible, as same is set forth herein, in accordance and compliance with the terms and conditions of this Agreement and the Redevelopment Plan; and that there are no encumbrances or restrictions upon any portion of the Overall Project Site which would prohibit that portion or portions of the Project for which it is responsible, as same is set forth herein, from being completed in accordance and compliance with the terms and conditions of this Agreement and the Redevelopment Plan. All activities performed under this Agreement shall be performed in accordance with the high level of skill and care necessary so that each component of the Project, upon completion, satisfies the design, materials and quality requirements of this Agreement and all applicable Governmental Approvals and Applicable Laws.

b) **Tasks by Redeveloper.** The Redeveloper shall undertake the following tasks for the completion and implementation for that portion or portions of the Project for which it is responsible, as same may be set forth herein, with due diligence: (a) diligently seeking and obtaining financing under such terms and conditions that are acceptable to Redeveloper; (b) site preparation and development; (c) commencement of the construction; and (d) completion of each component of the Project for which it is responsible on or prior to the dates set forth in the Project Schedule, which the Township has fixed as reasonable, except as otherwise provided in this Agreement.

c) **Modification of Project.** Except as herein permitted, in the event the Redeveloper wishes to materially change or materially modify the Project or the Overall Site Plans,

or any portion thereof, the Redeveloper shall obtain the Township's written approval, which approval shall be by formal Resolution and which may require an amendment of this Agreement.

d) **Utilization of Overall Project Site as Collateral.** Redeveloper shall not utilize any portion of the Overall Project Site as collateral for any activity unrelated to this Project; provided however, that nothing herein shall be deemed to prevent Redeveloper from closing on its acquisition, construction and permanent mortgage financing, as may be applicable, notwithstanding that such financing is cross-collateralized with other loans, provided that all proceeds of such acquisition, construction or permanent mortgage financing relating to any portion of the Overall Project Site are used in connection with the Project and not for any other purpose.

e) **Purpose of the Redevelopment not for Speculation.** The Redeveloper covenants and acknowledges that its undertakings pursuant to this Agreement shall be for the purpose of the redevelopment of the Overall Project Site or such portion thereof for which it is responsible as same is set forth herein, and not for speculation in land holding.

f) **Prior Written Consent of the Township.** The Redeveloper shall not, without the prior written consent of the Township, effectuate or permit any Transfer inconsistent with **Article VII** above. Notwithstanding the foregoing, nothing herein shall be deemed to prohibit, and the Township's prior approval shall not be required for, Permitted Transfers, as that term is defined herein.

g) **Tenant Leases.** All uses/business operations of Tenants and related Tenant Leases shall be in compliance with the Redevelopment Plan. Additionally, the Redeveloper shall promptly, upon execution of a Tenant Lease, provide the Township with written notice of any initial Tenant Lease within the Retail Facility or Distribution Center Facility ("**Tenant Lease Notification**").

2. **Covenants Surviving the Issuance of the Certificate of Completion for the**

Overall Project: The Redeveloper expressly acknowledges and agrees that the following Redeveloper Covenants shall survive the issuance of any Certificate of Completion that is issued by the Township for the Project:

a) **Utilization of Overall Project Site to be Consistent with Redevelopment Plan.**

The Redeveloper shall not at any time utilize any portion of the Retail Parcel or the Distribution Center Parcel in a manner that is not consistent with the Redevelopment Plan. Nothing herein shall preclude Redeveloper or its successors from seeking to amend the Redevelopment Plan or this Agreement, however, Redeveloper acknowledges and agrees that any such amendment of the Redevelopment Plan or this Agreement is and shall be in the sole discretion of the Township.

b) **Prohibition of Discrimination.** The Redeveloper shall not discriminate, in contravention of any federal, state or local laws, against any person, or group of persons, on account of race, color, creed, religion or religious principles, marital/civil union/domestic partnership status, sex, national origin, ancestry, familial status, affectional or sexual orientation, gender identity or expression, or physical or mental disability (including perceived disability) in the sale, lease, sublease, rental, transfer, use, occupancy, tenure or enjoyment of any portion of the Project, nor shall the Redeveloper itself, or any person claiming under or through the Redeveloper, establish or permit any such practice or practices of discrimination or segregation in contravention of any federal, state or local laws with reference to the selection, location, number, use of occupancy of owners, tenants, lessees, subtenants, sublessees, or vendees upon any portion of the Overall Project Site.

c) **Maintenance and Care of the Project Site and the Project.** Redeveloper hereby covenants that it shall, at no cost to the City, be responsible for the good care of and maintenance

of their respective Project and portions of the Project Site and shall keep same in a good, safe condition and in substantial order. To the extent that Redeveloper owns any portion of the Project Site, Redeveloper further hereby covenants that it shall, at its sole cost and expense, be responsible for implementing reasonable security measures in order to avoid any illegal trespass upon the Project Site. Following the construction of the Project, to the extent that Redeveloper owns any portion of the Project Site, Redeveloper shall promptly make all necessary repairs and replacements to such Redeveloper owned portion of the Retail Facility or Distribution Center Facility or any component thereof.

d) **Operation of Distribution Center Facility and Truck Routing Plan.**

Redeveloper hereby covenants that it shall provide or make available the Truck Routing Plan to all Trucks accessing Section B

SECTION 9.2 Redeveloper's Declaration of Covenants. The Parties agree that the Redeveloper's Declaration, in substantially the form attached hereto as **Exhibit I**, shall be duly executed and placed into Escrow within thirty (30) days of the Effective Date. The executed Redeveloper's Declaration shall be recorded upon Redeveloper's having secured Final Planning Board Approval. The Parties agree that the execution and recording of the Redevelopers' Declaration is a material term and condition of this Agreement which benefits the Township. The Redeveloper expressly agrees that it shall not convey ownership of the Distribution Center Parcel unless the execution and recording of the Redeveloper's Declaration occurs upon Redeveloper's having secured Final Planning Board Approval. The Overall Redeveloper shall promptly provide a copy of the recorded Redeveloper's Declaration to the Township upon its receipt of same, at no cost to the Township.

SECTION 9.3 Enforcement by the Township. In amplification, and not in restriction, of

the provisions of this **Article IX**, it is intended and agreed that the Township and its successors and assigns shall be deemed beneficiaries of the agreements and covenants set forth in this Agreement, and in the Redeveloper's Declaration, both for and in its own right but also for the purposes of protecting the interests of the community. Such agreements and covenants shall, and the Redeveloper's Declaration shall so state, run in favor of the Township until the issuance of a Certificate of Completion (except with regard to such Redeveloper Covenants which shall survive the issuance of a Certificate of Completion), without regard to whether the Township has at any time been or is an owner of any land comprising any portion of the Overall Project Site, or is a party in favor of which such agreements and covenants relate, except as otherwise provided herein or in the Redeveloper's Declaration. The Township shall have the right, in the event of any material breach of any such agreement or covenant, to exercise all the rights and remedies and to maintain any actions or suits at law or in equity or other such proceedings to enforce the curing of such breach of agreement or covenant, to which it may be entitled.

SECTION 9.4 Township Covenants. The Township covenants and agrees as follows:

1. **Cooperation**. The Township agrees to reasonably cooperate with due diligence and without delay with the Redeveloper's efforts to complete and submit any necessary Governmental Application and with Redeveloper's efforts to obtain any of the necessary Governmental Approval(s), provided that the Redeveloper is otherwise diligently pursuing said Governmental Approval(s), as may be applicable.

2. **Documentation**. The Township shall provide the Redeveloper with any material documents, reports, information, or studies that pertain to the Overall Project Site or any portion thereof that are reasonably within its possession, and any costs incurred in connection with same, shall be deemed "Township Costs," as that term is defined hereunder.

ARTICLE X

CONDITIONS PRECEDENT

SECTION 10.1 Conditions Precedent. The Township and the Redeveloper hereby acknowledge and agree that certain obligations of the respective Parties under this Agreement are contingent upon the satisfaction of Conditions Precedent, as follows:

A. **Conditions Precedent Applicable to Redeveloper's Obligations:** In addition to any other conditions precedent expressly provided for hereunder, the following shall apply to certain obligations of the Redevelopers unless waived in writing by the Redeveloper:

1. **Governmental Approvals.** As a condition precedent to the obligation to commence its construction activities, the Redeveloper shall have secured all final and non-appealable Governmental Approvals necessary or otherwise desired for the construction of the Project or such respective components thereof.

2. **Financing.** As a condition precedent to the obligations of Redeveloper hereunder with regard to constructing and implementing the Project or such portion thereof or undertaking such activities as may be necessitated thereby, the Redeveloper shall have acquired financing in such amounts and under such terms and conditions as are acceptable to the Redeveloper.

3. **Redevelopment Plan Amendment.** As a condition precedent to the Redeveloper's obligations to construct and implement the Project as set forth herein, in the event that an amendment of the Redevelopment Plan shall be necessary for the Project to be accommodated as same is described herein and depicted on the Exhibits hereto ("**Redevelopment Plan Amendment**"), the Redevelopment Plan Amendment shall have been fully adopted by an

ordinance of the Township Committee.

4. **Construction of the Public Park and Walkway.** As a condition precedent to the obligations of RT 66 to commence and complete construction of the Public Park and Walkway as set forth herein, the Township shall have completed its Due Diligence without terminating the Public Park Land Transfer Agreement provisions of this Agreement and provided RT 66 written notice of such completion.

B. **Conditions Precedent Applicable to the Township's Obligations:** The Township and the Redeveloper hereby acknowledge and agree that certain obligations of the Township under this Agreement are contingent upon the satisfaction of Conditions Precedent, as follows:

In addition to any other conditions precedent expressly provided for hereunder, the following shall apply to certain obligations of the Township unless waived in writing by the Township:

1. **Financing Plan.** As a condition precedent to the Township's obligations hereunder, and promptly upon obtaining all Governmental Approvals required for the construction of the Overall Project, Redeveloper shall have prepared and submitted a plan to the Township generally setting forth the method and amounts of financing necessary to acquire, remediate, if required, and prepare the Overall Project Site, and to construct and fully implement the Overall Project, all as may be applicable ("**Financing Plan**").

2. **Declaration of Covenants, Conditions and Restrictions.** As a condition precedent to the Township's obligations hereunder, the Redeveloper's Declaration, in substantially the form attached hereto as **Exhibit I**, which shall be and is applicable to any and all of Redeveloper's successors and assigns, shall have been executed, placed into Escrow pursuant to a

fully executed Escrow Agreement, and to be ultimately recorded in accordance with the terms of the Escrow Agreement.

3. **Shared Infrastructure Easement Declaration.** As a condition precedent to any obligation of the Township to issue a building permit for the Distribution Center Facility, the Shared Infrastructure Easement Declaration shall have been fully executed and recorded.

4. **INTENTIONALLY OMITTED.**

5. **Deed.** As a condition precedent to the Township's obligations hereunder, the Deed shall have been fully executed and placed into Escrow pursuant to a fully executed Escrow Agreement. Further, the Deed shall be recorded in accordance with the terms of the Escrow Agreement.

6. **Public Access Easement Agreement.** As a condition precedent to the Township's obligations hereunder, the Public Access Easement Agreement shall have been fully executed and placed into Escrow pursuant to a fully executed Escrow Agreement. Further, the Public Access Easement Agreement shall be recorded in accordance with the terms of the Escrow Agreement.

7. **Financial Guaranty Assurance.** As a condition precedent to any obligation of the Township to issue a building permit for the Retail Facility or Distribution Center Facility, a fully executed RT 66 Financial Guaranty in substantially the form attached hereto as **Exhibit T** shall have been provided to the Township.

8. **INTENTIONALLY OMITTED.**

9. **Payment of Township Costs.** As a condition precedent to the Township's obligations hereunder, any and all outstanding monies that are due and owing to the Township pursuant to the Conditional Designation Agreement shall have been paid in full. Additionally, any

and all outstanding monies that are due and owing to the Township, including real property taxes for the Overall Project Site, shall have been paid in full.

10. **Financing Commitment Summary.** As a condition precedent to any obligation of the Township to issue a building permit for either the Retail Facility or the Distribution Center Facility, a Financing Commitment Summary for each component of the Project shall have been submitted to the Township.

The Township and the Redevelopers shall proceed diligently and cooperate with each other in good faith to satisfy the Conditions Precedent as set forth in **Section 10.1** above and while the Parties are seeking to satisfy the Conditions Precedent, the Parties shall continue to perform their obligations under this Agreement, to the extent applicable and practicable. This Agreement shall remain in full force and effect from the Effective Date until such time that there is a substantial failure of any Condition Precedent in accordance with this Agreement, through no fault of Redeveloper. In the event of such a substantial failure of any Condition Precedent, any Party hereto may terminate this Agreement by written notice to the other and no Party shall have any further right or obligation under this Agreement, except as may be otherwise expressly provided herein, and further provided that if the failure of a Condition Precedent is the result of a default by any Party, then the non-defaulting Parties shall have such rights as are provided by this Agreement. As an alternative, the Parties may agree to amend this Agreement in order to address, *inter alia*, the substantial failure of the Condition(s) Precedent.

ARTICLE XI

REDEVELOPERS' REPRESENTATIONS REGARDING FINANCIAL COMMITMENTS TO THE PROJECT

SECTION 11.1 Financial Commitment. Redeveloper agrees to proceed diligently to obtain and commit the requisite equity and construction loans and/or permanent financing in an

amount necessary to complete the Project and its obligations in connection therewith, as set forth herein.

SECTION 11.2 Compliance with Financing. Redeveloper shall submit to the Township a memorandum summarizing any executed loan commitment from any investor or lender for the Project or any portion thereof that the Redeveloper has accepted which shall reflect the availability of adequate funding/financing for the respective component of the Overall Project (a “**Financing Commitment Summary**”). The Township acknowledges that the information contained in such loan commitments constitutes confidential and proprietary business information and therefore, the Township agrees to maintain the confidentiality of any Financing Commitment Summary in accordance with Applicable Laws. The Township shall promptly notify the Redeveloper of any request made to the Township for disclosure of such information so that the Redeveloper may avail itself of all existing legal or equitable remedies to preclude disclosure of the information, as may be appropriate.

SECTION 11.3 Notification of Financing. Notwithstanding any of the above, Redeveloper agrees to notify the Township in writing of the name and contact information for the construction lender for the Project or such portion thereof at the time of closing of any construction loan. While it is not anticipated that permanent project financing will be in place prior to issuance of the Certificate of Completion, Redeveloper shall notify the Township in writing of the name and contact information of any permanent debt lender if any permanent financing is closed prior to the issuance of the Certificate of Completion.

SECTION 11.4 Governmental Approval Fees. To the extent required by any Applicable Laws, and subject to the provisions of this Agreement, the Redeveloper shall be responsible for the payment of any fees related to any application for a Governmental Approval. In addition

thereto, the Redeveloper shall be responsible for establishing a separate escrow for the reasonable costs associated with any professional review services that have been formally authorized by Resolution and performed by a designated professional on behalf of the Township in connection with any Governmental Approval, if requested by the Township.

SECTION 11.5 Affordable Housing and Development Fees. The Parties acknowledge that the Project is not required to include the construction or provision of affordable housing, however, pursuant to the Township's Development Fee Ordinance, Redeveloper shall be required to pay mandatory Development Fees as authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27D-301, et seq. More specifically, Redeveloper shall make payment to the Township, subject to, and in accordance with and pursuant to the procedures set forth in the Development Fee Ordinance and the New Jersey Statewide Non-Residential Development Fee Act, N.J.S.A. 40:55D-8.4, et seq., as amended, no later than upon the issuance of the Certificate of Occupancy for each component of the Project, respectively.

SECTION 11.6 Project Costs. All costs associated with completing and implementing the Project, including payment of the Township Costs, and any other costs directly incurred by or chargeable to Redeveloper pursuant to this Agreement, shall be the responsibility of the Redeveloper, in accordance with the terms of **Section 11.8** below.

SECTION 11.7 Taxation and Fees. Redeveloper agrees that in no event shall the Overall Project Site or any portion thereof become tax exempt, except the Public Park upon the Public Park Conveyance. Each component of the Project (except the Public Park) must be assessed pursuant to N.J.S.A. 54:4-1, et seq. Redeveloper further agrees that there shall be no reductions in sewer, water, or construction fees for the Project or either component thereof and that

Redeveloper's financial commitment to the Project is not conditioned in any way upon receipt of same.

SECTION 11.8 Payment of Township Costs and Deposit of Project Funds. The Redeveloper shall be responsible for the payment of all reasonable Township Costs until such time as the Certificate of Completion is issued and all steps related thereto have been taken, as follows: within ten (10) days from the Effective Date of this Agreement, the Redeveloper shall pay Twenty-Five Thousand Dollars (\$25,000.00) ("**Project Funds**") to the Township to be maintained in an account by the Township ("**Project Funds Escrow**") and drawn down upon by the Township to cover Township Costs that the Township may incur or continue to incur during the course of the implementation of the Overall Project and the oversight of the completion of the Redeveloper's responsibilities pursuant to this Agreement. Upon the Effective Date of this Agreement, the prior Conditional Designation Agreement shall be automatically terminated, and the terms and obligations contained therein shall be replaced by the terms and obligations contained herein regarding the Project Funds Escrow; provided however, that any outstanding obligations arising out of the Conditional Designation Agreement that remain as of the Effective Date may be satisfied with the Project Funds. Within fifteen (15) days of the receipt by the Redeveloper of written notice from the Township that the amount of Project Funds in the Project Funds Escrow has decreased to Ten Thousand Dollars (\$10,000.00) or less, the Redeveloper shall replenish the Project Funds to the amount of \$25,000.00. If the Township Costs exceed the amount of the Project Funds in the Project Funds Escrow at any given time, the Redeveloper agrees to pay such costs upon fifteen (15) days' written notice from the Township stating that such costs are due. For purposes of clarity, the Township will charge all costs incurred in connection with the Project or any portion thereof to the Project Funds Escrow that shall be maintained by the Redeveloper in accordance with the

terms herein.

Nothing herein shall be deemed to alter or modify the rights and obligations of RT66 with respect to the enforcement of payment of construction costs (including costs of the Township's oversight of construction completion activities described in this **Section 11.8**).

SECTION 11.9 Reimbursement of Township Costs Incurred in Redevelopment Plan

Process. As provided in the Redevelopment Plan, the Township shall be reimbursed for certain Township Costs incurred in connection with the preparation and adoption of the Redevelopment Plan, if the Township has not already been reimbursed for same, as a condition precedent to the Township's issuance of any permit for demolition or construction of any portion of the Project.

ARTICLE XII

INDEMNIFICATION AND INSURANCE

SECTION 12.1 Indemnification.

1. **Indemnification, Hold Harmless, and Defense of Township Indemnified Parties.** The Redeveloper agrees to indemnify and hold harmless, defend and release the Township Indemnified Parties, and shall pay any and all liability, loss, cost, damage, penalty, claim, judgment or expense for bodily injury, including death, or property damage ("**Claims**"), as follows:

a) Redeveloper shall indemnify, and hold harmless defend, and release the Township from and against any Claims resulting from or arising out of: (i) the Retail Parcel or the Distribution Center Parcel; (ii) any environmental condition or potential environmental liability arising out of the Overall Project Site or any portion thereof ; (iii) the Retail Facility or the Distribution Center Facility; (iv) Redeveloper's willful misconduct, negligence and/or acts or omissions in connection with the Overall Project or any portion thereof; (v) any Shared Infrastructure Improvements pertaining to the Overall Project; (vi) any contract or sub-contract

related to the Overall Project or any portion thereof to which Redeveloper is a party; (vii) the adoption of a Resolution authorizing this Redevelopment Agreement or the adoption of the Ordinance adopting the Redevelopment Plan or any amendment thereof, if such amendment is requested by Redeveloper, unless such claims are based on a procedural defect in the actions taken by the Township in connection with the adoption or execution of such Resolution, Ordinance or amendment; or (viii) de-designation of VHF as Co-Redeveloper with respect to the Warehouse Facility (collectively, “**Redevelopment Project Claims**”).

b) Notwithstanding subsection (a) above, upon the conveyance of any portion of the Overall Project Site to a permitted Transferee, Redeveloper’s indemnity obligations hereunder shall cease and be of no further force and effect with respect to any matters related to such portion conveyed first arising after such conveyance, and the permitted Transferee shall be bound by such indemnity obligations first arising from and after the date of such conveyance with respect to the portion of the Overall Project Site acquired by it. Similarly, the Redeveloper’s obligation to indemnify the Township shall survive such conveyance with respect to any claim first arising prior to such conveyance of the portion of the Overall Project Site.

Nothing in this **Section 12.1** shall require the Redeveloper to indemnify against any Claims to the extent caused by or resulting from the gross negligence or willful misconduct of the Township and/or the Township Indemnified Parties, as same is determined by a judgment or order or agreement by the Parties (“**Excepted Claims**”).

2. **Defense of the Township and Township Indemnified Parties.** In any situation where the Township Indemnified Parties are entitled and desire to be defended and/or indemnified as set forth hereunder, the Township Indemnified Parties, or any one thereof, shall provide notice of same within thirty (30) days to the Redeveloper. Failure to provide prompt notice, however,

shall not relieve the Redeveloper of any responsibility to defend and indemnify the Township Indemnified Parties. Upon receipt of such notice, the Redeveloper shall defend any such Claim on behalf of the Township Indemnified Parties and shall be responsible for the payment of all reasonable fees, costs and expenses associated with the Claim(s) at issue, including, but not limited to, reasonable fees for legal counsel. The Township shall have the right to consent to legal counsel selected to defend the Township Indemnified Parties; provided however, that such consent shall not be unreasonably withheld, conditioned or delayed. Each of the Township Indemnified Parties shall have the right to employ any separate legal counsel in any such action and to participate in the defense thereof, at their sole cost and expense.

3. **Settlement.** The Township together with the Redeveloper shall have the right to negotiate and consent to any settlement of a Claim; provided however, that such consent shall not be unreasonably withheld, conditioned or delayed by any Party.

SECTION 12.2 Survival of Indemnity Obligations. The provisions of this Section shall survive and shall run with the land until the earlier of: (i) issuance of a Certificate of Completion or (ii) the termination of this Agreement; provided however, that such provisions shall survive and shall continue to be effective thereafter with respect to Claims that arose prior to the earlier of: (i) issuance of a Certificate of Completion for the applicable portion of the Overall Project Site or (ii) the termination of this Agreement.

SECTION 12.3 Insurance Required

A. **Insurance to be Provided by Redeveloper.** Prior to any remediation, if required, and vertical construction work being undertaken upon the Overall Project Site or any portion thereof, and until the issuance of a Certificate of Completion for the Overall Project, Redeveloper shall furnish or shall cause to be furnished to the Township, duplicate originals or other reasonable

evidence of certain insurance coverage obtained by Redeveloper and the general contractor or a subcontractor in any combination, as long as the requisite coverage is in place during all required periods, which shall include the following:

1. Commercial General Liability Insurance: including blanket Contractual Liability coverage, insuring Redeveloper against losses, costs, liabilities, claims, or causes of action arising out of property damage or bodily injury, including death, sustained upon the Overall Project Site; and

2. Builder's Risk Insurance: for the benefit of Redeveloper, subject to the interests of any Holder, from the date that a building permit is obtained sufficient to protect against loss or damage resulting from all standard perils, including fire and/or lightning, vandalism, and malicious mischief; and

3. Workers' Compensation Insurance: as required by law, with an express employer's liability insurance endorsement with customary limits and a waiver of subrogation clause for the benefit of the Township, to be carried by each of Redeveloper's contractors and subcontractors; and

4. Comprehensive Automobile Liability Insurance: covering all owned, hired and non-owned vehicles of Redeveloper with at least the limits of liability as set forth on **Exhibit O ("Insurance Coverage Requirements")**, attached hereto and incorporated herein by reference.

5. Environmental Insurance: in the event that any Redeveloper's Remediation shall be undertaken as set forth in **Section 4.7** hereof, then the Redeveloper shall also furnish or shall cause to be furnished to the Township a pollution legal liability insurance policy with respect to the Overall Project Site or such respective portion of same, as the case may be, and any environmental investigation and/or remediation thereof, with coverage terms and limits as set forth

in **Exhibit O**.

B. **Insurance Requirement.** All insurance policies required by this Section shall: (a) contain the policy limits set forth in **Exhibit O**, attached hereto and incorporated by reference; (b) be obtained from reputable insurance carriers licensed to do business in the State of New Jersey and rated at least A- in Best's Insurance Guide or at a similar level in such other industry-accepted review system; (c) be maintained for each structure developed and constructed upon the Overall Project Site, or such respective portion thereof, until a Certificate of Completion for the Overall Project is issued; (d) apply to all bodily injury, including death, property damage, and other customarily covered losses, as applicable, occurring during the policy term, as may be further set forth above; (e) add the Township Indemnified Parties as additional insureds or as named additional insureds, as requested by the Township; (f) provide that such coverage shall be primary and non-contributing and that any insurance maintained by the Township shall be excess insurance only; (g) be endorsed with a waiver of subrogation clause for the benefit of the Township; (h) provide that the policies cannot be canceled or materially changed except after thirty (30) days written notice by the insurer to the Township; (i) provide that the Township shall not be liable for any premiums or assessments; and (j) carry commercially reasonable deductibles. In the event that any terms in this **Section** shall conflict with any terms set forth on **Exhibit O** in terms of required coverages, the terms set forth on **Exhibit O** shall control.

This Section shall not be deemed to relieve any insurance carrier which has issued a policy of insurance as may be required by this Agreement from any obligation to defend the Redeveloper, the Township, and any other additional insured or named additional insured, as the case may be, on such policy of insurance in connection with claims, suits or actions covered by such policy.

ARTICLE XIII

EVENTS OF DEFAULT AND REMEDIES

SECTION 13.1 Events of Default. Prior to completion of the Overall Project as evidenced by the issuance of a Certificate of Completion and subject to an event of Force Majeure, each of the following shall constitute an Event of Default, unless stated otherwise herein and subject to the terms and provisions herein, and further, the Parties agree that the following terms shall apply to Redeveloper based upon the terms herein:

1. Redeveloper's Events of Default.

a) Failure to Pay Township Costs. If Redeveloper fails to pay any portion of the Township Costs pursuant to the terms of this Agreement, and such failure shall have continued for a period of thirty (30) days after written notice specifying such failure and demanding that same be remedied; or

b) Failure to Comply with Project Schedule. If Redeveloper fails to proceed with the development and construction of the Project in accordance with the timeframes set forth herein, including in the Project Schedule attached hereto, in a material respect or if the Redeveloper willfully abandons or suspends construction activities associated with the Project for a period of sixty (60) consecutive days and any such abandonment or suspension shall not be cured, ended, or remedied within a reasonable period of time after the service on the Redeveloper of written notice of default; or

c) Failure to Pay Taxes. If Redeveloper fails to pay the Township for any real property taxes within sixty (60) days of when such payment is due and such real property taxes shall not have been paid within thirty (30) days after written demand by the Township to do so; or

d) Unauthorized Transfers. If Redeveloper transfers, except for Permitted

Transfers or except as may otherwise be stated herein, fee title to the Overall Project Site or such respective portion thereof, as the case may be, and such violation shall not be cured within sixty (60) days after written demand by the Township; or

e) Liquidation. If Redeveloper files a voluntary petition in bankruptcy or for an arrangement pursuant to applicable bankruptcy laws; or shall make an assignment for the benefit of creditors; or shall admit in writing its inability to pay its debts as they become due; or shall materially suspend or fully discontinue the payment of its obligations; or shall take any action in furtherance of the foregoing; or if the Redeveloper consents to the appointment of a receiver; or if a petition, pleading or other such document proposing the adjudication of the Redeveloper as bankrupt or subject to reorganization pursuant to applicable bankruptcy laws shall be filed in and approved by a court of competent jurisdiction and an order approving the same shall not be vacated or set aside or stayed within ninety (90) days from entry thereof; or if the Redeveloper consents to the filing of such petition, pleading or other such document; or

f) Foreclosure. If Redeveloper permits an entry of a judgment in foreclosure or the issuance of a Deed in Lieu of Foreclosure relating to the Overall Project Site or such respective portion thereof, as the case may be, or any financing in connection with the respective Project or such portion thereof, as the case may be, subject to the rights of Holders pursuant to Article XIV; or

g) Failure to Perform Covenant or Condition. If Redeveloper fails to perform any covenant or condition contained in this Agreement, and where such failure of any obligation of the Redeveloper's under this Agreement persists for a period of sixty (60) days following service of written notice from the Township specifying the alleged failure and requesting that such failure be remedied; provided however, that if such failure of performance of the covenant or condition

cannot be reasonably remedied within the sixty (60) days following service of the Township's written notice, it shall not be deemed to be an Event of Default as long as the Redeveloper has provided the Township with its written plan for fully addressing the Event of Default and the Redeveloper is proceeding with due diligence to remedy same as soon as practicable; or

h) Escrow Agreement. If Redeveloper fails to execute the Escrow Agreement within the timeframe referenced herein, and such failure shall not be cured within fifteen (15) days after written demand, same shall be deemed to be an Event of Default hereunder; or

i) Escrowed Documents. If Redeveloper fails to execute and place into the Escrow the Redevelopers' Declaration, Public Access Easement Agreement or Deed for the Public Park Conveyance, all as may be applicable, and such failure shall not be cured within fifteen (15) days after written demand, same shall be deemed to be an Event of Default hereunder; or

ii) Recording of Documents. If the Redeveloper fails to record the Redevelopers' Declaration, Shared Infrastructure Easement Declaration, Public Access Easement Agreement or Deed for the Public Park Conveyance within the timeframes provided herein, and such failure shall not be cured within fifteen (15) days after written demand, same shall be deemed to be an Event of Default hereunder; or

2. **Township's Events of Default.**

a) Failure to Provide Documentation. If the Township fails to provide Redeveloper with any documents, reports, information, studies or other such items in its possession that the Township has generated and that pertain to the Overall Project Site or a portion thereof and the Redeveloper is materially adversely affected; or

b) Failure to Issue Certificate of Completion. If the Township knowingly and unreasonably fails to issue a Certificate of Completion for which the Redeveloper has properly

applied in writing pursuant to the terms hereunder; provided however, that all reasonably requested documentation evidencing satisfaction of the Redeveloper's obligations hereunder has been provided to the Township or the Township's designated professional; or

c) Failure to Perform Covenant or Condition. Except as otherwise provided herein, if the Township fails to perform any covenant or condition contained in this Agreement and where such failure persists for a period of sixty (60) days following the Township's receipt of a written notice from the Redeveloper specifying the alleged failure and requesting that such failure be remedied; provided however, that if such failure of performance of the covenant or condition cannot be reasonably remedied within the sixty (60) days following the Township's receipt of the Redeveloper's written notice, it shall not be deemed to be an Event of Default as long as the matter is curable and the Township is proceeding in good faith and with due diligence to remedy same.

Notwithstanding any provision to the contrary, it shall not be an Event of Default by any of the Parties if a court of competent jurisdiction issues a ruling, not sought by any Party hereto, the effect of which is to render invalid the implementation of this Agreement.

SECTION 13.2 Remedies Upon Event Of Default.

1. **Redeveloper Remedies.** Upon the occurrence of an Event of Default by the Township, the Redeveloper may take whatever action, at law or in equity, it may deem desirable, including the pursuit of damages, excluding any consequential damages, or the Redeveloper may institute such proceedings as may be necessary or desirable in its discretion to cure and remedy such Event of Default, including, but not limited to, proceedings to compel specific performance by the Township.

2. **Township Remedies, Generally.** Subject to the limitations in **Sections 13.2(3)(a)**, upon the occurrence of an Event of Default by RT 66, the Township may take whatever action, at law or in equity, it may deem desirable, including the pursuit of damages, excluding any consequential damages, or the Township may institute such proceedings as may be necessary or desirable in its discretion to cure and remedy such Event of Default, including, but not limited to, proceedings to compel specific performance by the Redeveloper.

Additionally, except as expressly provided otherwise in **Sections 13.2(3)(a)** hereof, during the continuance of an Event of Default by Redeveloper, the Township shall have right to take one or more of the following actions against the Redeveloper or such Affiliate thereof, as the case may be:

- a) Cease, halt or withhold the issuance of any approval, including, but not limited to, a Certificate of Completion; or
- b) Cease, halt, or withhold cooperation with the Redeveloper; or
- c) Terminate this Agreement, or a portion thereof, which shall be in the Township's reasonable discretion, in which case, the Redeveloper's designations hereunder shall be automatically terminated without the need for any further action.

3. **Township's Specific Remedies Upon an Event of Default by Redeveloper.**

a) **Event of Default by RT 66.** Upon the occurrence of an Event of Default by RT 66, the Township may act pursuant to **Section 13.2(2)** to terminate the rights of RT 66 hereunder, in which case, Redeveloper's designation hereunder shall automatically terminate and become null and void without necessity for any further action by the Township. Alternatively or additionally, in its sole discretion, the Township may act pursuant to **Section 10.1(B)(7)** to activate the RT 66 Financial Guaranty in order to facilitate the construction of the Project, including the

Shared Infrastructure Improvements as may be necessary, and any sidewalks required to be constructed hereunder or pursuant to any Governmental Approval, as well as the Public Park and the Walkway. The Township may also avail itself of any other remedies available hereunder.

In the event that this Agreement, or a portion thereof, is terminated by the Township due to an Event of Default as set forth in this **Article XIII**, the Redeveloper acknowledges and agrees that Redeveloper shall not be entitled to be reimbursed any monies that shall have been paid by Redeveloper to the Township in accordance with the terms hereof, except with regard to reimbursement of any Project Funds (which shall have been deposited by RT 66 as the Redeveloper pursuant to the terms herein), but only after all Township Costs have been fully satisfied.

SECTION 13.3 Relief of Obligations. Upon an Event of Default by the Redeveloper and the receipt of written notice of such Event of Default sent to the Redeveloper pursuant to the terms of this Agreement, or upon termination of this Agreement or a portion thereof by the Township in accordance with the terms of this Agreement, the Township shall be relieved of each and every obligation under this Agreement until such default has been cured or remedied by the Redeveloper in accordance with the terms of this Agreement, as may be applicable. Upon an Event of Default by the Township and the receipt of written notice of such Event of Default sent to the Township pursuant to the terms of this Agreement, the Redeveloper shall be relieved of each and every obligation under this Agreement until such default has been cured or remedied by the Township in accordance with the terms of this Agreement, as may be applicable.

SECTION 13.4 Force Majeure. The Parties acknowledge and agree that the performance or non-performance by the Parties of any obligation, requirement, commitment or responsibility set forth in this Agreement shall not be deemed to be an Event of Default where such performance,

failure of performance or delay in performance is the result of a Force Majeure; provided however, that the Force Majeure was not the result of or did not arise out of any unlawful action or non-action of the Party relying on such Force Majeure as justification for the performance, failure of performance, or delay in performance of the subject obligation, requirement, commitment or other responsibility. In the event of a Force Majeure, the Redeveloper may obtain an extension of any affected date in the Project Schedule by notifying the Township of the details of the Force Majeure, including the anticipated delay caused by same, but such extension shall only be for so long as the Force Majeure reasonably requires.

SECTION 13.5 No Waiver of Rights and Remedies by Delay. Any delay by an aggrieved Party in instituting or prosecuting any actions or proceedings or otherwise asserting its rights under this Agreement shall not operate as a waiver of such rights and shall not deprive the aggrieved Party of or limit the aggrieved Party's rights in any way nor shall any waiver in fact made by the aggrieved Party with respect to any specific default by the defaulting Party under this Agreement be considered or treated as a waiver of the rights of the aggrieved Party with respect to any other default(s) by the defaulting Party under this Agreement or with respect to the particular default, except to the extent specifically waived in writing.

ARTICLE XIV

FINANCING PROVISIONS

SECTION 14.1 Redeveloper Financing. The Township acknowledges that Redeveloper intends, and is permitted under this Agreement, to obtain construction mortgage financing for all or part of the costs of acquisition, development, and construction of the Project or such portion thereof, as applicable, and permanent mortgage financing. Redeveloper shall notify the Township in writing of any such financing secured by a mortgage or other lien instrument which it enters

into with respect to the Overall Project Site or the Project or any portion thereof (the mortgagee thereunder or its Affiliate, a “**Holder**”).

SECTION 14.2 Notice of Default to Holder and Right to Cure. Whenever the Township shall deliver any notice or demand to Redeveloper with respect to any breach or default by the Redeveloper under this Redevelopment Agreement, the Township shall at the same time deliver to each Holder a copy of such notice or demand, provided however, that the Redeveloper has delivered to the Township a written notice of the name and address of such Holder. Each such Holder shall have the right at its option within ninety (90) days after the receipt of such notice, to cure or remedy, or to commence to cure or remedy, any such default which is subject to being so cured. If such default can only be remedied or cured by such Holder upon obtaining possession of the Overall Project Site, or such portion thereof to which its mortgage relates, as the case may be, such Holder may seek to obtain possession of the Overall Project Site or portion thereof to which its mortgage relates, with diligence and continuity through a receiver or otherwise and thereafter remedy or cure such default within ninety (90) calendar days after obtaining possession. If the default cannot with diligence be remedied or cured, or the remedy or cure of such default cannot be commenced within such ninety (90) day period, such Holder shall be granted additional time as may reasonably be necessary to remedy or cure such default with diligence and continuity.

SECTION 14.3 No Guarantee of Completion of the Project. A Holder shall in no manner be obligated by the provisions of this Agreement to develop, construct or complete the Project or any portion thereof to which its mortgage relates, or to guarantee such development, construction or completion; nor shall any covenant or any other provisions herein be construed to so obligate a Holder. Notwithstanding the foregoing, nothing contained in this Agreement shall be deemed to permit or authorize such Holder to undertake or continue the development, construction

or completion of the Project or any portion thereof to which its mortgage relates (beyond the extent which may be necessary to conserve or protect the Holder's security, including any improvements or construction already made), without the Holder first having assumed the obligations of the defaulting Redeveloper pursuant to Section 14.4.1 of this Agreement.

SECTION 14.4 Foreclosure.

1. **Holder's Options.** If a Holder forecloses its mortgage secured by the Overall Project Site, or such portion thereof to which its mortgage relates, or takes title to the Overall Project Site, or such portion thereof to which its mortgage relates, by Deed in Lieu of Foreclosure or similar transaction (each, a "**Foreclosure**"), the Holder shall have the right, but not the obligation, at its option to: (a) sell the respective property to a Subsequent Redeveloper, subject to the terms herein, to undertake or continue the development, construction or completion of the Project or such portion thereof to which the default relates, as set forth herein; or (b) expressly assume the obligations of the defaulting Redeveloper under this Agreement (collectively, "**Holder's Options**"); provided however, that one of the Holder's Options is exercised within six (6) months of the transfer of title resulting from the Foreclosure (the "**Transition Period**"), the failure of which may result in the Township's termination of this Agreement, or a portion of this Agreement, in the Township's discretion, as further set forth herein.

a) **Extension(s) of Project Schedule.** In furtherance of the foregoing, the Holder, or a Subsequent Redeveloper, as the case may be, assuming the obligations of the defaulting Redeveloper hereunder, shall enter into a separate written agreement with the Township to complete the Project or such portion thereof to which the default relates in the manner provided herein, subject to reasonable amendment including extensions of the Project Schedule (the "**Subsequent Redevelopment Agreement**"). Any Subsequent Redevelopment Agreement shall

address the cure of any Event of Default by the defaulting Redeveloper which occurred prior to the Foreclosure, which is/are reasonably susceptible of being cured, the failure of which may result in the Township's termination of this Agreement or a portion of this Agreement to which the default and defaulting Redeveloper relate, as the case may be and as further set forth herein. In the event that the Project Schedule shall be amended in order to accommodate a Subsequent Redevelopment Agreement, the Township and the non-defaulting Redeveloper hereunder shall cooperate with each other and with the Subsequent Redeveloper that is so designated by the Township and shall agree to reasonable modifications.

b) Completion of the Project. Any such Holder or Subsequent Redeveloper, as the case may be, assuming the obligations of a defaulting Redeveloper hereunder, completing the Overall Project or such portion thereof to which the default relates (i.e. the Retail Facility or the Distribution Center Facility, as the case may be) in the manner provided in this Agreement and/or otherwise pursuant to the Subsequent Redevelopment Agreement shall be entitled to Certificates of Occupancy and a Certificate of Completion, as applicable, in accordance with the terms and conditions herein.

2. Expiration of Transition Period. In the event that Holder declines to exercise one of the Holder's Options as set forth above, then the Township shall have the option to terminate this Agreement or a portion of this Agreement to which the default and defaulting Redeveloper relate, in the Township's discretion, and to exercise its remedies pursuant to the provisions herein.

3. Enforcement of Defaulting Redeveloper's Violations Against Holder or Subsequent Redeveloper. In the event of a Foreclosure, the Township shall not seek to enforce against the Holder or a Subsequent Redeveloper any remedies available to the Township pursuant

to the terms of this Agreement for any Event(s) of Default by a defaulting Redeveloper which occurred prior to the Foreclosure.

4. **No Deviation from Project Description by Holder or Subsequent Redeveloper.**

Subject to the provisions herein, nothing in this Agreement shall be construed or deemed to permit or to authorize any Holder or any Subsequent Redeveloper, as the case may be, to devote the Overall Project Site or any portion thereof to any uses or to construct any improvements thereon other than those uses and improvements, respectively, provided for hereunder.

ARTICLE XV

MISCELLANEOUS

SECTION 15.1 Notices. Any notice to be provided pursuant to this Agreement shall be sent certified, return receipt requested, as follows:

If to the Redeveloper:

3501 RT 66 LLC
4488 W. Boy Scout Boulevard
Suite 250
Tampa, Florida 33607
Attn: Gregory Williams
gwilliams@CRDPT.com

With a copy to:

Connell Foley LLP
56 Livingston Avenue
Roseland, New Jersey 07058
Attn: Patrick McAuley, Esq.
pmcauley@connelloley.com

If to the Township:

Township of Neptune
25 Neptune Boulevard
Neptune, New Jersey 07753
Attn: Bernard Haney
bhaney@neptunetownship.org

With a copy to:

Maraziti Falcon, LLP
240 Cedar Knolls Road, Suite 301
Cedar Knolls, New Jersey 07927
Attn: Joanne Vos, Esq.
jvos@mfhenvlaw.com

SECTION 15.2 Non-Liability of Officials and Employees of the Township. No member, agent, official, employee, representative, or consultant of the Township shall be personally liable to the Redeveloper or any of the Redeveloper's successors in interest or assigns in an Event of Default or breach by the Township, or for any amount which may become due to the Redeveloper or its successors in interest or assigns, or on any obligation under the terms of this Agreement.

SECTION 15.3 Non-Liability of Officials and Employees of Redeveloper. No member, agent, officer, employee, representative, director, or partner of a Redeveloper shall be personally liable to the Township or any of the Township's successors in interest or assigns in an Event of Default or breach by a Redeveloper, or for any amount which may become due to the Township or its successors in interest or assigns, on any obligation under the terms of this Agreement except in the case of intentional misconduct.

SECTION 15.4 Estoppel Certificate. Within twenty-one (21) days following written request by any of the Parties or of any Holder, purchaser, tenant or other party having an interest in the Overall Project Site or any portion thereof, the other parties hereto shall issue a signed Estoppel Certificate, as that term is defined herein. No more than two (2) Estoppel Certificates may be requested per year by any of the Parties or any Holder. It is acknowledged and agreed by the Redeveloper and the Township that such Estoppel Certificate may be relied upon by any financial institution, lender, mortgage assignee, prospective mortgage assignee or prospective

purchaser of the Overall Project Site or any portion thereof. In addition to other Events of Default identified herein, failure of any Party to provide such Estoppel Certificate in accordance with the terms hereof shall constitute an Event of Default for purposes of this Agreement.

SECTION 15.5 No Financial Consideration For Redevelopment Agreement. Each Redeveloper warrants that it has not paid or given, and will not pay or give, any third person any money or other consideration in connection with this Agreement, other than the costs of conducting business and costs of professional services such as architects, engineers, financial consultants and attorneys. Redeveloper further warrants it has not paid or incurred any obligation to pay any officer or official of the Township any money or other consideration for or in connection with this Agreement.

SECTION 15.6 Conflict of Interest. No member, agent, official, employee, or representative of the Township has or shall acquire any interest, direct or indirect, in the Project or the Overall Project Site or such portion thereof or has or shall have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with the Project or Overall Project Site or such portion thereof, in accordance with the requirements of the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-11(c).

SECTION 15.7 Successors and Assigns/No Third Party Beneficiary. This Agreement shall be binding upon and inure to the benefit of the permitted successors in interest and assigns of the Parties and their heirs, executors, and administrators. It is the intention of the Parties hereto that there shall be no third party beneficiaries to this Agreement.

SECTION 15.8 Exhibits. All Exhibits attached hereto and/or referenced in this Agreement are incorporated herein as though fully set forth herein.

SECTION 15.9 Titles of Articles and Sections. The titles of the several Articles and

Sections of this Agreement are inserted for the convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

SECTION 15.10 Severability. If any term or provision of this Agreement or the application thereof shall to any extent be held to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each other term and provision of this Agreement shall be valid and shall be enforceable to the extent permitted by law.

SECTION 15.11 Execution. This Agreement may be executed in one or more counterparts. This Agreement shall become binding upon the Parties and such counterparts shall constitute one and the same instrument upon the Effective Date of this Agreement. Additionally, the execution and delivery of this Agreement may be conducted by electronic means in accordance with the Uniform Electronic Transmissions Act, N.J.S.A. 12A:12-1.

SECTION 15.12 Modification of Agreement. No modification, waiver, amendment, discharge, or change of this Agreement shall be valid unless the same is in writing, duly authorized, and signed by the Party(ies) against which the enforcement of such modification, waiver, amendment, discharge, or change is or may be sought.

SECTION 15.13 Drafting Ambiguities and Interpretation. In the interpretation of any provision of this 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 Agreement, each of the Parties acknowledging that it and its counsel have had ample opportunity to review this Agreement and have contributed to the final form of same.

SECTION 15.14 Time Period for Notices. All notices to be served hereunder shall be provided in writing in conformance with the terms of this Agreement and unless a certain number of days is specified, within a reasonable time.

SECTION 15.15 Governing Law. This Agreement shall be governed by and construed in accordance with the applicable laws of the State of New Jersey.

SECTION 15.16 Recitals, Definitions and Exhibits Incorporated. The Recitals, Definitions and Exhibits to this Agreement and/or contained within this Agreement are hereby incorporated by reference into this Agreement, as if fully set forth herein.

SECTION 15.17 Entire Agreement. This Agreement constitutes the entire agreement for the redevelopment of the Overall Project Site by and among all three of the Parties. Any prior redevelopment, development or similar agreements between all three of the Parties or between the Township and any predecessors in title or other parties related to any portion of the Overall Project Site are hereby terminated and superseded.

SECTION 15.18 Township Approval. Any approvals or consent of the Township referenced in this Agreement shall be by formal Resolution of the Township Committee, unless expressly stated otherwise.

ARTICLE XVI

PROVISIONS REGARDING PUBLIC PARK LAND TRANSFER AGREEMENT BETWEEN RT 66 AND THE TOWNSHIP

SECTION 16.1 Redeveloper's Obligations Regarding the Real Property. The Parties agree that this **Article XVI** shall apply only to RT 66 (or any Affiliate thereof which owns title to the Real Property) and the Township with regard to the Public Park Conveyance and further, that no other or additional agreement is contemplated in order to effectuate the transfer of title to the Public Park Parcel from RT 66 to the Township in accordance with this Redevelopment Agreement (the "**Public Park Conveyance**"), except for the Public Access Easement Agreement and Escrow Agreement.

As previously referenced in this Agreement, RT 66, as the Redeveloper, shall: diligently pursue the Subdivision in order to, *inter alia*, subdivide the real property referenced herein as the “Public Park” (the “**Real Property**”) from the remainder of the Overall Project Site, which Public Park is a portion of the Community Benefit Contributions to be provided to the Township by the Redeveloper (together with the “Walkway” which shall provide access to the Public Park once same is improved as set forth herein for the surrounding community and the public at large); remediate the Real Property if required by Applicable Laws, pursuant to **Section 4.7(1)** herein; improve the Real Property as described herein and as more particularly depicted on **Exhibits D and K**; and convey the Real Property by Deed, after it is improved as the Public Park, to the Township for \$1.00, subject to the adoption of requisite authorizing legislation by the Township Committee, and subject to the Deed Restriction in the Deed in substantially the form attached hereto as **Exhibit S**.

In order to demonstrate its commitment to the improvement and conveyance of the Public Park Parcel to the Township, within thirty (30) days of the Effective Date, the Escrow Agreement shall be fully executed and the Deed and the Public Access Easement Agreement shall be fully executed and placed into Escrow pursuant to a fully executed Escrow Agreement. Thereafter, the Deed shall be released from Escrow in accordance with the terms of the Escrow Agreement attached hereto as **Exhibit Q**.

Simultaneous with the Public Park Conveyance, the Public Access Easement Agreement shall be released from Escrow in accordance with the terms of the Escrow Agreement. The description of the property comprising the Walkway shall have been reviewed and approved in writing by the Township Engineer or the Township Engineer’s designee before its attachment to the Public Access Easement Agreement. The Parties agree that the Public Park and Walkway are

intrinsically related and as such, the Township shall not be obligated to (i) accept the public access easement for the Walkway set forth in the Public Access Easement Agreement unless the Township also accepts the Deed for the Public Park, all subject to the terms and conditions hereunder, or (ii) accept the Deed for the Public Park unless the Township also accepts the public access easement for the Walkway set forth in the Public Access Easement Agreement, all subject to the terms and conditions hereunder.

SECTION 16.2 Township's Due Diligence. In the Township's discretion, at its own cost and expense (i.e. not to be deemed "Township Costs" hereunder), the Township may conduct and undertake certain due diligence activities upon the Real Property in order to, *inter alia*, determine its environmental condition as well as its overall appropriateness for the intended use as public open space ("**Due Diligence**") for a period of thirty (30) days from the Effective Date, subject to an extension of an additional thirty (30) days or as otherwise may be agreed upon in writing by RT 66 and the Township ("**Due Diligence Period**"). During the Due Diligence Period, the Township shall have the right to perform an investigation of the Real Property; such investigation may include but shall not be limited to visual inspections, surveying, environmental assessment and investigation, and/or sampling of any kind upon the Real Property (collectively, "**Due Diligence Activities**").

1. Due Diligence Results. Prior to or upon the conclusion of the Due Diligence Period, the Township shall advise RT 66 in writing of its intention to proceed or not to proceed to acquire the Real Property as set forth herein. If the Township determines the existence of any condition upon the Real Property which it deems unfavorable for any reason in its reasonable discretion, then the Township may terminate those portions of this Agreement which require and provide for the conveyance of the Real Property to the Township and the Public Access Easement Agreement

for the Walkway. In such event, RT 66 and the Township shall cooperate in good faith to negotiate an amendment of this Agreement addressing the Community Benefit Contributions to be made by RT 66 hereunder in lieu of the conveyance of the Public Park Parcel and execution of the Public Access Easement Agreement providing access to the Walkway.

2. Access to the Real Property. During the Due Diligence Period, RT 66 shall provide the Township with reasonable access to the Real Property in order for the Township to perform its Due Diligence Activities, all of which shall be at the Township's expense. The Township shall provide RT 66 with written notice of its intention to enter upon the Real Property in advance of same and the Township shall describe, generally, the Due Diligence Activities it intends to undertake upon the Real Property with each such entry. RT 66 may determine, in its discretion but at its sole cost, to observe any Due Diligence Activities undertaken upon the Real Property by the Township. The Township shall refrain from materially altering the Real Property but in the event that same is reasonably unavoidable, the Township shall restore such affected portion of the Real Property to substantially the condition that existed immediately prior to such entry, unless any such obligation of the Township is waived in writing by RT 66.

SECTION 16.3 Conveyance of the Real Property to the Township. The conveyance of the Real Property to the Township shall otherwise be governed by the following, subject to and as authorized by the Redevelopment Law and all other Applicable Laws, and subject to the adoption of such authorizing legislation by the Township Committee:

(a) Purchase Price. RT 66 shall convey fee simple title to the Real Property to the Township for the consideration of \$1.00 by Deed and subject to the Deed Restriction therein.

(b) Time and Place of Transfer of Title. The transfer of title to the Real Property shall occur on a mutually convenient date after the Real Property is improved as the Public Park

and same has been inspected and approved in writing by the Township Engineer as set forth in **Section 4.12**, subject to the terms herein (“**Title Transfer**”). The Title Transfer shall be held at the Town Hall or such other place as RT 66 and the Township may mutually agree.

(c) Transfer of Title. At the Title Transfer, RT 66 shall deliver to the Township a properly executed Bargain and Sale Deed, with Covenants Against Grantor’s Acts by instructing the Escrow Agent to release the Deed pursuant to the terms of the Escrow Agreement, along with supporting documents, in proper statutory form for recording, in substantially the form attached hereto as **Exhibit S** (the “**Deed**”). RT 66 shall also deliver to the Township an adequate Affidavit of Title in a form reasonably satisfactory to the Title Company so selected by the Township, a properly executed Affidavit of Consideration or Exemption, and such other documentation as may reasonably be requested by the Title Company. RT 66 shall transfer and convey to the Township clear and marketable title to the Real Property free of all service contracts, liens or encumbrances and leases. For purposes of this **Article XVI** of this Agreement, clear and marketable title shall be defined as insurable by a title insurance company licensed to do business in the State of New Jersey selected by the Township (the “**Title Company**”) at regular rates free of all claims and rights of others, except for: (a) normal utility easements servicing the Real Property which would not interfere with the intended use thereof as a Public Park; (b) ALTA 1992 preprinted exceptions not removed by a standard affidavit of title; (c) any other exceptions as may be accepted by the Township by Resolution of the Township Committee and (d) the Permitted Exceptions as defined herein. The Permitted Exceptions are the items listed on **Exhibit CC** to this Agreement. No later than thirty (30) days following the Effective Date, the Township shall order a title search for the Real Property, the costs for which shall be “Township Costs” hereunder, and provide a true and complete copy of same to RT 66. The Township shall notify RT 66 in writing of any objection to

title prior to the Title Transfer. In no event shall any of the Permitted Exceptions be a basis of a title objection. In the event that the Township does raise any title or survey objections, RT 66 shall have fifteen (15) days from the date of receipt of the Township's written objections in which to decide how to remedy the title defect(s) or survey matters identified in such objection, which shall be subject to the approval of the Township, such approval not to be unreasonably withheld, conditioned or delayed. RT 66 shall be required to take all actions necessary to remove any title encumbrances not identified in the title search but arising prior to the Title Transfer and not constituting a Permitted Exception.

(d) Risk of Loss. Except as otherwise caused by the Due Diligence Activities of the Township, RT 66 is responsible for any damage or loss to the Real Property, except for normal wear and tear, until and through the completion of the Title Transfer.

(e) Brokerage Fees. RT 66 and the Township represent that with regard to the conveyance of the Real Property, neither party has dealt with or transacted any business with any broker.

(f) Non-Foreign Affidavit. RT 66 shall provide to the Township at Title Transfer an adequate Non-Foreign Affidavit stating the inapplicability of 26 U.S.C. § 1445 to the sale of the Real Property.

(g) Form 1099-B Filing, If Applicable. If applicable, RT 66 agrees to supply all such requested and related information to the Township or the Township's counsel in order to facilitate any such filing.

(h) Title Transfer Prorations. The following adjustments are to be made at the Title Transfer at midnight of the day preceding the Title Transfer, if and as may be applicable: (i)

water charges; (ii) sewer charges; (iii) gas; (iv) electric; (v) real estate taxes, if any; and (vii) any other items which shall be appropriate for adjustment under local closing standards and practices.

(i) Closing/Title Transfer Statement. A duly executed closing statement shall be prepared by RT 66, subject to reasonable review and approval of the Township, in customary form showing all closing/title transfer prorations.

(j) Bulk Sale Act. RT 66 and the Township acknowledge that the Title Transfer may be subject to the provisions of N.J.S.A. 54:50-38 (the “**Bulk Sale Act**”). Accordingly, if it is determined that the Title Transfer is subject to the Bulk Sale Act, RT 66 and the Township shall cooperate with each other in connection with preparing and filing the necessary forms and statements to provide bulk sale notice to the New Jersey Department of the Treasury, Division of Taxation, none of which shall be at any cost or expense to the Township. Additionally, RT 66 and the Township shall continue to cooperate with each other in order to address any tax deficiency that may be revealed as a result of said filing to the satisfaction of the Township.

(k) Intended Use. RT 66 and the Township agree that the conveyance of the Real Property to the Township for use as a Public Park, together with the public access easement to be provided for the Walkway pursuant to the terms herein, comprises a Community Benefit Contribution and is a material component, term and condition of this Agreement.

[THE REMAINDER OF THIS PAGE INTENTIONALLY BLANK]

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

Attest:

TOWNSHIP OF NEPTUNE

_____ By: _____
Tassie York, Mayor

Attest:

3501 RT 66 LLC

_____ By: _____
Name:
Title:

(Signature Page for RT 66 Redevelopment Agreement)

State of _____)

) ss:

County of _____)

Be it remembered, that on this ____ day of _____, 2024, before me the subscriber, personally appeared _____, authorized signatory of **3501 RT 66 LLC**, the limited liability company named in and on whose behalf they executed the within instrument, and thereupon they acknowledged that they signed, sealed and delivered the same as the act and deed of the limited liability company for the uses and purposes therein expressed, and that they were authorized by the limited liability company to execute the within instrument on behalf of the limited liability company.

A Notary Public of _____

My Commission Expires: _____

Signed and sworn to before me

on _____, 2024

[TO BE SIGNED BY REDEVELOPER AND NOTARIZED]

STATE OF NEW JERSEY)

ss:

COUNTY OF MONMOUTH)

I CERTIFY that on _____, 2024, _____ personally came before me, and this person acknowledged under oath, to my satisfaction, that:

- (a) this person is the Mayor of the Township of Neptune, named in this document;
- (b) this document was signed and delivered by or on behalf of the Township as its voluntary act duly authorized by a proper resolution of the Township Committee of the Township of Neptune; and
- (c) this person signed this proof to attest to the truth of these facts.

 Name:
 Title:

Signed and sworn to before me
on _____, 2024

Notary Public

[TO BE SIGNED BY THE WITNESS TO THE MAYOR’S SIGNATURE AND NOTARIZED]

**TOWNSHIP OF NEPTUNE
RESOLUTION 24-209**

**AUTHORIZE ACCEPTANCE OF SEIZED VEHICLE AUTHORIZED BY A COURT ORDER
BY THE MONMOUTH COUNTY PROSECUTOR'S OFFICE**

WHEREAS, during a criminal case, a vehicle, 2018 Nissan Maxima Vin 31N4AA6AP3JC393420, was seized through county forfeiture ; and,

WHEREAS, the Township has the ability to take ownership of the vehicle at no cost, and,

THEREFORE, BE IT RESOLVED, that the Township Committee of the Township of Neptune hereby accepts the seized vehicle 2018 Nissan Maxima.

TOWNSHIP OF NEPTUNE

RESOLUTION 24-210

**RESOLUTION AUTHORIZING EXECUTION OF THE SIDE BAR AGREEMENT WITH
AFSCME LOCAL #1844**

WHEREAS, the Township of Neptune wishes to authorize the Side Bar Agreement with AFSCME Local #1844; and,

WHEREAS, the Township and AFSCME Local #1844 have met to discuss the option of summer hours and have agreed to memorialized those terms in this side bar agreement; and,

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Neptune that:

1. The Side Bar Agreement for AFSCME Local #1844 is hereby approved.
2. All Township officials, including, but not limited to, the Mayor, Business Administrator, and Municipal Clerk are hereby authorized and directed to take such ministerial actions as are necessary to effectuate the provisions of this resolution.
3. That a certified copy of this resolution be forwarded to the Business Administrator, Chief Financial Officer, and Human Resources Director.

TOWNSHIP OF NEPTUNE

RESOLUTION 24-211

**RESOLUTION AUTHORIZING EXECUTION OF THE SIDE BAR AGREEMENT WITH
AFSCME LOCAL #2792**

WHEREAS, the Township of Neptune wishes to authorize the Side Bar Agreement with AFSCME Local #2792; and,

WHEREAS, the Township and AFSCME Local #2792 have met to discuss the option of summer hours and have agreed to memorialized those terms in this side bar agreement; and,

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Neptune that:

1. The Side Bar Agreement for AFSCME Local #2792 is hereby approved.
2. All Township officials, including, but not limited to, the Mayor, Business Administrator, and Municipal Clerk are hereby authorized and directed to take such ministerial actions as are necessary to effectuate the provisions of this resolution.
3. That a certified copy of this resolution be forwarded to the Business Administrator, Chief Financial Officer, and Human Resources Director.

TOWNSHIP OF NEPTUNE

RESOLUTION 24-212

**RESOLUTION AUTHORIZING EXECUTION OF THE SIDE BAR AGREEMENT WITH
NEPTUNE TOWNSHIP DEPARTMENT/DIVISION HEAD ASSOCIATION AND
EMPLOYEES WITH INDIVIDUAL EMPLOYMENT CONTRACTS**

WHEREAS, the Township of Neptune wishes to authorize the Side Bar Agreement with Neptune Township Department/Division Head Association and Employees with Individual Employment Contracts; and,

WHEREAS, the Township and Neptune Township Department/Division Head Association and Employees with Individual Employment Contracts have met to discuss the option of summer hours and have agreed to memorialized those terms in this side bar agreement; and,

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Neptune that:

1. The Side Bar Agreement for Neptune Township Department/Division Head Association and Employees with Individual Employment Contracts is hereby approved.
2. All Township officials, including, but not limited to, the Mayor, Business Administrator, and Municipal Clerk are hereby authorized and directed to take such ministerial actions as are necessary to effectuate the provisions of this resolution.
3. That a certified copy of this resolution be forwarded to the Business Administrator, Chief Financial Officer, and Human Resources Director.

TOWNSHIP OF NEPTUNE

RESOLUTION 24-213

**A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF NEPTUNE
AUTHORIZING CERTAIN PERSONNEL ACTIONS- POLICE DEPARTMENT**

WHEREAS, due to retirements and resignations, there are vacancies in the position of Police Officer; and,

WHEREAS, candidates were interviewed by the Police Department Command Staff; and,

WHEREAS, the Chief of Police has made his recommendations and the Police Committee has approved said recommendations; and,

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Neptune that the following personnel actions be and are hereby authorized on the effective date included herein; pending favorable results of physical and psychological examinations:

<u>NAME</u>	<u>DEPARTMENT</u>	<u>POSITION</u>	<u>SALARY</u>	<u>EFFECTIVE DATE</u>
Andrew Robbins	Police	SLEO I	\$19.80	4/29/2024

I, Gabriella Siboni, Clerk of the Township of Neptune hereby certify that the foregoing is a true copy of a resolution duly adopted by the Township Committee of the Township of Neptune, Monmouth County, State of New Jersey at a meeting held on April 29, 2024.

Gabriella Siboni
Township Clerk

Certification of Funds

I, Michael Bascom, Chief Financial Officer of the Township of Neptune, do hereby certify to the Township Committee of the Township of Neptune that funds are available for the above noted personnel actions.

Account Name	Account Number
Police Department Salary and Wages	01-201-25-240-010

Michael Bascom, Chief Financial Officer

Date

TOWNSHIP OF NEPTUNE

RESOLUTION 24-214

AUTHORIZING THE AGREEMENT FOR REPAIR OF SANITARY SEWER MAIN ON SUNNYFIELD TERRACE TO LUCAS BROTHERS, INC. IN AN AMOUNT NOT TO EXCEED \$18,353.37

WHEREAS, the Sewer Department Supervisor solicited quotes for repair of sanitary sewer main on Sunnyfield Terrace.; and,

WHEREAS, the cost of said item is less than the bid threshold but exceeds \$17,500.00 and therefore must be awarded by Resolution of the governing body; and,

WHEREAS, said quotes were reviewed by the Township Engineer who has recommended that the low quote be accepted in accordance with the Open Public Contracts Law; and,

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Neptune that:

1. The agreement for repair of sanitary sewer main on Sunnyfield Terrace be awarded to Lucas Brothers, Inc., located at 80 Amboy Road Morganville, NJ 07751, in an amount not to exceed \$18,353.37 is, hereby approved.
2. All Township officials, including, but not limited to, the Mayor, Business Administrator, and Municipal Clerk are hereby authorized and directed to take such ministerial actions as are necessary to effectuate the provisions of this resolution.
3. That a certified copy of this resolution be forwarded to the Business Administrator, Chief Financial Officer, and Qualified Purchasing Agent

I, Gabriella Siboni, Clerk of the Township of Neptune, hereby certify that the foregoing is a true copy of a resolution duly adopted by the Township Committee of the Township of Neptune, Monmouth County, State of New Jersey at a meeting held on April 29, 2024.

Gabriella Siboni
Township Clerk

Certification of Funds

I, Michael Bascom, Chief Financial Officer of the Township of Neptune, do hereby certify to the Township Committee of the Township of Neptune that funds are available for the expenditure noted above.

Account Name
Sewer Capital Outlay

Account Number
07-201-55-512-020

Michael Bascom, Chief Financial Officer

Date

**TOWNSHIP OF NEPTUNE
RESOLUTION 24-215
RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF NEPTUNE
AWARDING FOUR STAR DEVELOPERS CONTRACT “TAX OFFICE RENOVATIONS” IN AN
AMOUNT NOT TO EXCEED \$368,600.00**

WHEREAS, the Township of Neptune advertised a notice to bidders on March 21, 2024 requesting bid submissions for the “Tax Office Renovation”; and,

WHEREAS, on April 11, 2024, the Township of Neptune received bids as follows:

Company	Address	Amount
Four Star Developers	1301 Corlies Ave. Suite 3E Neptune, NJ 07753	\$368,600.00
George Koustas Ptg. And Const. LLC	70 Beechwood Ave. West Long Branch, NJ 07701	\$440,000.00
Tekcon Construction, Inc.	285 Davidson Ave. Suite 201 Somerset, NJ 08873	\$982,910.00

WHEREAS, the Township Engineer has recommended to the Township Committee that the contract be awarded to Four Star Developers, and;

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Neptune that:

1. The Township Committee hereby concurs with the recommendations of the Township Engineer and hereby awards the contract for the “Tax Office Renovations” to Four Star Developers in an amount not to exceed the amounts listed above regarding the bid in a form of contract acceptable to the Township Attorney.
2. All Township officials, including, but not limited to, the Mayor, Business Administrator, and Municipal Clerk are hereby authorized and directed to take such ministerial actions as are necessary to effectuate the provisions of this resolution.
3. That a certified copy of this resolution be forwarded to the Business Administrator, Chief Financial Officer, and Qualified Purchasing Agent

I, Gabriella Siboni, Clerk of the Township of Neptune hereby certify that the foregoing is a true copy of a resolution duly adopted by the Township Committee of the Township of Neptune, Monmouth County, State of New Jersey at a meeting held on April 29, 2024

Gabriella Siboni
Township Clerk

Certification of Funds

I, Michael Bascom, Chief Financial Officer of the Township of Neptune, do hereby certify to the Township Committee of the Township of Neptune that funds are available for the agreement detailed above.

Account Name

Account Number

Michael Bascom, Chief Financial Officer

Date

**TOWNSHIP OF NEPTUNE
RESOLUTION 24-216
RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF NEPTUNE
AWARDING CURRENT ELEVATOR TECHNOLOGY CONTRACT “ELEVATOR
MODERNIZATION” IN AN AMOUNT NOT TO EXCEED \$304,600.00**

WHEREAS, the Township of Neptune advertised a notice to bidders on March 9, 2024 requesting bid submissions for the “Elevator Modernization”; and,

WHEREAS, on April 2, 2024, the Township of Neptune received bids as follows:

Company	Base Bid	Alternate #3	Unit Price #1	Unit Price #2	Unit Price #3
Current Elevator technology	\$198,000	\$70,000	\$250	\$300	\$30,000
			Total \$3,000	Total \$3,600	
West End- KB Builders	\$409,000	\$115,000	\$22,500	\$2,800	Not provided

WHEREAS, the Township Engineer has recommended to the Township Committee that the contract be awarded to Current Elevator Technology ,and;

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Neptune that:

1. The Township Committee hereby concurs with the recommendations of the Township Engineer and hereby awards the contract for the “Elevator Modernization” to Current Elevator Technology in an amount not to exceed the amounts listed above regarding the bid in a form of contract acceptable to the Township Attorney.
2. All Township officials, including, but not limited to, the Mayor, Business Administrator, and Municipal Clerk are hereby authorized and directed to take such ministerial actions as are necessary to effectuate the provisions of this resolution.
3. That a certified copy of this resolution be forwarded to the Business Administrator, Chief Financial Officer, and Qualified Purchasing Agent

I, Gabriella Siboni, Clerk of the Township of Neptune hereby certify that the foregoing is a true copy of a resolution duly adopted by the Township Committee of the Township of Neptune, Monmouth County, State of New Jersey at a meeting held on April 29, 2024

Gabriella Siboni
Township Clerk

Certification of Funds

I, Michael Bascom, Chief Financial Officer of the Township of Neptune, do hereby certify to the Township Committee of the Township of Neptune that funds are available for the agreement detailed above.

Account Name

Account Number

Michael Bascom, Chief Financial Officer

Date

TOWNSHIP OF NEPTUNE

RESOLUTION 24-217

AUTHORIZE THE EXECUTION OF AN INTERLOCAL SERVICE AGREEMENT WITH THE TINTON FALLS FOR THE ROAD IMPROVEMENTS TO ESSEX ROAD

WHEREAS, the Township of Neptune and the Tinton Falls desires to enter into an Interlocal Service Agreement pursuant to N.J.S.A. 40A:65-1 et seq. whereby Tinton Falls received public bids for their 2024 Road improvements program and included Essex Road, a portion of which is located in Neptune Township; and,

WHEREAS, the Township will agree to pay Tinton Falls for the portion of the road improvement to take place in Neptune Township which is \$121,028.51; and,

THEREFORE, BE IT RESOLVED, that the Township Committee of the Township of Neptune hereby authorizes the execution of an Interlocal Service Agreement with Tinton Falls, a copy of which is on file in the Office of the Municipal Clerk.

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to the Chief Financial Officer, Administrative Assistant to the C.F.O., Assistant C.F.O., and the Neptune Township School District.

I, Gabriella Siboni, Clerk of the Township of Neptune hereby certify that the foregoing is a true copy of a resolution duly adopted by the Township Committee of the Township of Neptune, Monmouth County, State of New Jersey at a meeting held on April 29, 2024

Gabriella Siboni
Township Clerk

Certification of Funds

I, Michael Bascom, Chief Financial Officer of the Township of Neptune, do hereby certify to the Township Committee of the Township of Neptune that funds are available for the agreement detailed above.

Account Name

Account Number

Michael Bascom, Chief Financial Officer

Date

**TOWNSHIP OF NEPTUNE
RESOLUTION 24-218**

AUTHORIZING THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF NEPTUNE TO EXECUTE CHANGE ORDER #1 FOR \$46,824.60 WITH EARLE ASPHALT COMPANY. FOR “2022 ROADWAY IMPROVEMENT PROGRAM” FOR A NEW CONTRACT TOTAL OF \$1,279,737.73

WHEREAS, on April 24, 2023, the Township Committee adopted Resolution #23-188 which awarded a bid to Earle Asphalt Company in the amount of \$1,382,753.13 in connection with 2022 Roadway Improvement Program Contract, and;

WHEREAS, Change Order #1 reflects a total contract amount change of \$46,824.60 which reflects the following changes:

- HMA Milling 3” or less
- Hot Mix Asphalt 9.5M64 Surface Course 2” Thick
- HMA Speed humps including applicable signage and striping
- Traffic Stripes, Long Life, Epoxy Resin 4” wide
- Traffic Markings, thermoplastic

WHEREAS, the Township of Neptune, pursuant to N.J.A.C. 5:30-11.99, desires to amend its contract with to reflect those changes, and;

WHEREAS, Change Order #1 account for a change in amount of \$46,824.60 has been prepared to reflect an increase in the contract quantities and is a 3.7977% change in original contract price, and;

WHEREAS, the Township’s attorney has reviewed the project and Change Order #1 and recommends the Township Execute Change Order #1, and;

WHEREAS, the total new contract price shall be \$1,279,737.73 after Change Order #1 has been accepted and executed by the Township, and;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Committee of the Township of Neptune, County of Monmouth, State of New Jersey that:

1. Change Order #1 which increases the contract amount by \$46,824.60 for the contract between the Township of Neptune and Earle Asphalt Company be executed thereby increasing the new total contract price for the project to \$1,279,737.73
2. All Township officials, including, but not limited to, the Mayor, Business Administrator, Engineer, and Municipal Clerk are hereby authorized and directed to take such ministerial actions as are necessary to effectuate the provisions of this resolution.

I, Gabriella Siboni, Clerk of the Township of Neptune hereby certify that the foregoing is a true copy of a resolution duly adopted by the Township Committee of the Township of Neptune, Monmouth County, State of New Jersey at a meeting held on April 29, 2024

Gabriella Siboni
Township Clerk

Certification of Funds

I, Michael Bascom, Chief Financial Officer of the Township of Neptune, do hereby certify to the Township Committee of the Township of Neptune that funds are available for the execution of the above noted agreement.
Account Name

Michael Bascom, Chief Financial Officer

Date

TOWNSHIP OF NEPTUNE

RESOLUTION 24-219

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF NEPTUNE
AWARDING OUTFRONT MEDIA LLC “LEASE AGREEMENT FOR BILLBOARD” FOR AN
ANNUAL LEASE OF \$3,000 AND NO LESS THAN 18% OF NET ADVERTISING REVENUE IF
HIGHER THAN THE BASE RENT FOR A TERM OF TEN YEARS**

WHEREAS, the Township of Neptune advertised a notice to bidders requesting bid submissions for the “Lease Agreement for Billboard”; and,

WHEREAS, on April 11, 2024, the Township of Neptune received bids as follows:

Company	Annual Base Rent	Net advertising revenue
Outfront Media, LLC 185 US Highway 46 Fairfield, NJ 07004	\$3,000	No less than 18% of net advertising if higher than the base rent.

WHEREAS, the Business Administrator has recommended to the Township Committee that the contract be awarded to Outfront Media LLC ,and;

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Neptune that:

1. The Township Committee hereby concurs with the recommendations of the Business Administrator and hereby awards the contract for the “Lease Agreement for Billboard” to Outfront Media LLC in an amount not to exceed the amounts listed above regarding the bid in a form of contract acceptable to the Township Attorney.
2. All Township officials, including, but not limited to, the Mayor, Business Administrator, and Municipal Clerk are hereby authorized and directed to take such ministerial actions as are necessary to effectuate the provisions of this resolution.
3. That a certified copy of this resolution be forwarded to the Business Administrator, Chief Financial Officer, and Qualified Purchasing Agent

I, Gabriella Siboni, Clerk of the Township of Neptune hereby certify that the foregoing is a true copy of a resolution duly adopted by the Township Committee of the Township of Neptune, Monmouth County, State of New Jersey at a meeting held on April 29, 2024

Gabriella Siboni
Township Clerk

Certification of Funds

I, Michael Bascom, Chief Financial Officer of the Township of Neptune, do hereby certify to the Township Committee of the Township of Neptune that funds are available for the agreement detailed above.

Account Name

Account Number

Michael Bascom, Chief Financial Officer

Date

**TOWNSHIP OF NEPTUNE
RESOLUTION 24-220
RESOLUTION AUTHORIZING THE PROFESSIONAL SERVICES AGREEMENT WITH CME
ASSOCIATES FOR AFFORDABLE HOUSING ADMINISTRATIVE AGENT**

WHEREAS, there exists the need for the services of various professionals for the Township of Neptune for the year 2024; and

WHEREAS, pursuant to N.J.S.A. 19:44a-1, et seq, the Township accepted Requests for Proposals for said position on April 2, 2024, and;

WHEREAS, the Local Public Contracts law, N.J.S.A. 40A:11-1 et seq requires that a resolution of appointment for professional services be publicly advertised, and;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Committee of the Township of Neptune as follows:

1. The Mayor and Township Clerk be and are hereby authorized and directed to engage the services of:

Term	Position	Professional	Price Range
12/31/2024	Affordable Housing Administrative Agent	CME Associates 1460 Route 9 South Howell, NJ 08753	\$45-\$150.00 per hour depending on position.

2. These appointments are being made without competitive bidding because they involve members of recognized professions licensed and regulated by law and are, therefore, specifically exempt pursuant to N.J.S.A. 40:11-5
3. A copy of this resolution shall be published in the Coaster newspaper as required by law within ten (10) days of its passage.
4. That all Township officials including, but not limited to, the Mayor, Business Administrator, Chief Financial Officer and the Municipal Clerk, are hereby authorized and directed to take such ministerial actions as are necessary to effectuate the provisions of this resolution.

I, Gabriella Siboni, Clerk of the Township of Neptune hereby certify that the foregoing is a true copy of a resolution duly adopted by the Township Committee of the Township of Neptune, Monmouth County, State of New Jersey at a meeting held on April 29, 2024

Gabriella Siboni
Township Clerk

Certification of Funds

I, Michael Bascom, Chief Financial Officer of the Township of Neptune, do hereby certify to the Township Committee of the Township of Neptune that funds are available for the above noted agreement.

Account Name	Account Number
Ord 24-06 Atkins Ave Pedestrian Improvements	04-215-55-923-020

Michael Bascom, Chief Financial Officer

Date

TOWNSHIP OF NEPTUNE

RESOLUTION #24-221

AUTHORIZING THE PAYMENT OF BILLS

BE IT RESOLVED, by the Township Committee of the Township of Neptune that the following bills be paid if properly certified:

April 8, 2024, BILL LIST

Current Fund	\$858,856.59
Grant Fund	\$17,813.90
Trust Other	\$36,821.68
General Capital	\$30,072.78
Sewer Operating Fund	\$49,219.58
Sewer Capital Fund	\$555.00
Marina Operating Fund	\$7,359.42
Marina Capital Fund	\$100,244.20
Dog Trust	\$19.80
Library Trust	\$810.06
Payroll Fund	\$0.00
Bill List Total	\$1,101,773.01

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Assistant C.F.O.

